STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: NARRAGANSETT ELECTRIC COMPANY
d/b/a NATIONAL GRID'S PROPOSED REVENUE DECOUPLING MECHANISM — DOCKET NO. 4206

REPORT AND ORDER

1. Background

The R.I. General Assembly passed the Decoupling Act ("Act") during the 2010 legislative session. Governor Carcieri signed the Act on May 20, 2010.[1] The Act requires that the electric and gas revenues of Narragansett Electric Company d/b/a National Grid ("National Grid" or "Company") are to be fully decoupled from sales.[2] The principal purpose behind decoupling, which has been implemented in a handful of jurisdictions across the country, is to eliminate the perceived disincentive for electric utilities to engage in energy efficiency.[3] The perceived disincentive arises out of the assumption that when a utility successfully promotes energy efficiency, it necessarily reduces its sales and ultimately its revenues. Through decoupling, policymakers attempt to eliminate this disincentive by breaking the nexus between sales and revenues, or as it were, "decoupling" sales from revenues. In 2010, Rhode Island joined a handful of other states in seeking to eliminate this disincentive in requiring the decoupling of electricity and gas revenues from sales. The practical effect of this mandate is that National Grid is required to file a proposal with the Commission to fully decouple its electric and gas revenues from sales. Accordingly, on October 18, 2010, National Grid filed with the R.I.

[1] R.I.G.L. §39-1-27.7.1; P.L. 2010, ch. 15 §1; P.L. 2010 ch. 17 §1.
[2] R.I.G.L. §39-1-27.7.1(a). The Act's decoupling mandate applies to an electric distribution company defined as "a company engaging in the distribution of electricity or owning, operating, or controlling distribution facilities and shall be a public utility pursuant to R.I.G.L. 39-1-2(20)." R.I.G.L. §39-1-2(12). National Grid is the sole entity within the state of Rhode Island that falls within this statutory definition.
[3] As of January 2010, 18 states have natural gas revenue decoupling. *Natural Gas Revenue Decoupling Regulation*, p. 2. (U.S. Department of Energy, July 2010).

Public Utilities Commission ("Commission") a proposed Revenue Decoupling Mechanism ("RDM") consistent with the terms and provision of the Decoupling Act.

II. National Grid's Revenue Decoupling Mechanism

On October 18, 2010, National Grid submitted the joint testimony of Jennifer B. Feinstein and Jeanne A. Lloyd in support of its gas and electric RDM proposals.[4] Ms. Lloyd reviewed the details of the Company's electric RDM proposal. Ms. Feinstein reviewed the details of the gas RDM proposal. The Company asserted that the electric and gas RDM proposals would leave the Company indifferent to changes in usage and remove barriers to allow it to more fully embrace and implement wider scale energy efficiency programs beyond levels traditionally performed by the Company.[5]

A. Electric RDM Proposal

Through the testimony of Jeanne A. Lloyd, National Grid explained how the proposed revenue decoupling mechanism would operate and included a detailed review of the mathematic calculations used to determine the Company's annual RDM Adjustment Factor. The Company explained that the RDM proposal would consist of an annual RDM reconciliation whereby the Company would reconcile its annual target revenue ("ATR") to actual billed distribution revenue during the previous 12 month period.[6] Unlike the gas RDM, the electric RDM would apply to all customer classes. The RDM proposal would be effective April 1, 2011 with the first RDM reconciliation covering deferral balances, positive or negative, accrued during the 12 month period from April 1, 2011 through March 31, 2012.[7] This deferral balance would then be recovered through a RDM Adjustment Factor, filed June 1, 2012, to be applied in rates during

[4] Jennifer B. Feinstein is Director of Gas Distribution Pricing for National Grid USA. Jeanne A. Lloyd is Manager of Electric Pricing for National Grid USA.
[5] National Grid 1, p.21, 22.
[6] Id., p. 6.
[7] Id., p. 11.

the 12 month period from July 1, 2012 through June 30, 2013.[8] The RDM Adjustment Factor is calculated by dividing the balance from the RDM Reconciliation Year by the forecasted kWh deliveries for the 12 month period from July 1 through June 30.[9] Subsequent reconciliations would occur in like fashion with a RDM Adjustment Factor filed on June 1 of each year, designed to credit or recover RDM surpluses or shortages during the RDM Reconciliation Year or the 12 month period ending March 31, and the recovery of those RDM shortages or surpluses occurring over the 12 month period ending on June 30.[10] The ATR used in this RDM reconciliation would be the revenue requirement approved by the Commission in the last base distribution rate case; provided however, that adjustments to the ATR may be necessary at times to account for other charges or rate mechanisms that may in the future be approved by the Commission.[11] Such adjustments would be necessary to assure proper accounting and to avoid double recovery of a particular component in the base distribution rate.[12] Billed distribution revenue would be any and all revenue generated from base distribution rates such as customer charges, distribution energy charges, demand charges, high voltage metering and delivery credits.[13]

In carrying out the revenue decoupling mechanism, the Company would perform monthly reconciliations whereby deferral balances would be tracked on a monthly basis.[14] The Company explained that this monthly action was necessary in order to be able to project major deferrals on

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[8] Id..
[9] Id., p. 11.
[10] The RDM Adjustment Factor approved by the Commission would be subject to its own reconciliation to ensure this amount is actually credited to or recovered from customers. Id.
[11] National Grid 1, pgs. 6-7.
[12] Id.
[13] Id., p. 8.
[14] Balances in the reconciliation account would accrue interest at the customer deposit rate. Id., p. 9. Interest will not, however, be computed on monthly balances for the electric RDM. Transcript, p. 77.

an annualized level, thus avoiding any major rate impacts.[15] In order to avoid this potential for rate impacts caused by projected deferrals of a significant nature, the Company proposed interim rate adjustments. Specifically, the Company stated that it would file a request with the Commission for an interim rate adjustment whenever its monthly balances in any given RDM Reconciliation Year were projected to be more than 10% of the ATR.[16] Again, the Company proposed these interim rate adjustments for the purpose of promoting rate stability by avoiding excessively large adjustments in the future.[17]

The Company proposed a Revenue Decoupling Mechanism Tariff which clearly set forth the details noted above relating to the operation of the electric decoupling mechanism, including without limitation definitions of key terms and the timing of RDM filings.

B. Gas RDM Proposal

Like the electric RDM, the gas RDM would take effect on April 1, 2011. The Company would also track deferral balances on a monthly basis during the RDM Reconciliation Year; however, the gas RDM Adjustment Factor would be filed with the annual distribution adjustment charge ("DAC") filing which occurs on August 1, resulting in a rate adjustment on November 1.[18] The first rate adjustment would be scheduled for November 1, 2012. The gas revenue decoupling mechanism differs from the electric revenue decoupling mechanism in the calculation of the ATR and the exclusion of certain rate classes. Consistent with the R.I.G.L. §39-1-27.7.1(c)(1), the Company proposed calculating the revenue requirement approved in the last gas distribution rate case on a revenue per customer ("RPC") basis. Thus, monthly reconciliations would be performed by comparing the target base RPC (based on rates approved

[15] Id., p. 9.
[16] Id.
[17] Id.
[18] Id., p. 14, 18-19.

in the last rate case) with the actual RPC for each month and then multiplying that sum by the actual number of customers in the residential and small and medium C&I classes to arrive at the total RPC revenue surplus or shortfall.[19] Pursuant to R.I.G.L. §39-1-27.7.1(e)(2), the Company also proposed excluding the large and extra large C&I classes from its gas RDM proposal.[20]

The Company represented that the gas RDM proposal was similar to other gas RDM proposals the Company had filed in other jurisdictions and is typical of gas RDMs in the industry in general.[21] The Company offered several reasons in support of its proposal to exclude the large and extra large C&I classes from its gas RDM proposal. Primarily it argued that due to the small size and diversity in energy use of these classes, the migration of just one or two customers from these classes would have a significant impact on the revenue per customer which would distort the main purpose and effect of the revenue decoupling mechanism. The main purpose of the RDM is to eliminate the disincentive to promote energy efficiency by breaking the link between sales and revenue. To accomplish this purpose, it is sales associated with energy use, not migration, that the Company intends to track for purposes of revenue decoupling. Including the large and extra large C&I classes in the gas revenue decoupling mechanism would inappropriately include migratory events that have nothing to do with usage. These events would skew the operation of the decoupling mechanism to the extent that they would be reflected as changes in usage rather than changes in the make-up of the rate class or other factors.[22] Another reason offered in support of the large/extra large C&I class exclusion was that, according to the Company, including these classes in the gas RDM could significantly impact the calculation of the Contribution in Aid of Construction payments needed to offset costs associated

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[19] Id., p. 13.
[20] The Decoupling Act authorizes the Company to exclude low income customers from the revenue decoupling mechanism. Despite this fact, the Company included low income customers in both the gas and electric RDMs. R.I.G.L. §39-1-27.7.1(e)(2); National Grid 1, pgs. 22-23.
[21] Id., p. 12.
[22] Id., p. 15.

with connecting new customers or adding additional loads for existing customers.[23] The Company's argument follows from the fact that once decoupling is implemented, the CIAC payment would be calculated based on rate class target RPC, instead of a customer's anticipated revenues.[24] Finally, the Company claimed that since most of the customers in these classes are firm service, dual fuel customers whose margins the Company is required to track for on-system credit purposes pursuant to Docket 3943, it would be inappropriate to include them in the RPC reconciliation.[25]

The Company proposed a revised DAC Tariff in support of its gas RDM proposal which incorporated the details of the gas revenue decoupling mechanism noted above, including definitions of key terms, various calculations involved in the operation of the decoupling mechanism and the timing of RDM filings. The Company noted as well that it would discontinue the weather normalization adjustment ("WNA") charge in the event the Commission approves the gas RDM since the gas RDM would track weather related changes in usage which in turn would render the WNA charge unnecessary and duplicative.[26]

III. Intervenors

Four parties filed unopposed motions to intervene in this docket: The Energy Council of Rhode Island ("TEC-RI"), Conservation Law Foundation ("CLF"), Environment Northeast ("ENE") and the George Wiley Center ("Wiley Center").[27] TEC-RI is a non-profit energy consortium comprised of Rhode Island's largest commercial and industrial users. CLF and ENE are New England's leading environmental advocacy groups, and the Wiley Center is a local, non-profit community organization representing Rhode Island's indigent population.

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[23] Id.
[24] Id.
[25] Id.
[26] Id., p. 20.
[27] TEC-RI withdrew from the docket prior to the hearing.

IV. Comments

TEC-RI filed a brief statement in support of the Company's gas RDM proposal. The bulk of TEC-RI's testimony, however, addressed issues surrounding TEC-RI's request to eliminate back-up rates. This testimony was ultimately transferred to a separate docket (Docket 4232) opened March 17, 2011 to address the issue of eliminating back-up rates. William H. Ferguson, Executive Director of TEC-RI, agreed with the Company's reasons for excluding the large and extra large C&I classes from the gas RDM and emphasized the importance of preserving the Contributions in Aid of Construction. As Mr. Ferguson explained, when applied to these customer classes, the decoupling mechanism would have the undesirable effect of eliminating the Company's incentive to defray the cost of service upgrades through the CIAC since decoupling would require the Company to return increased revenues to the customer.[28] This in turn would make it harder for these customer classes to switch to cheaper and cleaner gas.[29]

Conservation Law Foundation filed comments in support of the Company's RDM proposal but recommended that the gas RDM be based on ATR as opposed to RPC. CLF argued that the revenue per customer mechanism would allow the utility to reap windfall profits in the event of an increase in customers.[30]

V. Direct Testimony of Bruce R. Oliver

On March 21, 2011, the Commission received the Direct Testimony of Bruce R. Oliver, filed on behalf of the Division of Public Utilities and Carriers. Bruce R. Oliver is an expert consultant in utility planning and regulation and President of Revilo Hill Associates, Inc.

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[28] TEC-RI 1, p. 5.
[29] Id.
[30] CLE 1, p. 1, 5.

Mr. Oliver raised several concerns regarding the Company's RDM proposal even though he agreed that it conformed to the major requirements of the Act.[31]

A. Class Specific RDM Factors

Mr. Oliver contended that the RDM proposal and the annual RDM reconciliations should be based on class specific revenue targets tied to the revenue requirement in Docket 4065, as well as class specific RDM reconciliation factors, as opposed to a uniform RDM factor.[32] Mr. Oliver argued that the uniform RDM factor proposed by the Company would cause revenue shifting among rate classes which in turn may result in complications in setting appropriate revenue responsibilities in the next rate case. Mr. Oliver acknowledged, however, that class specific revenue targets may also lead to cross subsidization especially among large classes and acknowledged this was the reason the Company excluded large and extra large C&I customers from the gas RDM.[33]

B. Large and Extra Large C&I Gas Customers in the Gas RDM Subject to a Straight Fixed-Variable Rate Design

Mr. Oliver argued that instead of exempting the large and extra large C&I gas customers from the gas RDM, they should be included in the gas RDM and take service under a straight

[31] Division 1, p. 11.
[32] Division 1, pgs. 15-17.
[33] Division 1, p. 16. Mr. Oliver addressed that portion of the Company's proposal which allowed the Company to make adjustments to the ATR outside of a base rate proceeding in circumstances where the Commission approves a cost recovery mechanism outside of a base rate proceeding. Mr. Oliver refrained from outright opposing such adjustments to ATR and instead recommended that such adjustments should be allocated among rate classes consistent with the allocation methods approved in the last distribution base rate case and added that his proposal would be ineffective unless the Commission also requires class specific RDM Adjustment Factors. Division 1, pgs. 52-53. On surrebuttal, however, Mr. Oliver's opposition to adjustments to ATR seemed more absolute when he stated that RDM reconciliations should only address variations in base revenues associated with the last base rate case. Division 2, pgs. 3-4. The Commission did not take up this issue at open meeting because it did not find that the revenue decoupling mechanism should be based on class specific RDM factors and because the Commission regards it as self evident that the Company's proposal to adjust the ATR for the limited purpose presented is necessary to avoid double recovery of certain Commission approved costs.

fixed-variable ("SFV") rate design.[34] [35] His recommendation is based on the concern that the exemption of these classes from RDM would create variations in revenue risk among classes which would lead to future complications in setting rates in the next base distribution rate case.[36] Mr. Oliver explained that a SFV rate design would address this problem because under this rate design, only costs that vary according to usage are billed on the basis of usage.[37] He explained that "all other costs are billed based on the number of customers or measures of demand."[38] Mr. Oliver argued that this rate design would remove concerns regarding differences in revenue risks in the next base rate proceeding.[39] Finally, Mr. Oliver disagreed with the Company's claim that inclusion of these classes would affect the calculation of CIAC payments for these customer classes since the CIAC is based on average revenue per customer. Mr. Oliver claimed that the Company's argument was premised on the incorrect assumption that once decoupling is implemented, all customers within a rate class will or should provide the same amount of distribution revenue to the Company on either a monthly or annual basis.[40] In effect, Mr. Oliver argued that the CIAC payment for large and extra large customers can be calculated based on actual revenues.

C. 5% RDM Adjustment Caps

Mr. Oliver recommended that the Company's RDM rate adjustments be limited to 5% of

[34] Id., p. 33.
[35] Environment Northeast also argued in favor of including the Large and Extra Large C & I customers in RDM claiming that excluding these customers would preserve the Company's disincentive to promote energy efficiency. Post Hearing Brief of Environment Northeast, p. 6.
[36] Division 1, p. 33.
[37] Id.
[38] Id.
[39] Id., p. 34.
[40] Id., p. 32.

the annual base distribution revenue requirement for each rate class.[41] He proposed that any and all balances exceeding 5% of the annual revenue requirement be deferred, with interest, for recovery in future periods. His testimony, however, did not specify any further details about the proposed deferral of RDM balances, including the appropriate interest rate that should apply to deferral balances or how far into the future such deferrals would or should extend. Mr. Oliver's primary reason for recommending caps on rate adjustments was to avoid large rate adjustments outside of rate proceedings.[42] He expressed the opinion, contrary to the position of decoupling advocates, that RDM rate adjustments would not be miniscule.[43] In support of Mr. Oliver's opinion that RDM rate adjustments may in fact be substantial, Mr. Oliver cited the example of Potomac Electric Power Company ("PEPCO") which he claimed had imposed RDM rate adjustments as high as 10% every month in the three years since decoupling was implemented in the state of Maryland.[44]

D. Interim Rate Adjustments

Mr. Oliver disagreed with the Company's contention that interim RDM rate adjustments would promote rate stability claiming that reconciliation balances higher than 10% of the ATR are more appropriately addressed within the context of a base distribution rate proceeding.[45] Mr. Oliver felt that a rate proceeding would ensure the required level of review of these reconciliation balances that is necessary to ensure the reasonableness and equity of charges being applied within and among the different rate classes.[46] Mr. Oliver also disapproved of the comparison drawn by the Company between the Transmission Service Cost Adjustment ("TSCA") and the proposed RDM, distinguishing the purposes of the two rate mechanisms. He

[41] Id., p. 49.
[42] Id., p. 48.
[43] Id., p. 50.
[44] Id.
[45] Id., p. 19.
[46] Id.

argued that the TSCA could not be considered analogous to the proposed RDM since the purpose of the TSCA is to provide recovery for transmission cost variations whereas the purpose of the RDM is to provide recovery for sales fluctuations.[47]

E. Retroactive Ratemaking

The Division argued that the fiscal reconciliation period contained in the Company's proposal violates the rule against retroactive ratemaking because in the first year of implementation this period (April 1, 2011 – March 31, 2012) would pre-date the effective date of a decision by the Commission in this matter.[48] In order to correct this alleged defect, the Division proposed modifying the dates of the initial reconciliation period to run from a date following the Open Meeting on July 26, 2011, and through March 31, 2012 (an 8 month period) with an implementation date of October 1, instead of July 1.[49]

F. Implementation Date of the Electric RDM

The Division recommended changing the effective date of the electric RDM from July 1 to October 1 to allow more time for the Commission to review the filing.[50]

G. Filing and Implementation Dates for the Gas RDM

The effective date of the gas RDM is August 1 with an effective date of November 1; however, the Division requested that the filing date be changed to July 1 to allow the Division more time to review the filing.[51] The Division also recommended changing the effective dates of

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[47] Id., p. 20.
[48] Id., p. 47.
[49] Id. The Division originally proposed that the Company's initial RDM reconciliation period run from July 1, 2011 through March 31, 2012 based on the original procedural schedule established by the Commission which assigned the open meeting to June 16, 2011. When the open meeting was re-scheduled to July 26, 2011, the Division modified its proposal to recommend an initial reconciliation period that runs from a date following the open meeting (presumably July 27, 2011) through March 31, 2012. Post-Hearing Brief of the Division, p. 14.
[50] Id., pgs. 47-48.
[51] Division 1, pgs. 45-46, 63.

the gas RDM from July 1 to October 1 to allow more time for the Commission to review the filing.[52]

H. Sales Losses from Major Service Outages

The Division expressed concern that implementing the Company's proposed RDM would diminish the Company's incentive to restore service after outages in a timely manner. Mr. Oliver reasoned that the Company has an incentive to restore services resulting from a major outage in a timely manner since power outages represent lost revenue to the Company. In the post-decoupling world, Mr. Oliver argued this incentive would be eliminated since the Company would be compensated for lost revenue resulting from outages through annual RDM reconciliations and adjustments.[53] In support of this argument, Mr. Oliver claimed this same issue had arisen in the state of Maryland in which the reliability of services provided by a major utility had "declined noticeably" after the implementation of decoupling.[54]

I. Exclusion of Out of Period Billing Adjustments

Mr. Oliver recommended that all out of period billing adjustments in excess of $ 1,000 be excluded from actual billed revenue and the RDM reconciliation process.[55] Mr. Oliver's concern related particularly to large, negative billing adjustments (resulting in a customer charge as opposed to a credit) which he said would distort the magnitude of amounts subsequently billed to customers through the revenue decoupling mechanism.[56] Mr. Oliver further claimed that adjustments relating to billing periods occurring prior to the implementation of the RDM would be inappropriate.[57] Mr. Oliver claimed that including out of period billing adjustments in the Company's RDM should not be allowed to the extent that such inclusion

[52] Post Hearing Brief of the Division, p. 14, footnote 4.
[53] Division 1, pgs. 59-60.
[54] Id., p. 60.
[55] Division 1, p. 59.
[56] Id., p. 57.
[57] Id., p. 58.

would permit the Company to charge customers in future billing months amounts that it had agreed not to bill to a particular customer for the prior period.[58] This would apply to meter reading errors, billing error or other amount that the Company had agreed to voluntarily forego.[59]

J. Interest on Reconciliation Balances

Mr. Oliver offered 4 reasons why the Company should not be allowed interest on reconciliation balances:[60]

a. It is not required by the Act;

b. It is unwarranted and duplicative because most under recoveries result from billing lags which are already addressed in rate proceedings through cash working capital determinations;

c. It inappropriately implies that the Company is entitled to specific monthly revenue amount which is inconsistent with the last rate case;

d. RDM reconciliation balances are similar to weather normalization adjustments which are not subject to interest.

VI. Rebuttal of National Grid

A. Class Specific RDM Factors

In response to Mr. Oliver's recommendation that the RDM proposal and the annual RDM reconciliations should be based on class specific revenue targets tied to the revenue requirement in Docket 4065, as well as class specific RDM reconciliation factors, as opposed to uniform RDM factors, the Company offered several arguments. It argued that although some revenue shifting may occur, it is not possible to determine the extent of such shifting without an allocated

[58] Id.,
[59] Id.
[60] Division 1, pgs. 20-21.

cost of service study.[61] The Company added that this is not the appropriate time to assess the impacts of such revenue shifting among classes.[62] The Company also stated that the uniform RDM factor is consistent with the Company's funding of energy efficiency programs and other cost recovery mechanisms.[63]

B. Large and Extra Large C&I from Gas RDM Subject to a Straight Fixed- Variable Rate Design

The Company argued several points in opposition to Mr. Oliver's recommendation to include the large and extra-large C&I classes in the gas RDM and take service under a straight fixed-variable ("SFV") rate design. First, the Company disagreed that exemption of large and extra-large C&I classes from the gas RDM would hamper the Commission's ability to set rates in the next base rate proceeding.[64] The Company also argued that the potential impact of revenue shifting is already mitigated by the significant portion of revenue from fixed charges (55%) collected from these classes.[65] The Company also attempted to discredit Mr. Oliver's recommendation by pointing out that he had advocated in favor of excluding these classes in the last base distribution rate case.[66] Finally, the Company noted its express permission given by the Legislature to exclude the large and extra large C&I customers from the gas RDM.

C. 5% RDM Adjustment Caps

The Company strongly objected to the imposition of a RDM adjustment cap on the basis that it would violate the Decoupling Act and also on the basis that it was not necessary in light of the Company's proposal to seek interim rate adjustments.[67] The Company also claimed that

[61] National Grid 2, p. 10.
[62] Id.
[63] National Grid 2, p. 11
[64] National Grid 2, p. 15; Post-Hearing Brief of National Grid, p. 12.
[65] Transcript, p. 29.
[66] Post Hearing Brief of National Grid, pgs. 11-12.
[67] National Grid 3, pgs. 2-3.

imposing Mr. Oliver's cap would be inequitable because it would allow refunds or recoveries to customers who may not have been customers during the 12 month reconciliation period.[68] The Company also noted that the lag in recovery associated with the adjustment cap would contravene one of the express purposes of the Act to break the link between revenue and sales thereby eliminating a disincentive for the Company to support energy efficiency.[69]

D. Interim Rate Adjustments

On rebuttal, the Company maintained its support of interim rate adjustments on the basis that it would benefit customers by mitigating potentially large rate impacts caused by under recoveries existing at the end of a reconciliation period and by implementing rate decreases in a timely manner.[70]

E. Retroactive Ratemaking

The Division argued that the initial RDM reconciliation period (April 1, 2011 – March 31, 2012) violates the rule against retroactive ratemaking because in the first year this period would pre-date the effective date of a decision by the Commission in this matter.[71] In order to correct this alleged defect, the Division proposed modifying the dates of the reconciliation period to run from a date following the Open Meeting, July 26, 2011, and through March 31, 2012 (an 8 month period) with an implementation date of October 1, instead of July 1.[72] On rebuttal, the Company argued that the Division's recommendation for an initial partial year reconciliation period would violate the express terms of the Decoupling Act. The Company argued that the Act's express requirement that the decoupling mechanism "reconcile annually the revenue requirement…to revenues actually received for the applicable twelve month period" prohibits the

[68] Id., p.2.
[69] Id., p.3; Transcript, pgs. 206-207.
[70] National Grid 2, pgs. 12-13.
[71] Id., p. 47.
[72] Id.

8 month reconciliation period proposed by the Division.[73] The Company also argued that the RDM reconciliation period was merely a tracking period, and the Division had disputed the Company's ability to track revenues for three months prior to the decision in this matter.[74]

F. Implementation Date for the Electric RDM

In response to the Division's recommendation to change the effective date of the electric RDM from July 1 to October 1, the Company maintained that future RDM filings would be similar in complexity to the Company's annual standard offer service and transmission cost recovery filings, both of which have a 30 day notice period prior to the effective date of the new rates.[75] Given this lack of complexity, the Company argued that it was not necessary to increase the Commission's period of review. In addition, the change recommended by the Division could potentially delay customer refunds and add to the number of rate changes imposed during the year.[76]

G. Filing and Implementation Dates for the Gas RDM

In response to the Division's proposal to change the gas RDM filing date to July 1, the Company said that it chose the August 1 file date to coincide with the DAC filing but that it would be willing to change the file date to July 1.[77]

H. Sales Losses from Major Service Outages

The Company characterized Mr. Oliver's concern that the RDM might compromise the Company's adherence to service quality standards as unsubstantiated in light of the Company's superior record of service quality.[78] The Company supported its testimony with a letter from

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[73] National Grid 3, p.3, citing R.I.G.L. §39-1-27.7.1(c)(1).
[74] Id., p. 4.
[75] Id., p. 14.
[76] Id.
[77] National Grid 2, p. 19.
[78] National Grid 2, p. 8; Post-Hearing Brief of National Grid, pgs. 9-11.

Power Services Company confirming the Company's record of superior service quality.[79] The Company also noted it was already subject to numerous incentives to restore service in the form of Service Quality Standards and penalties prescribed by those standards.[80] The Company felt that some of Mr. Oliver's concerns appeared to be exaggerated. For instance, in apparent support of his recommendation to exclude from decoupling sales losses from service outages, he referred to another utility outside this jurisdiction which had experienced service quality issues after decoupling was implemented. He did not explain, however, whether the utility was subject to service quality standards similar to those that govern National Grid.[81] Finally, the Company argued that the Decoupling Act requires that service quality standards be addressed after decoupling.[82]

I. Out of Period Billing Adjustments

The Company characterized Mr. Oliver's argument that out of period billing adjustments in excess of $1,000 should be excluded from actual billed revenue and the RDM reconciliation process, as unwarranted and extremely burdensome to implement.[83] The Company also stated that Mr. Oliver's recommendation seemed to imply that all billing adjustments, in addition to being out-of-period, are also inappropriate.[84] Finally, the Company maintained that it was appropriate to include billing adjustments in RDM because they are integral to the normal course of business and consistent with the last rate case.[85] The Company pointed out that adjustments are often necessary due to inaccurate meters or billing errors, and the Commission allowed

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[79] National Grid 4.
[80] National Grid 2, p.8; Post-Hearing Brief of National Grid, pgs. 9-11.
[81] National Grid 2, p.9.
[82] Post Hearing Brief of National Grid, p.11.
[83] National Grid 2, p. 5.
[84] Id., pgs. 6-7.
[85] Id., p. 5.

historical prior period adjustments in the last electric and gas rate cases.[86] Furthermore, the Company asserted that it would not be feasible to comply with Mr. Oliver's request to demonstrate removal of billing adjustments from billed revenue measures used in the reconciliation process. The Company claimed this would have to be done manually which would be extremely time consuming and burdensome.[87]

J. Interest on Reconciliation Balances

The Company did not address the propriety of being allowed to earn interest on RDM reconciliation balances in either its rebuttal testimony or post hearing brief.

VII. Surrebuttal of Bruce R. Oliver

Many of the issues referenced above were argued in Mr. Oliver's surrebuttal testimony on similar or identical terms as those raised on direct; hence, for efficiency reasons, this summary addresses only those issues which were supported in surrebuttal by new, additional or different arguments.[88]

On the issue of service quality, Mr. Oliver reiterated his original argument against allowing revenue losses from major outages in the RDM. He argued once again that the proposed revenue decoupling mechanism would effectively eliminate the Company's incentive to maintain quality service standards. Mr. Oliver also felt that requiring customers to pay for services they did not receive could result in "greatly strained" customer relations.[89]

Regarding his recommendation for class specific RDM factors, Mr. Oliver on surrebuttal seemed to acknowledge that his proposal could increase the risk that customers from smaller groups could be subject to larger rate adjustments. Specifically, Mr. Oliver asserted on

[86] Id.
[87] Id., p. 6.
[88] Issues in Mr. Oliver's surrebuttal testimony which are presented as merely a disagreement with a rebuttal argument, without more, are also not included.
[89] Division 2, p. 7.

surrebuttal that customers from smaller rate classes would not be subject to larger rate adjustments resulting from significant sales changes if the Commission imposes a reasonable cap on the rate adjustments.[90] He added that comparatively large deferred balances for any given class could be addressed in the next base rate case.[91]

Mr. Oliver pointed out that interim rate adjustments would more than likely take the form of increases rather than decreases, despite the Company's suggestion otherwise, given the Company's statutorily mandated emphasis on energy efficiency programs.[92] He also argued that interim rate adjustments would be premised on "speculative" forecasting of weather variations rendering the likelihood of proposals to reduce the RDM factor small.[93]

In addressing the exemption of the large and extra large C&I customer classes from the gas RDM, Mr. Oliver disagreed with the Company's reasoning regarding CIAC payments. He said the Company's argument was based on the incorrect assumption that any revenue collected from an individual customer in excess of the class revenue target cannot be retained by the Company.[94] Mr. Oliver took issue with this assumption claiming that the Company retains revenues based on the average revenue collected per customer which means that CIAC calculations for all customers in a class based on average revenue per customer for the class would increase the CIAC required of new, larger than average customers.[95] This would serve to discourage the attraction of new large customers and economic development.[96] Mr. Oliver also rejected the Company's offer to use the individual customer's projected revenue in its CIAC calculation on the condition that any difference between such projected revenue and the CIAC

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[90] Id., p. 10.
[91] Id.
[92] Id., p. 12.
[93] Id., p. 12.
[94] Id., p. 14.
[95] Id.
[96] Id., pgs. 14-15.

that would have resulted from the use of the average revenue per customer target be included in the calculation.[97] Mr. Oliver rejected this offer because he claimed that it was based on the assumption that the process would identify an amount of revenue the Company is ultimately not allowed to retain.[98]

VIII. Hearing

Following public notice, a technical session was held on May 17, 2011 at the Commission's offices located at 89 Jefferson Boulevard, Warwick, Rhode Island at which time National Grid explained the various energy components of the electric and gas revenue decoupling mechanism proposals. The following appearances were entered:

FOR NATIONAL GRID:	Thomas Teehan, Esq.
FOR THE DIVISION:	Leo Wold, Esq.
FOR ENVIRONMENT NORTHEST:	Jeremy McDiarmid, Esq.
FOR CONSERVATION LAW FOUNDATION:	Jerry Elmer, Esq.
FOR THE WILEY CENTER:	Jean Rosiello, Esq.
FOR THE COMMISSION:	Amy K. D'Alessandro, Esq.

Also present at the hearing were Jeanne Lloyd and Jennifer Feinstein for National Grid, and Alan Nault and Dilip Shah for the Commission. The hearing began with a request from the Wiley Center on behalf of the low-income rate class (A-60). Wiley Center attorney, Jean Rosiello, requested that the Commission establish a threshold for energy use applicable to low income customers. Attorney Rosiello requested that low income customers would be subject to RDM surcharges only to the extent that their energy use exceeded this threshold.[99] Ms. Rosiello did not recommend a specific threshold level of energy use for this rate class. She requested,

[97] Id., p. 15.
[98] Id.
[99] Transcript, p. 19.

however, that this threshold, whatever the Commission determined it to be, would have no bearing on RDM credits. Ms. Rosiello argued that the low income rate class (A-60) would be entitled to any and all credits resulting from the RDM.[100] As an alternate proposal, Ms. Rosiello requested that the A-60 class be exempt from any and all surcharges resulting from the implementation of the RDM.[101] Ms. Rosiello addressed the portion of Mr. Oliver's testimony that criticized the Company's decision to treat the discounted and non discounted residential rate classes the same in terms of revenue per customer. In particular, Ms. Rosiello addressed the part of Mr. Oliver's argument that referred to the Company's discovery response which revealed that the base revenue per customer for the low-income residential rate class was 60% greater than that of the non low-income residential rate class. Mr. Oliver noted that the comparatively high revenues associated with the low-income residential class revealed higher energy usage on the part of this class.[102] Ms. Rosiello argued that the high energy use associated with the A-60 customers referred to in Mr. Oliver's testimony was reflective of poor, inefficient appliances rather than irresponsible behavioral patterns.[103]

On cross examination, the Company acknowledged the existence of some ambiguities in the proposed electric RDM tariffs particularly regarding the definition of billed distribution revenue. The Company clarified these ambiguities by way of an amended electric RDM tariff which it filed on June 10, 2011.[104] On cross examination, the Company testified that any lost revenues resulting from the exemption of the large and extra large C&I classes from the gas RDM, with the exception of dual fuel large and extra large customers, would be absorbed by the

[100] Id.
[101] Id.
[102] Division 1, p. 36.
[103] Transcript, p. 20.
[104] National Grid's Responses to Records Requests filed June 10, 2011.

Company.[105] The Company also testified that other customers would not pay for such lost revenues and that it would not seek to collect these lost revenues from any given year in a future rate case.[106]

At the hearing, the Company testified that it had not seen RDM adjustments exceeding 10% in any of its service territories.[107] Mr. Oliver, however, maintained his opposition to interim rate adjustments claiming they would be determined by an indefinite process that may lead to inequities in the manner in which they are applied. Specifically, Mr. Oliver testified that the RDM tariffs would allow the Company to project revenue shortfalls based on speculative forecasts at any point in the service year which could potentially subject ratepayers to a large increase in the last two or three months of the year.[108] Mr. Oliver reiterated that implementing caps on the allowable level of RDM adjustments in any given year, and then addressing any large projected reconciliation balances in the next rate case, is a more reasonable approach to the potential issue of excessive reconciliation balances.[109] Mr. Oliver testified that in his opinion, adjustment caps would not violate the Decoupling Act and would provide rate stability.[110]

Mr. Oliver pointed out that the RDM proposal would vary street lighting rates based on weather, even though streetlight usage is unaffected by weather.[111] Mr. Oliver also addressed service outages and suggested once again that the RDM proposal in his opinion removed an incentive to maintain quality restoration standards. Particularly where the Company is currently at risk of revenue loss during services outages, and the decoupling mechanism would remove that risk of lost revenue, Mr. Oliver recommended that the Company either be required to absorb

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[105] Id., p. 85, 109, 112.
[106] Id., p. 109.
[107] Id., p. 112.
[108] Id., pgs. 134-136, 159-160.
[109] Id., p. 136.
[110] Id., p. 137.
[111] Id., p. 144.

at least a share of that lost revenue or increase the penalties associated with non-compliance with service quality standards.[112] He once again cited the example of PEPCO which he claimed experienced service quality issues after decoupling was implemented in Maryland; however, when asked whether PEPCO was subject to service quality standards similar to that of Rhode Island, Mr. Oliver did not answer the question.[113]

When asked about the appropriateness of the straight-fixed variable design for promoting energy efficiency, Mr. Oliver cast doubt on the overall policy of using decoupling, or any other rate design, to promote energy efficiency and maintained that the straight fixed variable would ensure revenue to the Company in the same way that decoupling would.[114] He did not agree that the revenue decoupling mechanism would reward customers who conserve energy. He said that the RDM would "effectively penalize the customer who conserves energy by charging them a higher rate and…undermines their confidence that they can properly analyze the paybacks that they can expect from conservation assessments or energy efficiency investments."[115] He also said, "[T]he classes that don't conserve are getting credits because their revenues are high relative to their targets. And the classes that have to act and to reduce their usage are the ones getting surcharges. [J]ust looking at that simple comparison, it suggests you're being penalized for conserving."[116] He also testified that equity among rate classes should be considered in every proceeding that addresses rates and should not be postponed, as suggested by the Company, until the next base distribution rate case is filed.[117]

IX. Post-Hearing Briefs

[112] Id., p. 145, 176-177.
[113] Transcript, pgs. 173-175.
[114] Id., pgs. 181-182.
[115] Id., p. 184.
[116] Id., p. 194.
[117] Id., p. 183.

In its post-hearing brief filed with the Commission on July 5, 2011, National Grid argued that the RDM adjustment caps recommended by Division consultant, Bruce Oliver, were contrary to the terms and provisions of the Decoupling Act which require an annual reconciliation which covers a "twelve month period."[118] Since Mr. Oliver's proposal would allow the Company to recover under collections and conversely, customers to receive credits for over recoveries, in periods that exceed the statutory twelve month period, the Company argued that it would be contrary to the express terms of the Act. The Company pointed out that Mr. Oliver conceded at the hearing that his proposal could potentially postpone RDM refunds or recoveries for years.[119] Additionally, the Company claimed that Mr. Oliver's proposed adjustment cap lacked certainty and would create generational inequities by providing refunds to customers who may not have been the true recipients of those refunds during the applicable twelve month reconciliation period.[120] Furthermore, the policy that Mr. Oliver purported to advance, rate stability, according to the Company, was already addressed in the Company's RDM proposal through interim rate adjustments. The interim rate adjustments proposed in its original filing would serve to promote rate stability by avoiding the accrual of large deferrals and resulting rate increases. Finally, the Company argued that the delayed recovery of under billed revenues that would inevitably result from Mr. Oliver's adjustment caps would frustrate the express policy of the Decoupling Act to eliminate disincentives to support energy efficiency programs.[121]

Addressing the Division's claim that the Company's proposed effective date of April 1, 2011 would violate the rule against retroactive ratemaking, the Company argued first that there is

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[118] R.I.G.L. §39-1-27.7.1(c); Post-Hearing Brief, p. 2.
[119] Post-Hearing Brief of National Grid, p. 3, citing Transcript, pgs. 151-152
[120] Post-Hearing Brief of National Grid, p. 3, 4, 5.
[121] Id., citing R.I.G.L. §39-1-27.7.1(a)(6).

no legal prohibition against tracking the billed revenues for months that precede the Commission's approval of the RDM. Secondly, the Company argued that the Commission is not establishing a rate, but a mechanism to be applied to rates. Finally, the Company argued that the R.I. Supreme Court has construed the rule against retroactive ratemaking liberally, recognizing the need to carve out exceptions to the rule when appropriate. Specifically, the Company cited the R.I. Supreme Court's ruling in *Narragansett Electric Company v. Burke* that "no rule shall be blindly applied…without prior consideration of the underlying policy that the application of the rule in a particular instance will not undermine its original purpose.[122] The Company also noted that the R.I. Supreme Court in *Providence Water Supply v. Malachowski,* specifically recognized an exception to the retroactive ratemaking rule when so authorized by statute.[123] The Company argued the present docket fell within the purview of the Supreme Court's ruling in Malachowski in that the Decoupling Act specifically authorized the Company to reconcile past actual billed revenue to annual target revenue over a twelve month period.[124]

The Company addressed Mr. Oliver's concern regarding the inclusion of out of period billing adjustments in the RDM. The Company argued that such billing adjustments are part of the ordinary course of providing utility service; the amount and timing of the adjustments are out of the Company's control; and that tracking these adjustments would be not only extremely complex and costly but also wasteful in light of the Company's immediate plans to convert the billing system for its gas operations.[125] Finally, the Company maintained that if the Company were required to adopt Mr. Oliver's recommendation and exclude out of period billing

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[122] 415 A.2d at 178; Post-Hearing Brief of National Grid, p. 6.
[123] Providence Water Supply v. Malachowski, 624 A.2d 305 (R.I. 1993); Post-Hearing Brief of National Grid, p. 6.
[124] Post-Hearing Brief of National Grid, p. 6.
[125] Id., pgs. 7-8.

adjustments from the RDM, it would misrepresent the Company's revenue during the RDM reconciliation period.[126]

In response to Mr. Oliver's proposal to implement class specific RDM factors, as opposed to a uniform RDM factor, the Company urged the Commission once again not to address cost allocation in this proceeding.[127] The Company reiterated its argument on rebuttal that the proper time to address the issue of cost allocation is during a rate case. The Company also reiterated that it is appropriate to recover the RDM factor on a uniform basis, among all rate classes, since this is consistent with the Company's recovery of the energy efficiency program charge, and the Decoupling Act is designed to promote energy efficiency.[128] In support of its uniform RDM factor, the Company also noted Mr. Oliver's admission that the use of class specific RDM factors would have the undesirable effect of subjecting customer classes that engage in the most energy conservation with the largest rate increases.[129]

The Company maintained there was no evidence to support Mr. Oliver's warning that inclusion in the RDM of lost revenue associated with major service outages would diminish the Company's restoration and/or service quality standards.[130] It argued that the existing Service Quality Plan acts as a sufficient incentive to the Company to maintain restoration and service quality standards since the penalties associated with this Plan exceed estimated lost distribution revenue associated with a major outage.[131] Furthermore, the Decoupling Act requires the Commission to address service quality issues outside of this proceeding.[132]

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[126] Id., p. 8.
[127] Id.
[128] Id., p. 9.
[129] Id., citing Transcript at p. 184, lines 19-23.
[130] Id., p. 9.
[131] Id., p. 10.
[132] Id., p. 11.

The Company reiterated its positions regarding the exclusion of the large and extra large C&I classes from the gas RDM and also regarding the inclusion of the low income rate class in the electric and gas RDM. The Company maintained once again that excluding the large and extra large C&I classes from the gas RDM was necessary to prevent large rate impacts associated with small changes in use or composition of these classes. The Company again requested that if the Commission elects to include these classes in the gas RDM, then the Company must be allowed to recognize any difference in the required CIAC calculated using projected billed revenue versus the class average RPC.[133] Regarding the low income rate class, the Company maintained its position that it is appropriate to include these customers in the electric and gas RDMs since they benefit from energy efficiency programs, and inclusion of these customers is consistent with the purpose and intent of the Decoupling Act to eliminate the disincentive to promote energy efficiency.[134]

The Division filed a post hearing brief on July 6, 2011. The Division's brief focused on three issues raised in Mr. Oliver's testimony: the proposed 5% RDM adjustment caps, class specific adjustment factors and the April 1 effective date of the RDM. On the issue of whether the Commission should impose 5% caps on RDM rate adjustments, the Division characterized the Company's legal argument as "flawed", maintaining that the Commission's plenary authority to set just and reasonable rates allows the Commission to set caps in this case.[135] The Division argued that the Commission's authority to set just and reasonable rates was not implicitly repealed by the Decoupling Act.[136] The Division also argued that the so called "cap and deferral" proposed by Mr. Oliver would not undermine energy efficiency. In support of this last

[133] Id., p. 13.
[134] Id., p. 14.
[135] Post Hearing Brief of the Division, pgs. 1-4.
[136] Id., pgs. 4-7.

argument, the Division cited orders issued by the Commission in Dockets 4065 and 3943. Referring to these orders that were issued prior to the passage of the Decoupling Act, the Division noted the Commission's past reluctance to accept the assumption that a revenue decoupling mechanism would eliminate a disincentive to support energy efficiency. The Division also argued there was no basis for the Company to claim that a cap and deferral would act as a disincentive to energy efficiency investments since the "economic effect of the dollars deferred to the next period is completely maintained."[137]

The Division reiterated its arguments regarding class specific RDM adjustment factors, claiming once again that the Company's uniform RDM adjustment factor would result in cross subsidization and discrimination among different rate classes. In support of its argument, the Division referred to the Company's admission that the uniform adjustment factor may result in rate class revenue distributions that differ from those established in the last rate cases. The Division suggested that the Company had no basis for assuring that such revenue shifting would not be inappropriate or unfair.[138]

In effort to persuade the Commission that the initial reconciliation period proposed in the Company's revenue decoupling mechanism (April 1, 2011 through March 31, 2012) would violate the rule against retroactive ratemaking, the Division cites two Rhode Island cases: *In Re: Island Hi-Speed Ferry, LLC*, 852 A.2d 524 (R.I. 2004) and *Blackstone Valley Electric Co. v. Public Utilities Commission*, 542 A.2d 242 (R.I. 1988). The Division notes that in *Hi-Speed Ferry,* the Rhode Island Supreme Court recognized the rule against retroactive ratemaking, and in *Blackstone Valley Electric Co.*, it recognized an exception to this rule. According to the Division, the exception allowed in *Blackstone Valley Electric* has no application to the present

[137] Id., p. 9.
[138] Id., p. 10.

docket because the revenue decoupling mechanism proposed in this docket has never been implemented before. The Division argued that the ruling in *Blackstone Valley Electric* allows exceptions to retroactive ratemaking only when the exception involves a reconciliation provision that has already been approved by the regulatory body.[139]

The George Wiley Center filed a post-hearing brief on June 23, 2011. In its brief, Ms. Rosiello requested that the Commission establish a reasonable energy use applicable to low income customers and then apply any RDM surcharges only to the portion of usage that exceeds this level.[140] Counsel argued in favor of applying all RDM credits to low income customers in the same manner as other rate classes. Citing Mr. Oliver's testimony, counsel argued that the revenue decoupling mechanism would most likely result in future surcharges as opposed to credits to customers.[141] This likelihood, she argued, would result in substantial hardship to low-income customers since these customers already struggle financially to stay afloat.

Environment Northeast ("ENE") filed its post-hearing brief on July 6, 2011. ENE's counsel argued in support of the Company's revenue decoupling mechanism, with one caveat. Counsel argued that the Company's RDM proposal complied with the terms and provisions of the Decoupling Act and the policies supporting the Act, but that it should not exclude the large and extra large C&I customers from the gas RDM.[142] Counsel argued that excluding these customers from the gas RDM will preserve a disincentive to promote energy efficiency with respect to these customers which are some of the largest gas users in the state.

Counsel for ENE urged the Commission to reject the Wiley Center's request claiming that it would reduce the scope and effectiveness of the revenue decoupling mechanism and is

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[139] Id., p. 12. "This narrow exception…does not have any application when a reconciliation provision has not been in place and the appropriate regulatory authority has not approved the proposed provision. State of Missouri, ex rel., AG Processing, Inc. v. Public Service Commission, 311 S.W.3d 361, 365 (Mo.Ct. App. 2010)

[140] Post-Hearing Brief of George Wiley Center, p. 2.

[141] Id., p. 1.

[142] Post-Hearing Brief of ENE, p. 6.

inconsistent with the Act.[143] He further added that Ms. Rosiello's proposal to apply only a portion of the surcharge on low income customers would result in further cross subsidies and be difficult to administer.[144] Counsel further noted that RDM rate adjustments in other jurisdictions have been extremely small, citing a recent Connecticut study which revealed that decoupling adjustments were less than $ 0.0003/kWh during years one and two of decoupling.[145] Counsel also urged the Commission to reject the Division's proposal to apply the RDM on a class-specific basis, as opposed to a uniform application to all rate classes, as proposed by the Company. Counsel argued that the use of class specific RDM factors would reduce the scope and effectiveness of the proposed RDM to the extent that there would be years in which some rate classes see a decoupling surcharge (due to energy efficiency use within that specific class) while other rate classes would receive a decoupling credit.[146] Counsel argued that the Company's uniform RDM factor would appropriately balance over and under collections across all rate classes, resulting in smaller decoupling adjustments for all customers.[147]

X. Commission Findings

According to R.I.G.L. §39-1-27.7.1(a), National Grid's proposed revenue decoupling mechanisms must serve the following purposes:

1) Increasing efficiency in the operations and management of the electric and gas distribution system;
2) Achieving the goals established in the electric distribution company's plan for system reliability and energy efficiency and conservation procurement as required pursuant to subsection 39-1-27.2(c);

[143] Id., p. 2.
[144] Id., p. 9.
[145] Id., p. 10.
[146] Id., p. 7.
[147] Id.

3) Increasing investment in least-cost resources that will reduce long-term electricity demand;
4) Reducing risks for both customers and the distribution company including, but not limited to, societal risks, weather risks and economic risks;
5) Increasing investment in end-use energy efficiency;
6) Eliminating disincentives to support energy efficiency programs;
7) Facilitating and encouraging investment in utility infrastructure, safety and reliability; and
8) Considering the reduction of fixed, recurring customer charges and transition to increased unit charges that more accurately reflect the long-term costs of energy production and delivery.

The Commission must approve National Grid's decoupling proposal if it finds that it is consistent with the purposes set forth above and consistent with the following definition:[148]

> "A revenue decoupling reconciliation mechanism [shall] reconcile[s] annually the revenue requirement allowed in the Company's base distribution rate case to revenues actually received for the applicable 12 month period, provided that the mechanism for gas distribution shall be determined on a revenue per-customer basis, in a manner typically employed for gas distribution companies in the industry. Any revenues over-recovered or under-recovered shall be credited to or recovered from customers, as applicable. [149]

None of the parties dispute that the Company's RDM proposal conforms with the statutory definition above. [150] It provides for an annual reconciliation of the revenue requirement established in Docket 4065 to actual revenues for the fiscal period from April 1, 2011 to March 31, 2012, with overages and shortages credited to or recovered from customers, and the gas

[148] R.I.G.L. §39-1-27.7.2(b) and (c).
[149] R.I.G.L. §39-1-27.7.1 (c)(1)
[150] Division 1, p. 11; Post-Hearing Brief of ENE, pgs. 3-5. Wiley Center has not claimed that the RDM Proposal is inconsistent with the Act.

RDM proposal provides for a revenue per customer reconciliation, pursuant to the Act.[151] Despite the proposal's compliance with section (c)(1) of the Act, the Division had several concerns with the proposal which will be addressed momentarily.

As noted, the Act also requires the RDM proposal to be consistent with the above referenced eight objectives.[152] Complicating this analysis is the peculiar layout of the Decoupling Act which attempts to address both a revenue decoupling mechanism and an infrastructure, safety and reliability ("ISR") plan under one umbrella, creating ambiguity as to which objectives apply to which mechanism. The Act requires the Company to file two proposals, a RDM proposal and an ISR proposal, and requires that the proposals are to be consistent with the eight objectives. It is not known whether this means that both the RDM and ISR proposals must comply with all of the eight objectives or whether each individual proposal may comply with some or all of the statutory objectives. The Commission is guided by the rules of statutory construction that where a statute is ambiguous, the statute must be examined in its entirety to determine the intent and purpose of the Legislature. *Kingston Hill Academy v. Chariho Regional School District*, 21 A.3d 264 (R.I. 2011). The Commission should attribute to the statute the meaning most consistent with its policies and purposes. Id. at 271. The Decoupling Act is a comprehensive act encompassing not only revenue decoupling but other legislative policies such as energy efficiency, least cost procurement and system reliability. It is evident from the broad reach of the statute that the legislature, in enacting this law, intended to address all of these policies. Reading the Act in this context, it is reasonable to infer that some of the eight objectives listed in the Act apply to ISR and not decoupling. Accordingly, the Commission finds that in order to satisfy the Decoupling Act, the Company's RDM proposal

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[151] National Grid Electric and Gas RDM Tariffs (JAL-4;JBF-3; JBF-4)
[152] Bruce Oliver stated that the Company's RDM Proposal serves the purposes of the Decoupling Act "in part" but did not address each of the 8 objectives identified in the Act. Division 1, p. 9.

must conform with only those objectives that are intended to serve the policies associated with decoupling and not ISR.

The Company's direct testimony begins with the following opening statements:

> "The main purpose [of revenue decoupling] is to establish a rate mechanism that breaks the link between the revenues a gas or electric distribution company receives and the level of sales it makes. Because it eliminates the incentive for the utility to expand its sales, while reducing risks to both customers and distribution companies, the RDM mandated by the Decoupling Act allows utilities to aggressively pursue increased energy efficiency programs. Moreover, by ensuring an allowed level of revenue that is decoupled from the declining sales levels resulting from successful energy efficiency measures as well as from other causes, the RDM helps support the distribution company's continuing ability to fund safe, efficient, and reliable gas and electric distribution systems." [153]

The Company again addressed the legislative objectives in the Act when it stated,

> "The RDM leaves the Company completely indifferent to changes in usage. Thus the Company can fully participate in the further expansion of energy efficiency programs without the risk of declining revenue as a result of successful demand side management by its customers. To that end, the Company believes that its proposed electric and gas RDM proposals meet the objectives of Rhode Island's energy policy on energy efficiency and address the effects of increased energy conservation while ensuring revenue is available at a predictable level to fund an efficient, safe, and reliable distribution system."[154]

The Company also offers the above reasoning in its Post Hearing Brief.[155] It is undisputed that the Company's RDM proposal breaks the link between revenues and sales and therefore expands the Company's ability to more aggressively pursue energy efficiency and ensure investments in system reliability. This conclusion would suggest that the RDM proposal is consistent with the statutory objectives that address the Company's ability to promote and/or ensure energy efficiency and system reliability. These goals are reflected in Objectives 2, 3, 6, and 7 of the Act; thus, the Commission finds that the RDM proposal is consistent with

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[153] National Grid 1, pgs. 4-5.
[154] National Grid 1, p. 22.
[155] Post-Hearing Brief of National Grid, pgs. 1-2.

Objectives 2, 3, 6 and 7 of the Act. Whether the RDM proposal is consistent with Objectives 1, 4, 5 and 8 is addressed below.

Objective 1 appears to address one of the goals associated with the Company's ISR plan, efficiency in operations and management. Consistent with this observation, the Commission also notes that the Company does not address Objective 1 in any of its filings, nor has it demonstrated that its RDM proposal is consistent with Objective 1. This would lead a reasonable person to question whether the legislature intended for Objective 1 to apply to ISR, as opposed to the Company's Revenue Decoupling Mechanism. In further support of this inference is Mr. Oliver's testimony that objective 1 (increasing efficiency in operations and management of the electric and gas distribution system) applies to ISR, and not to Decoupling.[156]

Objective 4 (reducing societal, weather and economic risks for both customers and the Company) is also not addressed by the Company in its filings. To be clear, the Company alleges that the RDM proposal reduces risks to both the customer and the Company, but it does not explain how the RDM proposal would accomplish this Objective.[157] Moreover, Mr. Oliver testified that in his opinion, the RDM proposal would reduce risks for the Company, but not for the customer.[158] The Commission must decide whether Objective 4 is applicable to the Company's RDM proposal and if so, whether the Company's RDM proposal is consistent with this Objective, namely reducing risks for both customers and the distribution company, including societal risks, weather risks and economic risks. In light of the previously noted breadth of the Act and, more specifically, the inclusion therein of policies associated with ISR, it is reasonable to conclude that Objective 4 applies to the Company's ISR Plan, as these are policies universally

[156] Transcript, p. 193, lines 22-25.
[157] National Grid 2, p. 4.
[158] Division 1, p. 194.

associated with infrastructure, safety and reliability and which were indeed addressed in the Company's ISR plan.

Regarding Objective 5 (increasing investment in end-use energy efficiency), in view of the widely accepted notion that decoupling from a policy standpoint is designed to promote energy efficiency, the Commission finds that this objective applies to the Company's RDM proposal. Whether the Company's RDM proposal is consistent with Objective 5 requires the Commission to decide whether the term "investment in end-use energy efficiency" refers to investments made *by the Company* in certain types of energy efficiency, i.e. end-use energy, or investments made *by the end-user (customer)* in energy efficiency. The latter interpretation was addressed by the Division's witness, Bruce R. Oliver, who believes that the Company's RDM proposal, and in particular the proposal's uniform cents-per-kWh mechanism, sends distorted pricing signals to customers which in turn may have the opposite effect of discouraging customers from conserving.[159] Ms. Lloyd acknowledged that energy efficiency programs will result in surcharges billed to the customer.[160] If one adopts the latter interpretation, that objective 5 refers to a *customer's* investments in energy efficiency, then the fact that customers investing in energy efficiency will be subject to surcharges under the RDM proposal would undermine the notion that the RDM proposal is consistent with Objective 5.[161] The former interpretation, on the other hand, would be consistent with the overall policies of the Decoupling Act to ensure that the Company has sufficient revenue to pursue energy efficiency and safety and reliability and would, therefore, conform with generally accepted principles of statutory

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[159] Division 1, p. 18; Transcript, p. 194. "…the classes that don't conserve are getting credits because their revenues are high relative to their targets. And the classes that have to act and to reduce their usage are the one getting surcharges…it suggests you're being penalized for conserving."
[160] National Grid 1, p. 10.
[161] This assumes that Objective 7 was intended to apply to the Company's Revenue Decoupling Proposal and not the ISR Proposal. The distinction is moot, in any event, since the Company has arguably demonstrated the Proposal's consistency with this Objection 7 at pgs. 4 and 22 of its Direct Testimony.

construction.[162] Thus, in effort to construe Objective 5 in a manner that considers the overall goals of the Act, consistent with generally accepted rules of statutory construction, the Commission finds that the Company's RDM proposal is consistent with Objective 5.

The Company's proposal is silent on Objective 8 (the reduction of fixed, recurring charges); however, at the hearing, when asked how the RDM proposal complies with the goal of reducing fixed recurring customer charges and transition to increased unit charges that more accurately reflect the long term cost of energy productions and delivery, Ms. Lloyd replied "we are complying with it by not increasing fixed charges as part of our proposal. Our proposal for the adjustment factor is a kilowatt hour charge."[163] Jennifer Feinstein reiterated this sentiment.[164] Bruce Oliver suggested that in drafting objective 8, the legislature intended that the Company's RDM proposal should attempt to mitigate increases in the cost of long term energy. He added that no information had been presented regarding the long-term cost of energy, how it would be measured or defined.[165] He also stated that the adders resulting from the Company's RDM proposal and from other mechanisms such as energy efficiency, ISR and wind power would increase the long-term cost of energy, and "the legislation wants you to address that."[166] What the legislature specifically intended the Commission to address as far as the cost of long-term energy is not particularly clear from the language of the Act. What is clear is that the Act discourages the use of fixed recurring charges and favors the use of unit charges. That said, to the extent that the RDM proposal provides for a kilowatt-hour charge, the Commission will find that the Company's RDM proposal is consistent with Objective 8.

Having found that the RDM proposal complies with the provisions

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[162] Kingston Hill Academy v. Chariho Regional School District, 21 A.3d 264 (R.I. 2011).
[163] Transcript, pgs. 88-89.
[164] Id., p. 89.
[165] Id., p. 149.
[166] Id., pgs. 149-150.

and policies of the Act, the Commission will now address the issues raised by the parties. The Division raised several concerns regarding the Company's RDM proposal even though he agreed that it conformed to the major requirements of the Act.[167]

A. Class Specific RDM Factors

In determining whether to accept Mr. Oliver's recommendation to implement class specific RDM factors, the Commission must first decide whether the proposal will lead to cross-subsidization and if so, should the Commission address this in this proceeding or in the next rate proceeding.

Mr. Oliver contended that the RDM proposal and the annual RDM reconciliations should be based on class specific revenue targets tied to the revenue requirement in Docket 4065, as well as class specific RDM reconciliation factors, as opposed to a uniform RDM factor.[168] Mr. Oliver argued that the uniform RDM factor proposed by the Company would cause revenue shifting among rate classes which in turn may result in complications in setting appropriate revenue responsibilities in the next rate case.[169] In response to Mr. Oliver's recommendation, the Company argued that although some revenue shifting may occur, it is not possible to determine the extent of such shifting without an allocated cost of service study.[170] The Company added that this is not the appropriate time to assess the impacts of such revenue shifting among classes.[171] The Company also stated that the uniform rate factor is consistent with the Company's funding of energy efficiency programs and other cost recovery mechanisms.[172] Mr. Oliver acknowledged that class specific revenue targets may also lead to cross subsidization

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[167] Division 1, p. 11.
[168] Division 1, pgs. 15-17.
[169] Id., p. 18.
[170] National Grid 2, p. 10.
[171] Id.
[172] National Grid 2, p. 11

especially among large classes and acknowledges this was the reason the Company excluded large and extra large C&I customers from the gas RDM.[173]

The Commission appreciates the Division's concern that revenue decoupling may lead to some cross-subsidization among rate classes; however, the Commission finds that there is insufficient evidence in the record to identify with any degree of specificity the exact level of subsidization projected to occur as a result of the proposed RDM and/or which rate classes would be most afflicted by this issue. Given this lack of evidence, the Commission would be ill equipped to address with efficacy the issue of cross subsidization from the proposed RDM in this docket and will defer findings on this issue until the next rate case. The Commission further finds that the adoption of Mr. Oliver's recommendation regarding class specific RDM factors may also have ramifications with respect to cost allocation. The record likewise is insufficient regarding the specific impact of Mr. Oliver's proposal on cost allocation, and the Commission will, therefore, refrain from adopting Mr. Oliver's recommendation for class specific factors. The Commission agrees with the Company that the adoption of class specific RDM factors would be ill advised at this juncture without the benefit of an in-depth analysis to support such a decision, including without limitation a full cost allocation study. Thus, based on the record in this docket, the Commission will not disturb the portion of the Company's RDM proposal that calls for a uniform RDM reconciliation factor.

B. Large and Extra Large C & I Gas Customers be Included in the Gas RDM Proposal Subject to a Straight Fixed-Variable Rate Design

The Commission must decide whether the exemption of the large and extra large C&I customers can potentially result in shifting of revenue risks, as alleged by Mr. Oliver, and whether that ought to be addressed in this proceeding or the next base rate proceeding.

[173] Division 1, p. 16.

Mr. Oliver argued that instead of exempting the large and extra large C&I gas customers from the gas RDM, they should be included in the gas RDM and take service under a straight fixed-variable ("SFV") rate design.[174] [175] His recommendation is based on the concern that the exemption of these classes from the RDM would create variations in revenue risk among classes which would lead to future complications in setting rates in the next base rate case.[176] Mr. Oliver explained that a SFV rate design would address this problem because under this rate design, only costs that vary according to usage are billed on the basis of usage.[177] He explained that "all other costs are billed based on the number of customers or measures of demand."[178] Mr. Oliver argued that this rate design would remove concerns regarding differences in revenue risks in the next base rate proceeding.[179] The Company argued several points in opposition to Mr. Oliver's recommendation. First, the Company disagreed that exempting large and extra-large C&I classes from the gas RDM would hamper the Commission's ability to set rates in the next base rate proceeding.[180] The Company also argued that the potential impact of revenue shifting is already mitigated by the significant portion of revenue from fixed charges (55%) collected from these classes.[181] The Company also attempted to discredit Mr. Oliver's recommendation by pointing out that he had advocated in favor of excluding these classes in the previous rate case. [182] Finally, the Company noted its express permission given by the legislature to exclude the large and extra large C&I customers from the gas RDM. Environment Northeast opposed the

[174] Id., p. 33.
[175] Environment Northeast also argued in favor of including the Large and Extra Large C & I customers in the RDM claiming that excluding these customers would preserve the Company's disincentive to promote energy efficiency. Post Hearing Brief of Environment Northeast, p. 6.
[176] Id., p. 33.
[177] Id.
[178] Id.
[179] Id., p. 34.
[180] National Grid 2, p. 15; Post-Hearing Brief of National Grid, p. 12.
[181] Transcript, p. 29.
[182] Post-Hearing Brief of National Grid, pgs. 11-12.

recommendation for a straight fixed variable rate design asserting that it conflicts with the legislative intent to reduce fixed, recurring customer charges.[183]

Mr. Oliver's opinion that exclusion of the large and extra large C&I classes from the RDM will result in variations in revenue risks, while potentially valid, is an insufficient basis for rejecting the proposed exclusion of these classes. Given that the legislature has expressly authorized the Company to exclude these classes from the gas RDM, although this provision is permissive as opposed to mandatory, the Commission nonetheless finds that it would be counter-intuitive to deny this exception. The Commission is also not persuaded that its ability to address potential revenue risks in the next rate case is somehow fettered by the Company's RDM proposal. Thus, the Commission finds that the record fails to support a denial of the Company's exclusion of the large and extra large C&I classes from the proposed RDM. The Commission need not address the merits of the straight fixed variable design, having rejected Mr. Oliver's arguments supporting the SFV design, effectively rendering the issue moot.

C. 5% RDM Adjustments Caps

Mr. Oliver's primary reason for recommending caps on rate adjustments is to avoid large rate adjustments outside of rate proceedings.[184] The Company strongly objected to the imposition of a RDM adjustment cap on the basis that it would violate the Decoupling Act and also on the basis that it was not necessary in light of the Company's proposal to seek interim rate adjustments.[185] The Company also claimed that imposing Mr. Oliver's cap would be inequitable because it would allow refunds or recoveries to customers who may not have been customers during the 12 month reconciliation period.[186] The Commission finds the Company's legal

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[183] Post-Hearing Brief of Environment Northeast, p. 8.
[184] Division 1, p. 48.
[185] National Grid 1, p. 9.
[186] Post-Hearing Brief of National Grid, p. 3.

argument persuasive. Specifically, the Act mandates an annual reconciliation based on a 12 month period.[187] Mr. Oliver's proposal for 5% RDM adjustment caps allows for the possibility of deferring reconciliation balances over an extended period of time, possibly years,[188] which violates the Act's requirement of an annual reconciliation of a 12 month period.[189] The Company also correctly noted that the lag in recovery associated with the adjustment cap would contravene one of the express purposes of the Act to break the link between revenue and sales thereby eliminating a disincentive for the Company to support energy efficiency.[190] The Commission rejects the Division's assertion that a cap and deferral will not undermine energy efficiency, particularly where the Division's argument is based on a Commission Order issued prior to a legislative enactment that governs this docket. The Commission defers to the policies established by the legislature even though it may not always agree with those policies. The decision rendered in this docket is governed primarily by the policies and provisions of the Decoupling Act.

The Division characterized the Company's legal argument as "flawed", stating that the Commission's plenary authority to set just and reasonable rates allows the Commission to set caps in this case.[191] The Division argued that the Commission's authority to set just and reasonable rates was not implicitly repealed by the Decoupling Act.[192] The Commission finds that while the Division's argument is persuasive to the extent that it refers to the setting of caps

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[187] R.I.G.L. §39-1-27.7.1 (c)(1).
[188] Transcript, pgs. 151-152. See also Division 1, p. 49, 62 where Mr. Oliver explains that balances would be deferred with interest for recovery in "future periods."
[189] R.I.G.L. §39-1-27.7.1(c). Notably, the decoupling statutes from other jurisdictions (WA, UT and CT) cited in the Division's brief do not contain a similar reference to a 12-month reconciliation period. The language of these statutes are, contrary to the R.I. Act, much more open-ended and broad in scope, thus providing the applicable regulatory bodies with more latitude than this Commission in approving the specific terms of the revenue decoupling mechanism.
[190] National Grid 3, pgs. 1-3; Transcript, pgs. 206-207.
[191] Post-Hearing Brief of the Division, pgs. 1-4.
[192] Id., pgs. 4-7.

in general, the Commission finds that its duty in this particular docket is governed once again by the express terms of the Decoupling Act. The Commission finds that the imposition of a specific adjustment cap in this docket would defer the Company's recovery of RDM balances into future periods, a result which runs counter to the express "12 month period" provision in the Act.[193] Specifically, the Commission finds that the Act confines the Company's period of recovery of RDM reconciliation balances to a 12 month period.[194] The Commission further finds that the Company's proposal for interim rate adjustments sufficiently addresses the concern raised by Mr. Oliver in the context of his adjustment cap proposal, namely avoiding the accrual of large RDM balances and resulting large rate impacts. In so finding, it is important to note that Commission and the Division retain plenary authority to review all future revenue decoupling adjustments.

D. Interim Rate Adjustments

The Division argued against interim rate adjustments, claiming they would be premised on "speculative" forecasting of weather variations.[195] It also undermined the Company's claim that eliminating interim adjustments might delay credits due and owing to ratepayers given that an interim rate adjustment would more than likely result in rate increases rather than decreases.[196] The Commission would not venture to suggest that the act of forecasting of any kind-- weather, economic or otherwise, is full proof; however, the Commission recognizes that forecasting is a necessary part of managing the business affairs and operations of many companies. This is certainly so with utilities, and the Commission finds that there is insufficient evidence in the record to conclude that the Company's proposal for interim

[193] R.I.G.L. §39-1-27.7.1(c)(1).
[194] Id.
[195] Division 2, p. 12.
[196] Id.

rate adjustments is inappropriate. The Commission, moreover, finds the Company's testimony regarding the policy in support of interim rate adjustments to be credible. The Company testified in particular that the purpose of the interim rate adjustments was to avoid a potentially large rate change at the end of a period.[197] The Company also correctly noted that interim rate adjustments are by no means a novel concept in the regulatory setting but are employed in other rate setting mechanisms, such as the standard offer service cost adjustment and transmission service cost adjustment factors. The Commission finds there is no evidence in the record to suggest that interim rate adjustments are not a useful tool in preventing rate shock in either the decoupling or other contexts. The Commission also recognizes that one of its primary statutory duties is to ensure that the rates established by every public utility in the state of Rhode Island are reasonable and just; therefore, the Commission will accord greater weight to the Company's testimony that the purpose of the interim rate adjustments is to prevent rate shock.[198]

E. Retroactive Ratemaking

The Division argues that the fiscal reconciliation period (April 1, 2011 – March 31, 2012) contained in the Company's proposal violates the rule against retroactive ratemaking because in the first year it pre-dates the effective date of a decision by the Commission in this matter.[199] To cure this apparent problem, the Division recommended that the Commission change the dates of the RDM reconciliation period such that the RDM reconciliation period would extend from the day after the Open Meeting, July 26, 2011, through March 31, 2012 with an implementation date of October 1, instead of July 1. This time period proposed by the Division is an 8 month period which, according to the Company, would violate the express terms of the Decoupling Act which specifically requires a reconciliation of the ATR to actual revenues

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[197] National Grid 2, p. 13.
[198] For the Commission's responsibility to ensure reasonable and just rates, see R.I.G.L. §39-2-1(a).
[199] Post Hearing Brief of the Division, p.14.

"for the applicable 12 month period."[200] The Company's July 1, 2012 date was intended to coincide with other rate changes in order to minimize the number of rate changes per year.[201] Citing case law from other jurisdictions, the Division argues that the Company is prohibited from recovering any under-collection of revenues relating to a reconciliation period prior to the effective date of the Commission's Order approving the RDM.[202] The cases cited by the Division, however, involve different facts arising predominantly in other jurisdictions. As the Company correctly noted, the Rhode Island Supreme Court does not apply the rule against retroactive ratemaking blindly. Narragansett Electric Company v. Burke, 415 A.2d 177 (R.I. 1980).[203] Instead, it has applied the prohibition on retroactive ratemaking in a flexible manner, taking into consideration the policies supporting the rule and extenuating circumstances. Id. at 178. See also, Blackstone Valley Electric Co. v. Public Utilities Commission, 542 A.2d 242 (R.I. 1988).

Two points are important in this discussion. First and foremost, the Commission must issue its decision based on the law, and the law in this matter dictates a RDM reconciliation period of 12 months. This by itself is dispositive of the issue to the extent that the Division is recommending that the Company use a "partial year" RDM reconciliation period of 8 months, instead of the statutorily mandated 12 months, in the first year of the RDM. It should also be noted, however, that the Company originally filed its RDM proposal on October 18, 2010 with an effective date of November 1, 2010.[204] The Commission exercised its authority to suspend the RDM tariff filing on November 10, 2010 pursuant to R.I.G.L. §39-3-11 and Rule 1.9 of the Commission's Rules of Practice and Procedure. Had the tariff filing not been suspended, the

[200] R.I.G.L. §39-1-27.7.1 (c)(1); Post-Hearing Brief of National Grid, p. 2.
[201] National Grid 2, p. 14.
[202] Post-Hearing Brief of the Division, p. 13.
[203] Post-Hearing Brief of National Grid, p. 6.
[204] National Grid 1, JBF-3.

RDM would have been effective November 1, 2010, and there would be no issue regarding retroactive ratemaking. The Rhode Island Supreme Court was presented with similar facts in Blackstone Valley Electric Co., Id., in which the Commission had postponed a hearing for six months and, as a result of the postponement, the reconciliation period prescribed in the applicable tariff upon which the utility sought recovery had passed. The R.I. Supreme Court quashed the Commission's order denying recovery by the utility holding, "The Commission committed an error of law in failing to distinguish this controversy from cases that involve prohibited retroactive ratemaking."[205]

Although it involved an existing tariff, the Commission finds the facts of this docket to be analogous to that of *Blackstone Valley*. The *Blackstone Valley* ruling illustrates this Court's reasoned approach to the rule against retroactive ratemaking. Given the Act's prescribed 12-month period and the circumstances of this case, including specifically the Commission's suspension of the November 1, 2010 effective date of the RDM tariff, the Commission finds based on the *Blackstone Valley* ruling that the Company's first reconciliation period, which extends from April 1, 2011 to March 31, 2012, does not violate the rule against retroactive ratemaking, and the Commission will, therefore, allow the same to stand. The Commission's finding herein is further supported by the ruling in *Narragansett Electric Company* in that prohibiting the Company from tracking RDM reconciliation balances during the Company's proposed reconciliation period (April 1, 2011 through March 31, 2012) for purposes of applying the RDM adjustment factor in July 1, 2012 through June 30, 2013 would not advance the policies supporting the rule against retroactive ratemaking. If the Commission were to accept the Division's recommendation that the first RDM reconciliation period proposed by the Company does indeed violate the retroactive rule, then modifying the reconciliation period as suggested by

[205] Blackstone Valley Electric Co. v. Public Utilities Commission, 542 A.2d at 245 (R.I. 1988).

the Division would not cure the alleged defect to the extent that the Division's proposed reconciliation period would still recover (or credit) customers for deferral balances which have accrued in the past. The fact that the reconciliation period proposed by the Company would occur after the Commission's approval of the RDM is of little consequence since the reconciliation period would still recover past deferral balances. In short, most, if not all, reconciliation adjustment provisions are by nature retroactive in their application and/or operation; therefore, the policies underlying the rule against retroactive ratemaking would not in any way be advanced by modifying the first RDM reconciliation period as proposed by the Company.

F. Implementation Date of the Electric RDM

The Commission must decide whether to adopt the Division's recommendation to change the effective date of the Company's electric RDM from July 1 to October 1. The Commission finds the Company's testimony in support of its proposed effective date of July 1 credible. The Company testified that the July 1 implementation date was selected to coincide with other basic service rate changes and to reduce the number of annual rate changes. The Commission agrees with the Company's reasoning and finds no justification for changing the effective date to October 1 where such a change would increase the number of rate changes experienced by ratepayers. The Commission, however, is in favor of having additional time to review the RDM proposal and will therefore require the Company to file its annual RDM proposal on May 15 instead of June 1.

G. Filing and Implementation Dates for the Gas RDM

The Commission must decide whether to adopt the Division's recommendation to change the filing date of the gas RDM from August 1 to July 1. The Division has requested this change

to allow the Commission and the Division more time to review the gas RDM filing.[206] The Company testified that it chose the August 1 file date to coincide with the DAC filing but is willing to change the file date to July 1.[207] The Commission is not persuaded by the claim that its review of the gas RDM will be simplified by the fact that it is filed at the same time as the DAC filing. In the interest of having more time to review the gas RDM, the Commission will require the Company to annually file its gas RDM on July 1.

H. Sales Losses from Major Service Outages

As previously noted, the Division testified that including sales losses from major service outages in the RDM would reduce the Company's incentive to restore service after major outages in a timely fashion. The Division cited the example of the Maryland utility that experienced service quality issues after the implementation of decoupling. The Division, however, either did not know or failed to divulge whether the said utility was held to separate service quality standards. This fact would have been important to the Commission's task of weighing the Division's testimony, because it would have contradicted the Company's testimony that service quality was not likely to become an issue after decoupling since the Company is already subject to substantial penalties from a major outage as a result of the existing Service Quality Plan. The Commission, however, cannot reach the conclusion that Rhode Island will experience the same service quality issues experienced in Maryland without knowing whether the Maryland utility was subject to a service quality plan similar to that of Rhode Island. Furthermore, the record reflects that the service quality penalties faced by the Company exceed the amount of any revenue it would recover through the revenue decoupling mechanism in the event of a major outage. In the Company's response to a record request, it compared the actual

[206] Division 1, pgs. 45-46, 63.
[207] National Grid 2, p. 19.

penalties incurred by the Company as a result of major outages versus the estimated lost distribution revenue the Company would expect to recover as a result of these outages after decoupling. In each of the comparisons, the penalties far exceeded the estimated lost distribution revenue.[208] This evidence undermines the Division's concern regarding the impact of revenue decoupling on service quality. Indeed, in weighing the evidence on this issue, the Commission must give preference to the Company's testimony that service quality will not likely be an issue after decoupling, and in the event that it is, the Commission will address the same through the exercise of its regulatory authority pursuant to R.I.G.L. §39-1-27.7.2(e)(1) which states,

> The Commission shall have the following duties and powers in addition to its existing authorizes established in title 39 of the general laws:
>
> 1) To maintain reasonable and adequate service quality standards, *after decoupling*, that are in effect at the time of the proposal and were established pursuant to §39-3-7…" (emphasis added)

Accordingly, sales losses from major outages shall not be excluded from the Company's revenue decoupling mechanism.

I. Out of Period Billing Adjustments

The Commission finds, after weighing the evidence presented by the Division and the Company, that out of period billing adjustments are appropriately included in the Company's revenue decoupling mechanism. Mr. Oliver's concern that such adjustments could in fact be substantial and result in a significant rate increase are justified; however, the Commission finds the prospect of not including these adjustments in the RDM to be equally if not more problematic. The Commission notes that the Company's failure to correct billing errors may potentially expose the Company to statutory fines pursuant to R.I.G.L. §39-2-2. This statute would appear to limit the Company's discretion to postpone the correction of billing errors.

[208] National Grid Response to Commission's Record Request 1.

Additionally, prohibiting the Company from including billing adjustments in its revenue decoupling reconciliations could have the undesirable effect of not only postponing the inevitable, but creating a potentially larger increase at the time of the next base distribution rate filing. The Commission further finds that the Company's RDM proposal already addresses Mr. Oliver's concern of avoiding potentially large rate increase by way of its interim rate adjustments. By performing monthly RDM reconciliations and tracking monthly balances, the Company testified that it intends to keep monthly RDM balances within 10% of the annual target revenue, and if at any time these RDM reconciliation balances are projected to be more than 10% of the ATR, then it will file an interim rate adjustment. As previously noted, the Commission has no cause to doubt the interim rate adjustment as an effective measure in preventing rate shock. The Commission is also mindful of the Company's uncontradicted testimony that it would be extremely complex and costly to track out of period billing adjustments, and also wasteful in light if its billing system conversion/upgrade scheduled in the near term. The Commission, therefore, finds no merit in the Division's argument that out of period billing adjustments should be excluded from the RDM. Accordingly, the Company may include out of period billing adjustments in the calculation of its RDM reconciliations.

J. Interest on Reconciliation Balances

Although Mr. Oliver correctly noted that interest is not allowed on weather normalization adjustments, he did not recognize that interest is allowed at the customer deposit rate on several other reconciliation balances, including without limitation the standard offer service adjustment factor, transmission service cost adjustment factor, administrative cost factor, low income customer credit and the transition cost reconciliation. Interest is allowed on these reconciliation balances because generally speaking, in the ordinary course of business, interest is normally

associated with deferred collections. As of the date of the open meeting, July 26, 2011, the customer deposit rate allowed on these reconciliation balances was 3.22%.[209] The Commission finds Mr. Oliver's reasoning in opposing interest on RDM reconciliation balances to be somewhat contradictory. On the one hand, he asserts that interest should not be allowed on RDM reconciliation balances because RDM under-recoveries mostly result from billing lags which are already addressed in rate proceedings. On the other hand, Mr. Oliver argues that interest should not be allowed on RDM reconciliation balances because RDM reconciliation balances are like weather normalization adjustments which are not subject to interest. Mr. Oliver did not explain his comparison of RDM balances to weather normalization adjustments. He simply said they are alike. The Commission finds it difficult to reconcile the two arguments that 1) under-recoveries are mostly from billing lags and 2) under-recoveries are like weather normalization adjustments. It would seem that either the first or the second argument may be true but not both. Additionally, the Commission does not agree with Mr. Oliver's inference that allowance of interest in this context necessarily means that the Company is entitled to specific monthly revenues. On the contrary, the Commission does not assume that the Company will be entitled to revenues in any particular month. The Commission anticipates that the Company's monthly RDM reconciliations will reveal either under or over recoveries, and as such, the Company may or may not be entitled to recovery. In any event, to the extent that interest would apply to both under and over recoveries, Mr. Oliver's point is moot. Given the fairly accepted application of interest to reconciliation balances, and where the record does not reveal a discernible difference between RDM balances and other reconciliation balances on which interest is allowed, the Commission will not prohibit interest at the customer deposit rate on RDM reconciliation balances.

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[209] As of the date of issuance of this Order, the customer deposit rate is 2.78%.

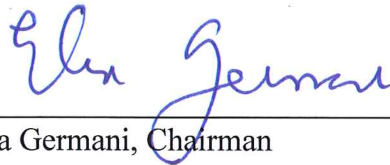
Accordingly, it is hereby

(20745) ORDERED:

1. The Revenue Decoupling Mechanism ("RDM") proposed by the Narragansett Electric Company, d/b/a National Grid on October 18, 2010 is hereby approved for effect on April 1, 2011.
2. The Narragansett Electric Company d/b/a National Grid shall file its Revenue Decoupling Reconciliation Adjustment Factor annually on May 15 with the first filing to occur May 15, 2012.
3. The Revenue Decoupling Reconciliation Adjustment Factor filed on May 15, 2012 shall recover the RDM Reconciliation balance accrued during the 12 month period that extends from April 1, 2011 through March 30, 2012. The Revenue Decoupling Reconciliation Adjustment Factor filed on May 15, 2012 shall be recovered during the period that extends from July 1, 2012 through June 30, 2013. Subsequent filings shall conform to the same schedule with annual Revenue Decoupling Reconciliation Adjustment Factors to recover RDM Reconciliation balances accrued during the period which extends from April 1 through March 30. Annual Revenue Decoupling Reconciliation Adjustment Factors shall be recovered over the 12 month period which extends from July 1 through June 30.
4. The Electric RDM Tariff Provisions filed by the Narragansett Electric Company, d/b/a National Grid on June 10, 2011 are hereby approved for effect on April 1, 2011. The Gas RDM Tariff Provisions filed by the Narragansett Electric Company, d/b/a National Grid on October 18, 2010 are hereby approved for effect on April 1, 2011.

EFFECTIVE AT WARWICK, RHODE ISLAND ON APRIL 1, 2011 PURUANT TO AN OPEN MEETING DECISION ON JULY 26, 2011. WRITTEN ORDER ISSUED MAY 25 , 2012.

PUBLIC UTILITIES COMMISSION



Elia Germani, Chairman

Mary E. Bray, Commissioner

Paul J. Roberti, Commissioner