

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: PROCEEDING TO ESTABLISH A :
CONTACT VOLTAGE DETECTION AND REPAIR : DOCKET NO. 4237
PROGRAM APPLICABLE TO NATIONAL GRID :
PURSUANT TO ENACTED LEGISLATION – :
REVIEW OF RFP PROCESS AND RECOMMENDED :
SURVEY SCHEDULE FOR 2013 :

ORDER

On October 4, 2012, following a review and investigation, the Public Utilities Commission approved The Narragansett Electric Company d/b/a National Grid's ("National Grid" or "Company") Revised Proposed Contact Voltage Program ("Contact Voltage Program"), with the exception that the Request for Proposals from mobile testing vendors shall include alternative pricing based on testing of all designated Contact Voltage Risk Areas in the first year of the program. The Commission also found:

that National Grid's RFP process represents a reasonable approach to choosing a vendor. The Commission specifically approves the use of a pilot survey as described at the hearing in this docket. The Division indicated that the pilot survey was a common approach and further recommended that if a bidder did not participate in a pilot testing under the RFP that it be disqualified. The Commission agrees....¹

On November 9, 2012, the Commission issued a written order consistent with the October 4, 2012 Open Meeting decision. On December 17, 2012, National Grid filed with the Commission, a report of the results of the Company's Request for Proposals ("RFP") relative to the Contact Voltage Program ("Report"). In its Report, National Grid stated that it issued the

¹ *Order No. 20871* (issued November 9, 2012). The Commission notes that there was no Petition for a Writ of Certiorari filed with the Rhode Island Supreme Court challenging the Commission's Order. The deadline for this was November 14, 2012. Noting Power Survey's concerns regarding the pilot as raised in its prior public comment, the Commission elicited the following at the September evidentiary hearing: "According to Mr. Cass, [the pilot] is designed as a six hour trial period with one vendor starting two hours ahead of the other using the same route with a National Grid employee in attendance. The results would be compared and factored into the bid review process. In the event a high voltage reading is detected by the first truck during the trial, the Company will continue to follow its EOP in order to protect the public despite the fact that the trial is happening." (*Order No. 20871* at 20, citing Transcript 9/24/12 at 85-90).

amended RFP on November 26, 2012. On December 4, 2012, the Company conducted a bidder's conference to provide "a high level description of the pilot program."² National Grid noted that "[e]ach vendor was to be escorted by National Grid employees to ensure that the identical route was taken and to observe utilized ground lengths, recorded hits, and voltage levels."³ National Grid explained that the length of the ground lead can impact the observed voltage reading and it should be as short as possible to obtain accurate voltage measurements.⁴ According to the Company, "Power Survey again stated its objections to conducting a pilot, but did not offer any suggestions to change the pilot, either in design, length or controls to be taken."⁵ National Grid also reiterated to the bidders that the Commission had included in its Order that "a failure to participate in the pilot program would result in disqualifying Power Survey from the RFP process."⁶ On December 10, 2012, Power Survey advised National Grid that it would not be participating in the pilot program.⁷ On December 11, 2012, National Grid conducted the pilot program with Premier, the other vendor. On December 14, 2012, both bidders submitted pricing to National Grid.⁸

In its Report, National Grid described the pilot program, noting that it was twelve miles long, lasted from 7:45 p.m. to approximately 3:00 a.m., and included portions of the Contact Voltage Risk Areas in Downtown Providence, Federal Hill and College Hill in Providence. The Company explained that the Premier equipment registered several hundred potential hits which required stopping the vehicle and conducting manual testing. Two elevated readings above one volt included a city street light registering at 120 volts and another location which registered

² National Grid's Request for Proposals ("RFP") Results at 1.

³ *Id.* at 2.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* at 3.

⁷ *Id.*

⁸ *Id.*

below one volt during the manual testing using a shorter ground lead. The street light was de-energized and the City of Providence notified. National Grid attributed many of the other potential hits to the design of the streetlights in the Providence area.⁹

Based on the results of the pilot and the pricing options reviewed, National Grid stated that “[a]s only one vendor participated in the pilot, the Company was not able to perform a direct comparison of the results of the mobile survey equipment and vendor performance. While there is no way to assess what another technology might have gotten for results, the Company was satisfied with the performance of the vendor that did participate in the pilot.”¹⁰ Furthermore, Premier’s pricing was more attractive than Power Survey’s. Finally, based on the pricing submitted by Premier, the Company proposed surveying all of the Designated Contact Voltage Risk Areas in year one, with twenty percent each year thereafter.¹¹

On January 4, 2013, only one party to the docket, the Division of Public Utilities and Carriers (“Division”), filed a response to National Grid’s Report with the Commission. In a letter, the Division’s consultant, Gregory Booth, stated that the RFP process National Grid followed was in compliance with the Commission’s Order in this docket. He recommended approval of the proposal to survey and test one hundred percent of the Designated Contact Voltage Risk Areas in the first year with twenty percent each year thereafter.¹²

Also on January 4, 2013, the Commission received public comment from the disqualified bidder arguing that the pilot testing was flawed and providing the results of testing it had completed in Rochester, New York as a basis of its contention that its technology was superior to

⁹ *Id.* at 3-5.

¹⁰ *Id.* 6.

¹¹ *Id.* at 7.

¹² Letter from Gregory L. Booth, PE to Steve Scialabba dated January 2, 2013.

Premier's.¹³ Power Survey argued that the results discussed in National Grid's Report "raised real concerns about the statistical basis for the design of the trial, as well as the performance of Premier and the vendor modified Narda device. Given the extremely low rate of detection, it is difficult to understand how National Grid could be satisfied with the result of this pilot or draw any positive conclusions from it."¹⁴

At the request of the Commission, on January 24, 2013, National Grid filed with the Commission a response to the allegations contained in Power Survey's public comment. National Grid summarized its disagreement with Power Survey as follows:

1. The Company's pilot program was designed and implemented fairly for all vendors, and its results were valid and appropriately reflected the areas surveyed and tested.
2. When provided an opportunity to raise issues with the Company's pilot program, Power Survey offered no suggestions to amend or modify the pilot, either in design, length or controls.
3. When provided the opportunity to demonstrate its claim of the superior capabilities of its equipment in the pilot program, Power Survey chose not to participate.¹⁵

National Grid further stated, that while Power Survey offered to assist in the effort to modify the pilot as noted in its September 2012 public comments to the Commission,

[w]hen provided with the opportunity to raise any issues or offer suggested changes in the pilot program, Power Survey simply again chose not to participate. Rather than participate in the pilot program and demonstrate the capabilities of its equipment (which would have enabled Power Survey to properly raise any concerns with the pilot program), Power Survey chose to continue attacking the pilot program process, as demonstrated in its January 4, 2013 letter.¹⁶

Discussing the statistical validity of the pilot, National Grid stated that "the pilot program's findings-per-mile were consistent with the results that were experienced when Niagara Mohawk initiated contact voltage scanning in Buffalo, Niagara Falls, Albany,

¹³ Public Comment from Power Survey dated January 4, 2013.

¹⁴ *Id.*

¹⁵ National Grid's Response to Power Survey's Public Comment dated January 24, 2013 at 1.

¹⁶ *Id.* at 2.

Schenectady, Utica and Syracuse in New York.”¹⁷ The pilot resulted in scanning of approximately eight percent of the total Designated Contact Voltage Risk Areas and returned a finding per mile that were not inconsistent with findings made by Power Survey in National Grid’s New York territories.¹⁸ With regard to an allegation that the Premier technology was faulty because of the number of “false positives,” National Grid indicated that its own personnel noted that these findings were determined to be directly related to traffic signal design in Providence and “are just one example of a legitimate increased field reading registered by the mobile testing technology that was found upon investigation to be normal operating occurrence, and not a contact voltage finding.”¹⁹ All instances of increased field readings were tested manually, and according to National Grid, “[t]his extensive manual testing in these areas further validates that elevated voltage conditions were not missed as a result of the ‘false positives.’”²⁰

Discussing the recommendations made by Power Survey in the September 2012 public comments to the Commission, specifically that they were ignored, National Grid noted that the Commission specifically elicited additional information about the pilot, including how major faults would be addressed, how the route would consider the multivariant nature of contact voltage, and how the sample size would be statistically significant.²¹ Finally, National Grid noted that it had determined that Power Survey’s position that the pilot required an independent evaluator, a position contrary to that taken by Power Survey in New York, was unnecessary. The Company maintained that its personnel who participated in the Rhode Island pilot are qualified to evaluate the pilot program, being the same personnel responsible for overseeing the Massachusetts and New York contact voltage detection programs. According to National Grid,

¹⁷ *Id.* at 3.

¹⁸ *Id.* at 4.

¹⁹ *Id.* at 5.

²⁰ *Id.*

²¹ *Id.* at 6-7 (citations to September 24, 2012 transcript omitted).

“Power Survey offers no explanation as to why Company personnel were qualified to evaluate these vendors’ results in 2010 in New York, but are currently not qualified to evaluate the same vendors’ results in Rhode Island.”²²

Discussing the results of the Rochester testing by NTS, National Grid asserted that “a careful reading of the NTS study fails to support any of Power Survey’s claims as to the capabilities and accuracy of Premier’s mobile equipment.”²³ Because the NTS study did not conduct a side-by-side comparison, it could not, and did not, evaluate the Premier technology, but evaluated Power Survey’s *manual* testing findings *after* a mobile hit was detected....²⁴ Of greater concern to National Grid was the lack of information on how the testing was performed, including the length of the ground lead or suitability of the round during manual testing, among other things that can affect the observed voltage reading. Because of this lack of information, “it simply is not possible for the Company to know how Power Survey conducted its study or how Premier conducted its study in Rochester.”²⁵ Therefore, according to National Grid, this attempt to perform a side-by-side comparison without the appropriate controls cannot be relied upon as evidence that Power Survey’s technology is superior to Premier’s.²⁶ In short, as National Grid stated, “[r]ather than directly participate in an unbiased, controlled side-by-side comparison in Rhode Island, Power Survey continues to provide after-the-fact comparisons between the two vendors from uncontrolled testing in support of its claim of the superior capabilities of Power Survey’s equipment.”²⁷ Therefore, while National Grid expressed disappointment that Power

²² *Id.* at 7.

²³ *Id.* at 8. The NTS Rochester Benchmarking Study provided by Power Survey with its January 4, 2013 public comments as “evidence” of its technology’s superiority over Premier’s technology was commissioned by Power Survey to evaluate Power Survey.

²⁴ *Id.* (emphasis in original).

²⁵ *Id.*

²⁶ *Id.* at 8-9.

²⁷ *Id.* at 9.

Survey chose not to participate in the pilot, the Company maintained its commitment to public safety and reiterated that its satisfaction with Premier's successful completion of the pilot.²⁸

On January 30, 2013, a day before the Open Meeting, Power Survey filed additional public comments with the Commission, now arguing that National Grid's pilot was inadequate, not because a survey of eight percent of the Contact Voltage Risk Areas was statistically insignificant, but because there was no baseline against which to determine whether the testing equipment found all of the contact voltage incidents. Power Survey also argued that National Grid was a big company which should have responded better than it did to the public comments submitted to the Commission in September 2012. Finally, Power Survey argued that the NTS study did provide the side by side comparison and should be used in place of the one approved by the Commission.²⁹

Commission Findings

On January 31, 2013, the Commission conducted an Open Meeting to review National Grid's Report and found that National Grid had complied with the RFP Process approved by the Commission in Order No. 20871. The Commission further approved the recommendation by National Grid that all of the Designated Contact Voltage Risk Areas be surveyed and tested in the first year with twenty percent tested each year thereafter. Accordingly, with its Annual Report required from order No. 20871, the Company shall recommend to the Commission the Designated Contact Voltage Risk Areas to be tested in the subsequent year along with the rationale. As National Grid's witnesses pointed out during the evidentiary hearing, to some extent, the Contact Voltage Detection Program is fluid depending on findings, changes in land use, and other factors. Accordingly, the Company shall assess whether, once testing has been

²⁸ *Id.*

²⁹ Power Survey's Public Comments dated January 29, 2013.

completed in the first year, the percentage should still be based on a simple one-fifth of the areas or on total mileage and whether there are any new geographic areas that should be included. Finally, the Commission is not intending to amend the contract National Grid will enter into, but believes that it is important to remain vigilant regarding information relevant to the available mobile testing technology. Therefore, National Grid should continue to monitor advances in technology, particularly for the future RFPs it will need to issue with regard to its Contact Voltage Detection Program.

With regard to the process that was followed in this docket, because of the public safety concerns in this case, the Commission allowed public comment to take a more prevalent role in the proceeding than it normally would have. The Commission found the parties to this docket, namely, National Grid, the Division and CVIC, to be professional and of great assistance in evaluating this matter, but the Commission was disappointed that the vendors, with financial interests in the outcome of the case, took such an active role in attacking one another so publicly. The Commission is deeply disappointed and rather perplexed with Power Survey's actions in this docket and in the RFP process. If Power Survey truly believes it has a superior product, truly has public safety in mind, and is interested in more than creating a monopoly for itself in the arena of contact voltage mobile testing, it should have had no hesitation about participating in a controlled pilot test. National Grid's concerns about the NTS study appear grounded in fact and Power Survey's position in its final set of comments begs the question of why it chose to simply attack the other parties to the process rather than participate in the pilot and seek to establish its superiority through facts rather than conjecture. A bidder to an RFP should not be able to void a pilot, and therefore, an entire RFP, simply by taking its ball and going home and then arguing that if it had stayed, it would have won the game.

Unfortunately, the Commission fully expects that Power Survey will commission yet another survey in Rhode Island at some point after Premier conducts its survey, will utilize its own set of standards, and again may argue that its technology is superior. At the end of the day, however, because of the variables in the testing, the Commission and public will still not know whether Power Survey's technology is superior. What the Commission does know, is that at present, Power Survey is far more expensive than Premier.

The Commission was charged with implementing a Contact Voltage Detection and Repair Program for National Grid. It has done so based on the Record that was developed, particularly with the assistance of CVIC. At this point, all Power Survey can hope to gain through this protracted public comment is to delay the implementation of an important public safety program. That, the Commission will not do.

Accordingly, it is hereby

(20950) ORDERED:

1. The Narragansett Electric Company d/b/a/ National Grid is in compliance with the Commission's Order No. 20871.
2. The Narragansett Electric Company d/b/a National Grid shall adopt a survey and testing schedule of completing all (one hundred percent) of the Designated Contact Voltage Risk Areas in the first year and twenty percent each year thereafter.
3. The Narragansett Electric Company d/b/a National Grid shall file with its Annual Report a recommendation of the twenty percent to be tested in the second year of the Contact Voltage Detection and Repair Program.
4. The Narragansett Electric Company d/b/a National Grid shall comply with all other findings and instructions contained in this Order.

EFFECTIVE AT WARWICK, RHODE ISLAND ON JANUARY 31, 2013 PURSUANT
TO AN OPEN MEETING DECISION. WRITTEN ORDER ISSUED FEBRUARY 1, 2013.

PUBLIC UTILITIES COMMISSION





Elia Germani, Chairman



Mary E. Bray, Commissioner

*Paul J. Roberti, Commissioner

*Commissioner Roberti concurs with the decision but is unavailable for signature.

NOTICE OF RIGHT OF APPEAL PURSUANT TO R.I.G.L. SECTION 39-5-1, ANY PERSON AGGRIEVED BY A DECISION OR ORDER OF THE COMMISSION MAY, WITHIN SEVEN DAYS (7) DAYS FROM THE DATE OF THE ORDER, PETITION THE SUPREME COURT FOR A WRIT OF CERTIORARI TO REVIEW THE LEGALITY AND REASONABLENESS OF THE DECISION OR ORDER.