



State of Rhode Island and Providence Plantations

DEPARTMENT OF ATTORNEY GENERAL

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*Peter F. Kilmartin, Attorney General*

December 18, 2013

Luly Massaro, Clerk  
Public Utilities Commission  
89 Jefferson Blvd.  
Warwick, RI 02888

**In Re: Docket No. 4290**

Dear Ms. Massaro,

The Division of Public Utilities and Carriers (“Division”) writes to provide the Rhode Island Public Utilities Commission (“Commission”) with its comments regarding the National Grid’s Low Income Home Energy Assistance Program (“LIHEAP”) Enhancement Plan filing for the period October 1, 2012 through December 31, 2013 (“Plan”).

G.L. § 39-1-27.12(c)(1) & (2) imposes a LIHEAP Enhancement Charge (referred to hereinafter as the “Charge”) of no more than \$10.00 per year for each electric and natural gas customer or a maximum charge of \$.83 per month per customer. G.L. § 39-1-27.12(c)(3) further provides that “[t]he total projected annual revenue for the LIHEAP Enhancement Plan through charges to all electric and natural gas distribution company customers shall not exceed seven million five hundred thousand dollars (\$7,500,000) and shall not be below six million five hundred thousand dollars (\$6,500,000).” The current funding level is \$.83 per month per customer. Given this level of funding, National Grid projects approximately \$7,483,622 in annual revenue for 2014 based on the forecasted number of electric and gas customer bills during 2014. In order to generate \$6.5 million dollars in annual revenue in 2014, National Grid calculates the monthly rate could be reduced to \$.73 per month per customer. See NGrid Response to Commission 2-1.

According to OER/DHS, as of September 30, 2013, there was a balance of \$8,051,576 in the fund. See OER/DHS Response to Commission 3-6. Both OER/DHS and National Grid agree that “the reconciliation estimates the ending balance as of

December 2013 at \$9.9 million;” however this ending balance “does not reflect any additional LIHEAP Enhancement Credits that may be provided to customers.” See NGrid Correspondence Accompanying Plan dated October 23, 2013 and OER/DHS Response to Commission 2-2.

When queried whether “interest should begin accruing on this account” given the “balance carry-forward,” NGrid explained: the Company did not propose to apply interest on the fund balance because it believed the fund would “fluctuate from month to month both surplus and deficit . . . with the overall balance [being] close to zero. Therefore, the application of interest would not be necessary.” See NGrid Response to Commission 2-2. Since the Company anticipates that “more grants will be issued from the fund,” it maintains that “the application of interest on the fund balance should not be necessary.” Id.

OER/DHS explain the fund’s large surplus balance in 2012 results from a “relative mild heating season in 2012 and the fact that “federal funding did not experience drastic cuts.” See OER/DHS Response to Commission 3-5. Another surplus resulted in 2013 from an unexpected drop in the total participating households. Id. Despite these purportedly anomalous circumstances, OER/DHS project that household participation will increase in 2014, though by how much is unclear. Id. Based upon two years experience, OER/DHS “believe it to be prudent to increase the amount of participant funding from \$150.00 to \$450.00 per client for 2014.” See OER/DHS Responses to Commission 3-1 & 3-5. This increase will help Rhode Island’s needy citizens and will “leverage federal LIHEAP funds” all the while enabling OER/DHS to obtain three years of fund experience. See OER/DHS Commission 3-5 & 3-6.

OER/DHS’s proposed increase in the amount of participant funding is untenable. The General Assembly enacted G.L. § 39-1-27.12, et seq. to replace on a dollar for dollar basis what was anticipated to be reduced federal LIHEAP funding. In no manner was the statute or the overall level of funds resulting when LIHEAP reductions were less than anticipated intended to result in a tripling of the participant funding amount from \$150 to \$450 in a single year. While OER/DHS’s desire to assist needy Rhode Islanders may be laudable, the issue of a fund balance surplus at December 31, 2013 of \$9.9 million (less credits) must be viewed against the backdrop of the Commission’s legislative mandate under Title 39 “to protect the public against improper rates, tolls and charges.” Thus, the Commission must also address the issue of the reasonableness of the proposed charge given the circumscribed discretion that § 39-12-27.12 vests in the Commission to modify annual charge to collect between \$6.5 million and \$7.5 million in funds annually.

Based on OER/DHS’s 2012 and 2013 experience, only \$2.1 million and \$2.8 million of the approximately \$7.5 million in annual fund collections were applied to customer accounts in each year, respectively. OER/DHS, moreover, has not provided the

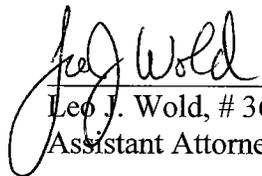
Commission any data to show by how much they project household participation will increase in 2014 or explain why a 200% increase in per client funding is not contrary to the purpose of the statute which was intended solely to replace reductions in federal funding.

If the Commission possesses concerns similar to those of the Division, then the agency should reduce the annual charge to \$.73 per customer for 2014. Such a decrease would reduce the amount collected from electric and gas customers in 2014 by approximately \$1.0 million. Based on the existing Record, the account would still be overfunded by the end of 2014. Nonetheless, the Commission would have done all that legally could be done to fulfill its statutory duty to protect the public against unreasonable rates.

Further, in light of the limitation that § 39-12-27.12 places on the Commission in reducing the annual charge and the history of balance carry-forwards in 2012 and 2013, it is likely that a substantial fund balance may exist at the end of 2014. It is appropriate, therefore, that the Commission direct National Grid to accrue interest on this account.

Respectfully submitted,

Division of Public Utilities and Carriers



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Leo J. Wold, # 3613

Assistant Attorney General

cc: Service List