

State of Rhode Island and Providence Plantations

DEPARTMENT OF ATTORNEY GENERAL

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Peter F. Kilmartin, Attorney General

September 5, 2013

Luly Massaro, Clerk
Public Utilities Commission
89 Jefferson Blvd.
Warwick, RI 02889

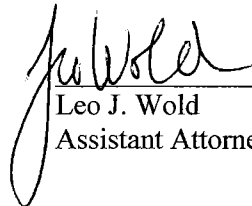
**Re: The Narragansett Electric Co., d/b/a National Grid Tariff Advice Filing to Amend
RIPUC NG-GAS No. 101, Docket No. 4405**

Dear Ms. Massaro,

I am writing on behalf of the Division of Public Utilities and Carriers ("Division") to inquire when the Commission intends to place the above-entitled matter back on its Calendar for decision. The Division's understands that Chairman Germani had deferred consideration/action on National Grid's tariff advice until his successor and Commissioner Bray's replacement had assumed office. With the Commission's full complement in place, the Division believes that the above-entitled docket is in order for decision. Enclosed please find a copy of the Division's correspondence to the Commission dated May 8, 2013 recommending approval of the Company's tariff filing.

Respectfully submitted,

Division of Public Utilities and Carriers



Leo J. Wold
Assistant Attorney General

cc: Service List



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May 8, 2013

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**Re: The Narragansett Electric Co., d/b/a National Grid Tariff Advice Filing to Amend
RIPUC NG-GAS No. 101, Docket No. 4405**

Dear Ms. Massaro,

I am writing on behalf of the Division of Public Utilities and Carriers ("Division") in regards to the above-entitled matter. The Division has reviewed the Tariff Advice Filing to Amend RIPUC NG-GAS No. 101 Issued April 11, 2013. Based upon its review of the proposed tariff, the Division believes that the filing is in accordance with the Paragraph 5 of Order No. 20834, Docket No. D-12-24. See attached Order, p. 25. In that Order, the Division required National Grid to petition the Commission for authority to amend its tariff "to assign the full cost of installing a street valve to the account of the customer whose gas service is being terminated for nonpayment and who has refused to give National Grid access to the customer's gas meter in order to effect that service termination." As filed, the tariff advice does precisely that. The proposed tariff language authorizes the Company to install a curb valve, at the customer's expense, to terminate that customer's gas service when the customer has fallen behind on his/her account, the meter is inaccessible, and the Company is unable to obtain access to the customer's meter after notice to the customer. The cost of installing curb valves will be accounted for in the utility's plant in service (which will be credited when the Company receives payments from customers). Rule 1.9(c)(1) permits a public utility to file "minor changes to existing schedules," add new services or otherwise add to their tariff schedules by way of tariff advice. Based upon the foregoing review, the Division recommends that the Commission approve the Company's tariff filing without suspension.

Very truly yours,

Leo J. Wold
Assistant Attorney General

cc: Service List

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DIVISION OF PUBLIC UTILITIES AND CARRIERS
89 JEFFERSON BOULEVARD
WARWICK, RHODE ISLAND 02888**

**In Re: Formal Hearing To Inquire Into Whether)
Or Not National Grid-Gas Has Complied)
With Division Report And Order Number) Docket D-12-24
20530 Dated And Effective November 9,)
2011, In Division Docket Number D-11-79)**

Hearing Date: August 1, 2012¹

**REPORT AND ORDER
Introduction**

On November 9, 2011, the Rhode Island Division of Public Utilities and Carriers ("Division") issued Division Report and Order number 20530 ("Order"), with respect to a complaint filed by Mr. Erik Barrientos regarding his bill for gas services received from the Narragansett Electric Company d/b/a National Grid - Gas ("National Grid" or "the company") for Mr. Barrientos' residence at 190 Dunnell Avenue, Fl. 1, Pawtucket, Rhode Island 02860. On June 21, 2012, the Division issued a "Notice of Hearing" creating the instant docket (D-12-24) informing National Grid that "the Division shall inquire into whether or not National Grid-Gas has fully complied with ordered paragraph numbers 3, 5, 6, and 7 of Division Report and Order number 20530." The relevant paragraphs

¹ Although the hearing was conducted on August 1, 2012, the record of proceedings was not closed on that date. There were specific data requests made of National Grid during the hearing, and the parties were advised at that time that the responses to those data requests would be considered by the Hearing Officer in preparing this Report and Order. The first response was received from National Grid on August 6, 2012, and marked by the Hearing Officer as "NGRID Exhibit 4 *In Absentia*" on September 15, 2012, there having been no objections received from any party by that date to his considering the data response. The second response was received from National Grid on August 17, 2012, and marked by the Hearing Officer as "NGRID Exhibit 5 *In Absentia*" on September 17, 2012, there having been no objections received from any party by that date to his considering the data response. The record in this matter is considered closed as of September 17, 2012.

of Order number 20530 (including, for the same of completeness, paragraph numbers 4 and 8) provide as follows:

- ...
3. That National Grid is hereby directed to terminate utility service to the Complainant, in conformance with the requirements set forth in the *Termination Rules*, in the event the Complainant fails to agree to the prescribed payment plan terms within fifteen (15) days from the issue date of this Report and Order, or, having agreed to the payment plan, fails to comply with, and complete, the payment plan.
 4. National Grid is not authorized to agree to any modification of the prescribed payment plan terms established by this Order without the prior explicit approval of the Division, **but National Grid is directed to monitor this customer's average consumption throughout the term of the payment plan. If National Grid determines that the average consumption has changed such that the average monthly payment should be adjusted, National Grid shall request permission from the Division to make the appropriate adjustment.**
 5. That if service termination becomes necessary, National Grid shall effectuate service termination within ten (10) business days after the expiration deadline described above [or, if applicable, within ten (10) business days after the expiration of the utility termination moratorium].
 6. That **National Grid shall send a letter report to the Division within two (2) business days whenever any of the following actions occur:** (a) the expiration deadlines described above has arrived and the Complainant has agreed or failed to agree to the payment plan directed by this Report and Order; (b) service termination due to failure to enter into the payment plan directed by this Report and Order; (c) the Complainant defaults on the payment plan directed by this Report and Order; (d) service termination due to defaulting on the payment plan directed by this Report and Order; (e) service termination due to the Complainant's request; or (f) any other action that results in a deviation from the actions directed by this Report and Order. The letter report shall be sent to: **Division of Public Utilities and Carriers (Attn: Compliance Office), 89 Jefferson Boulevard, Warwick, Rhode Island 02888.**

7. That should the Complainant fail to comply with, and complete, the payment plan approved by this Report and Order such that service termination is required by the terms of this Report and Order, this Report and Order shall constitute approval for National Grid to effectuate such service termination, and the Complainant shall not be entitled to further informal reviews or formal hearings under the *Termination Rules* prior to such termination. Any further such informal reviews or formal hearings shall only be done to consider reinstating the Complainant's utility service post-termination.
8. That National Grid is put on notice that failure to comply fully with paragraphs 3, 4, 5, and 6, above, of this Order may cause the Division to open an investigatory docket to determine whether or not the Division should take an appropriate corrective action. If it is determined during that investigatory proceeding that National Grid has failed to comply with any provision of this Order, the Division may elect to impose sanctions upon National Grid as authorized by Rhode Island General Laws §§ 39-2-8 and/or 39-4-22. National Grid is further specifically put on notice that any sanctions imposed as a result of its failure to comply with this Order that are monetary in nature shall not be allowed to be passed on to National Grid ratepayers.

...

Hearing Officer Exhibit 1 For Identification at 23-26 (all emphasis in the original).²

Under the terms of paragraph 3, quoted above, Mr. Barrientos had "fifteen (15) days from the issue date of" Order number 20530 (that is, fifteen calendar days from November 9, 2011) in which to agree to the terms of the payment plan approved the Order. This works out to be Thursday, November

² The notice for this hearing explicitly stated that this hearing was being convened specifically to "inquire into whether or not National Grid-Gas has complied with Division Report and Order number 20530 dated and effective November 9, 2011, in Division Docket number D-11-79." With that in mind, the Hearing Officer took administrative notice of that order on the record during the formal hearing, and marked a copy of that order as "Hearing Officer Exhibit 1 For Identification" for the purpose of preserving in the record precisely what information was available to him.

24, 2011. Since that day happened to fall on Thanksgiving, a state holiday, Mr. Barrientos would actually have had until the Division's close of business (4:00 p.m.) on the next business day, Friday, November 25, 2011. If Mr. Barrientos failed to agree to, and begin complying with, the terms of the payment plan approved by Order number 50530, by close of business on November 25, 2011, paragraph 3 of the Order made it clear that National Grid was required ("National Grid is hereby directed") to terminate Mr. Barrientos' gas service ("in the event the Complainant fails to agree to the prescribed payment plan terms").

Under the terms of paragraph 5 of the Order, quoted above, if Mr. Barrientos failed to agree to the payment plan approved by the Order by the date established in paragraph 3 of the Order, such that termination was now necessary, National Grid was ordered to "effectuate service termination within ten (10) business days after the expiration deadline described above [or, if applicable, within ten (10) business days after the expiration of the utility termination moratorium]." Since Mr. Barrientos had until close of business on November 25, 2011, to agree to the payment plan, National Grid was required by the terms of the Order to terminate Mr. Barrientos' gas service within ten business days, or by the Division's close of business (4:00 p.m.) on Friday, December 9, 2011.³

³ Since utilities are not allowed to disconnect utility services on Fridays, this actually means (in the absence of the utility termination moratorium) National Grid was required ("within ten (10) business days") to terminate Mr. Barrientos' gas service by close of business on Thursday, December 8, 2011. See Part III, Section 5(A), of the Rhode Island Public Utilities Commission's "Rules and Regulations Governing the Termination of Residential Electric, Gas and Water Utility Service" ("Termination Rules").

Of course, by December 9, 2011, the utility termination moratorium period had already been in effect for more than a month and, since Mr. Barrientos was a protected status customer, National Grid could not then terminate his gas services until the moratorium ended.⁴ In fact, as a result of requests made by the General Assembly and the George Wiley Center, the utility termination moratorium period for that year was extended by fifteen days to 12:59 p.m. on April 30, 2012 (a Monday).⁵ Thus, under these circumstances, the date by which National Grid was required by the Order to terminate Mr. Barrientos' gas services, in the event he failed to enter into the approved payment plan, was ten days after April 30, 2012, or by close of business on Monday, May 14, 2012.

Under the terms of paragraph 6 of the Order, quoted above, National Grid is required to provide a letter report to the Division within two (2) business days whenever one of a list of things pertaining to Mr. Barrientos occurs, including agreeing to a payment plan, defaulting on a payment plan, and termination of service. As a matter of practice, this information is provided to the Division on a weekly basis through annotation of a spreadsheet used by the Division to track all formal termination cases, rather than by requiring a

⁴ See Part II, Section 1(I) of the *Termination Rules*. "Utility termination moratorium period" shall mean the period of time between 12:01 a.m. on November 1st and 11:59 p.m. on April 15th of each year."

⁵ In early 2012 the utility termination moratorium period was extended to run through 11:59 p.m. on April 30, 2012, due to "an economic condition in Rhode Island coupled with delays in the processing of LIHEAP payments" that had "created an imminent peril to the public health, safety, or welfare." There was no explanation as to how extending the moratorium would contribute to the "public health, safety, or welfare" in what was the warmest Spring in recent Rhode Island history. See "Public Utilities Commission - Minutes of Open Meeting Held April 1, 2012.

separate letter for each docket each time one of the enumerated events occurs. In this case, apparently, as of June 21, 2012, the date of the Notice of Hearing, the entry for Mr. Barrientos apparently showed neither compliance nor termination of service. The Division, therefore, elected to open an investigation to determine what the situation was, and whether National Grid had exercised due diligence in complying with the Order.

On August 1, 2012, the Division conducted a duly noticed formal evidentiary hearing in this docket in the Division's 2nd Floor Hearing Room, located at 89 Jefferson Boulevard in Warwick. The following individuals entered appearances at the hearing:

Appearances:

John McCoy, Esq.
National Grid-Gas
Respondent

Christy Hetherington, Esq.
Advocacy Section of the Division
Complainant

Discussion And Findings

The first witness called by National Grid was Ms. Roxanne Butler, a company employee familiar with both Mr. Barrientos' gas and electric accounts. Ms. Butler testified that National Grid's records for Mr. Barrientos' gas account showed that his account was for 190 Dunnell Avenue, 1st Floor, in Pawtucket. The account was active as of August 1, 2012, and had a current balance of \$4,317.32.⁶ Ms. Butler went on to testify that Mr. Barrientos has

⁶ Testimony of Ms. Butler, NGRID Exhibit 1 at 1.

had a gas account at that location since before 2010, but that the way their billing system data base works, once a customer is terminated for nonpayment and then turned back on again, the "account open" field merely relates back to the date when the customer was turned back on again. That is why the company's records reflect that the gas account has only been open since December 9, 2010. The records also show that Mr. Barrientos is on the low income heating rate, and is classified as a low income customer.⁷

Next, she testified, the company's records show that Mr. Barrientos' average monthly gas bill is \$69.00. That amount is calculated by going back the previous twelve (12) months' gas use billings, totaling them up, and dividing the resultant sum by twelve (12).⁸ The records also show Mr. Barrientos' payment history, reflecting only two (2) payments made in 2012, on July 20 and on July 23; both payments were made in cash.⁹ Ms. Butler explained that as a result of making those two payments, the company was able to enroll Mr. Barrientos in a payment plan; more specifically, he was placed on a "Rhode Island Arrears Forgiveness Program" payment plan.¹⁰ Prior to the two payments in July 2012, Mr. Barrientos' last gas bill payment had been made more than a year earlier, on April 15, 2011, a check for \$74.00; there were also two other payments made to the company on his behalf at about the same time, a \$410.00 Home Energy Assistance Program payment (government LIHEAP grant) on April 15, 2011, and an Emergency Home Energy

⁷ Testimony of Ms. Butler; NGRID Exhibit 1 at 2.

⁸ Testimony of Ms. Butler; NGRID Exhibit 1 at 3.

⁹ Testimony of Ms. Butler; NGRID Exhibit 1 at 4.

¹⁰ Testimony of Ms. Butler.

Assistance Program payment in the amount of \$1,000.00 made on April 25, 2011.¹¹ In other words, Mr. Barrientos had only paid \$251.10 toward his gas bill out of his own pocket in the past sixteen (16) months.

Next, Ms. Butler testified that the company's records show that Mr. Barrientos is, indeed, on a payment plan for his gas account. The payment plan started on July 19, 2012, and covered a past-due balance on that date of \$4,200.89. The amount of the required down payment was \$420.08 (10% of the past-due balance), due on August 2, 2012. There were to be monthly payments toward the arrears of \$42.01 for 35 months, with a final (36th) payment of \$41.97. Had Mr. Barrientos not qualified for the arrearage forgiveness plan with its down payment of 10%, according to Ms. Butler, he would have been eligible under the *Termination Rules* for a Protected Status Customer Step P-5 Payment Plan, calling for a down payment of 50% (or \$2,100.44).¹²

Ms. Butler then turned her testimony to the nuts and bolts of Mr. Barrientos' billings for gas. She pointed out that the company has been getting regular (actual) meter reads every month for this account, going back to even before the current service activation on December 9, 2010.¹³ The usage data reflected by the company's records also showed that Mr. Barrientos' gas

¹¹ NGRID Exhibit 1 at 4.

¹² Testimony of Ms. Butler; NGRID Exhibit 1 at 5. Presumably, Mr. Barrientos' current arrearage forgiveness payment plan also includes payments of \$69.00 each month for 36 months to account for his average current monthly usage. This would give him a total monthly payment under that plan of \$111.01 (\$69.00 for current usage, \$42.01 for arrears).

¹³ Testimony of Ms. Butler; NGRID Exhibit 1 at 6.

consumption followed the predictable pattern: low in summer and high in winter.¹⁴

Finally, Ms. Butler concluded her testimony with respect to the company's billing records for Mr. Barrientos by explaining again that he was eligible to participate in the arrearage forgiveness program because he had received heating assistance for program year 2012. She explained that Mr. Barrientos had received a Home Energy Assistance Program Benefit Confirmation Notice dated May 2, 2012, in the amount of \$270.00. This grant, when combined with the \$150.10 payment Mr. Barrientos made on July 20, 2012, allowed Mr. Barrientos to satisfy the 10% down payment (\$420.08) required to enter into the arrearage forgiveness program (\$270.00 plus \$150.10 equals 420.10, which was slightly greater than the required down payment of \$420.08).¹⁵

Next, Ms. Butler turned her attention to the company's service order records concerning its efforts to terminate Mr. Barrientos' gas service. The first page of the service order records shows that National Grid issued its first service termination work order on May 7, 2012, requesting a technician to report to 190 Dunnell Avenue, Apartment 1, the following day to terminate the gas service there (or collect the full past-due balance owed).¹⁶ The service technician reported to Mr. Barrientos' residence on May 8, 2012, as directed

¹⁴ Testimony of Ms. Butler; NGRID Exhibit 1 at 7.

¹⁵ Testimony of Ms. Butler; NGRID Exhibit 1 at 8, 9.

¹⁶ Testimony of Ms. Butler; NGRID Exhibit 2 at 1. The "Issuance Comments" for this first Service Order states: "RI DPU petition mandated payment plan customer defaulted on monthly pmt/down payment. Please collect full balance or terminate service. Customer cannot claim protection to prevent termination."

and attempted to shut off the gas service, but could not get access to the gas meter (the gas meters for this multi-unit residence were inside the building but none of the residents were willing to allow the service technician in). Since the service technician could not get access to the meters, and could not find any sign of an existing street valve (which would have allowed him to secure gas services to the entire building), he posted the actual building (put a notice on the outside of the building advising the residents that their gas service was liable to termination for non-payment).¹⁷

Ms. Butler explained that in some areas, or with some premises, street valves are actually installed when gas service is first provided, but that the technician in this case could see no evidence that this had been done for Mr. Barrientos' building. In order for the company to install a street valve at this location now, the company would actually have to dig into the ground, find the service line for 190 Dunnell Avenue, and install a valve on that service line to allow them to turn the service to that address off from outside the building rather than at the meter. Ms. Butler also pointed out that National Grid first attempted to secure service to this residence about seven days after the service termination moratorium ended.¹⁸

Next, Ms. Butler testified that National Grid made a second attempt to terminate Mr. Barrientos' gas service on May 16, 2012. Once again, the service

¹⁷ Testimony of Ms. Butler; NGRID Exhibit 2 at 1. The "View Completion Comments" for this first Service Order states: "...Multi Family Dwell Posted - 05/08/2012 framej LOCKED, NO ACCESS. NEVER CAN GET IN HERE. POSTED BUILDING, OWES OVER \$4000. METERS INSIDE, NO SIGN OF A STREET VALVE."

¹⁸ Testimony of Ms. Butler.

technician was unable to get access to the meters and unable to secure Mr. Barrientos' gas service. This time, however, the service technician submitted a work order for a curb box cut (i.e., to install a street valve at the curb so the gas service could be terminated outside the building without needing access to the gas meter).¹⁹ Ms. Butler explained that once a service technician submits a request to have a street valve installed ("Curb Box Cut"), the request is sent to the company's collections unit who places it in the queue along with all similar such requests for work at different locations throughout the state. Each such request requires that the company obtain the necessary excavation/construction permits from the appropriate municipalities (or the State), as well as coordinate other scheduling matters such as obtaining the appropriate Dig Safe Program ticket. It is not just a question of sending a crew to the address to install a new service line valve.²⁰

According to Ms. Butler, it took National Grid about two months to schedule, and then complete, installation of a street valve at 190 Dunnell Avenue. According to the company's service order records, the street valve was finally installed on July 19, 2012, and by 10:48 a.m. that morning, Mr. Barrientos' gas service was finally turned off at the street for non-payment; the

¹⁹ Testimony of Ms. Butler; NGRID Exhibit 2 at 2. The "View Completion Comments" for this second Service Order states: "...CGI - Refer Curb Box Cut - POSTED HOUSE W/# TO CALL. NO ACCESS, ELECTRIC WAS CUT AT POLE. WILL NEED A VALVE. - Put on Pending Queue." It is apparent that Mr. Barrientos was also having problems paying for electric service. It is also apparent, given that his electric service was shut off at the pole, that he had also refused to allow National Grid's electric service technicians to have access to his apartment's electric meter. See generally *Mr. Erik Barrientos, Complainant, Against National Grid - Electric, Respondent*, Division Report and Order number 20513, issued October 28, 2011, in Division Docket number D-11-71, at pp. 12-16.

²⁰ Testimony of Ms. Butler.

service technician sent out to oversee installation of the new valve was, again, unable to speak directly to Mr. Barrientos.²¹

Finally, Ms. Butler turned her testimony to more recent entries in the company's service order records. She explained that after Mr. Barrientos' gas service was terminated on July 19, 2012, Mr. Barrientos obtained sufficient funds to make the 10% down payment required to enter into an Arrearage Forgiveness Payment Plan and, in fact, made the required payment. As soon as payment was received, the company sent a service technician out to Mr. Barrientos' residence on July 21, 2012, to restore ("cut in") his gas service. The technician was unable to restore the service, however, because he was unable to gain access to the meter inside the premises; there are a number of tests the company must perform at the meter before it can turn on the gas service to a new account. The technician attempted to contact Mr. Barrientos by phone on the way to 190 Dunnell Avenue, and knocked on Mr. Barrientos' door when he got there, but received no answer. He made a second attempt to contact Mr. Barrientos, was successful, and was told by Mr. Barrientos that Mrs. Barrientos' wife was home and that he should knock on the door. The technician did as directed, but again received no answer to his knock, and left in order to make his next service appointment.²²

²¹ Testimony of Ms. Butler; NGRID Exhibit 2 at 3. The "Issuance Comments" for this third Service Order states: "CONP [Cut Out Non-Pay] order for RI mandated payment plan default customer due to street valve installation today. please complete." The "View Completion Comments" for this third Service Order states: "...Cut At Curb Box - Contact Not Made - 07/18/12 - New Street Valve installed by C&M service was left off."

²² Testimony of Ms. Butler; NGRID Exhibit 3 at 2. The "Issuance Comments" for this first visit to restore service states: "Cut At Curb Box cust has paid accurate amt for pa." The "View Completion Comments" for this service call states: "CGLUTC Onsite - See

Finally, Ms. Butler testified, the company made a second visit to Mr. Barrientos' residence three days later, on July 24, 2012, to again attempt to restore his gas service. This time, Mr. Barrientos was home, the service technician was able to gain access to the meter inside the residence, the required tests were successfully performed, and the gas service was finally restored.²³

In response to cross-examination by the Advocacy Section, Ms. Butler testified that from the time the Division issued its formal Report and Order in late 2011 concerning Mr. Barrientos' gas account to the time in mid-July 2012 when he finally made a down payment, he had made no other attempts to enter into any payment plans with National Grid. Ms. Butler stated that Mr. Barrientos had been informed of the existence of the Arrearage Forgiveness program at least as far back as the 2011 Division Report and Order, but she suspected he had simply been waiting to get a pledge from the CAP agency to enable him to make the necessary down payment. She also pointed out that the pledge was for only \$270.00, and customer such as Mr. Barrientos often need some additional time to make up the difference between the pledge

Comments/07/21/2012 allian CALLED CUST AT 10:35 ON WAY GOT THERE NO ONE ... WAITED CALLED HIM AGAIN AT 10:45 HE ANSWER SAID WIFE IS HOME KNOCKED ON DOOR NO ANSWER CGL"

²³ Testimony of Ms. Butler; NGRID Exhibit 3 at 1. Judging by the service call notations made in the record upon the occasion of the second visit, the first visit may have been just a tad more contentious than the initial service technician suggested in his notations on July 21, 2012. The "Issuance Comments" for the July 24, 2012, Service Order states: "Cut At Curb Box ... SECURITY THREAT customer warns not to send same tech he said if same tech comes out he will yell at the tech. he said he has a video camera." The "View Completion Comments" for the July 24, 2012, Service Order states: "Completed - customer here/07/24/2012 doanel street valve test completed. ok. tight test ok. left boiler off per cust. water heater not tied in. electronic start range. only."

amount and the amount actually required for an Arrearage Forgiveness Plan down payment.²⁴

Next, counsel for the Advocacy Section asked Ms. Butler whether or not street valve installations could only be accomplished post-moratorium, or whether they could be done during the winter season as well. National Grid's counsel at that point suggested that this was a question that could be best answered by one or more of National Grid's other witnesses, and suggested that they all be sworn in. This was done, and Mr. Lucchetti, another of National Grid's witnesses, explained that National Grid preferred not to install street valves during the winter moratorium as it required more coordination with the company's contractor (CMS) responsible for turning services on at the meter to insure that the gas service could be turned on the same day the street valve was installed. In the winter, of course, it is important that gas service not be interrupted for very long since gas customers are normally heating with gas. To make matters more complicated, this was a two-unit residence served by only one gas service line, requiring that the company coordinated with both gas customers to ensure that the gas could be turned back at the meters for each customer that same day.²⁵

Another of National Grid's witnesses, Ms. Gladys Sarji, then testified that her office sends a weekly report to the Division providing an update on each of the formal hearings and informal reviews that have been conducted. She explained that, with respect to this case, the company could not act sooner to

²⁴ Testimony of Ms. Butler.

²⁵ Testimony of Mr. Lucchetti.

terminate Mr. Barrientos' gas service because of the utility termination moratorium. The company had to wait until the moratorium ended (which happened effective May 1, 2012), then sent a technician to 190 Dunnell Avenue on May 8 to shut the gas off.²⁶

In response to further cross-examination, Ms. Butler testified that Mr. Barrientos made no payments on his gas account from the time the Division issued its Report and Order in his case on November 9, 2011, until after his gas service was finally terminated in mid-July 2012. Ms. Butler explained again that the last payment Mr. Barrientos made prior to mid-July, 2012, was made on April 15, 2011, although a fuel assistance payment was made on his behalf a few days later, on April 25, 2011. Since Mr. Barrientos made his Arrearage Forgiveness Plan down payment in July, however, he has remained current on his gas payment plan. Although he remains current on the plan, it is a 36-month plan, so the portion of his past-due balance that is to be forgiven will not actually be forgiven until, and unless, he successfully completes the entire payment plan.²⁷

Ms. Butler was unable to respond to further cross-examination by the Advocacy Section with respect to whether or not there had been further contact with the company initiated by Mr. Barrientos since the Division's Report and Order was issued as she did not have those documents with her. The company offered to look further into that matter and provide the information in the form of a post-hearing data response. According to the company's file notes

²⁶ Testimony of Ms. Sarji.

²⁷ Testimony of Ms. Butler; NGRID Exhibit 1 at 4.

concerning contacts by, or on behalf of, Mr. Barrientos after November 9, 2011, Mr. Barrientos first contacted National Grid regarding his account status on April 26, 2012, and was given his current balance, the date of the next meter read, the current billing due date, and a prospective termination of service date of May 3, 2012. Subsequent calls were made to the company on Mr. Barrientos' behalf by Blackstone Valley Community Action Program (May 1, 2012) and the Division's Consumer Section (May 10, 2012), and the George Wiley Center (May 17, 2012). Someone (it is not clear whom) sent a number of documents to National Grid on May 17, 2012, to confirm he was receiving a LIHEAP payment. It also appears that Mr. Barrientos called the company on May 17, 2012, to authorize the company to speak about his situation with the George Wiley Center, and on July 19, 2012, the company contacted Mr. Barrientos to tell him that it had received a \$270.00 grant on his behalf, but that he still needed to provide an additional \$150.09 to make up the required 10% down payment.²⁸

In response to cross-examination by the Hearing Officer, Ms. Sarji explained that so long as Mr. Barrientos does not miss two consecutive payments, or any three payments during the duration of the payment plan, he will not be considered in default of his current Arrearage Forgiveness Payment Plan. However, should he miss two consecutive payments, or three payments total during the length of the payment plan, he would be considered to be in default of the Arrearage Forgiveness Payment Plan and would have his gas

²⁸ NGRID Exhibit 4 *in absentia* at 2.

service terminated. All payment plan accounts are monitored on a weekly basis, and any time any of them are defaulted, they are immediately sent to collections to terminate service. In cases such as this, involving multi-family dwellings, the company does not want to have to terminate the service of the other tenants who may be current on their bills. In those cases, the collections personnel will post the building (i.e., fasten a notice on the building itself) to give the other tenant an opportunity to contact National Grid and arrange for National Grid to have access to the defaulting tenants meter. This is the procedure that the company followed a year or two earlier when they first terminated Mr. Barrientos' gas service. Eventually, the company may have to terminate the services for the entire building at the street (if none of the tenants call to give the company access to the meters inside), but when this happens, National Grid always posts the building and one of the tenants will call immediately to ensure that the company has access to the gas meters and everyone else's service in the building can be restored promptly. Mr. Lucchetti confirmed that Ms. Sarji's description of the process was accurate.²⁹

In response to re-direct examination, Ms. Sarji elaborated on the process followed by the company whenever it found a need to terminate a customer's service, but could not get access to the meter and had no street valve on site. She explained that when the collector/meter technician goes to the premises to either terminate the service at the meter or collect payment, and finds that he/she cannot get access to the meter and cannot locate a street valve in place,

²⁹ Testimony of Ms. Sarji; testimony of Mr. Lucchetti.

the collector/meter technician notifies the collections supervisor of the situation at once. The collections supervisor then enters all of the necessary data (account name, address, meter number, etc.) into a list of similar accounts and sends it to the company's Construction Department to begin the process of having a street valve installed. This process requires the Construction Department to file for a construction permit, Dig Safe Program ticket, and whatever else may be required by that particular municipality prior to beginning work. Once the Construction Department collects the necessary permits and completes the street valve installation, the Construction Department contacts the collections supervisor to inform him/her that the service can now be secured at the street. The collections supervisor then makes out a work order and sends a collector/technician to the residence to either collect the past-due balance or turn off the gas at the street. Ms. Sarji affirmed that this process was followed in 2012 with respect to Mr. Barrientos' gas account.³⁰

In response to a question from the Hearing Officer, Ms. Sarji testified that the amount of time it takes for the company's Construction Department to obtain all the necessary permits for installing a street valve varies widely from community to community. In some cities and towns, it can take a month or more; in Pawtucket, for example, it always takes longer to get permission. If the work in question involves a state highway, the delays can be even longer than that. In this particular case, the company was calling the city almost

³⁰ Testimony of Ms. Sarji.

daily to get the necessary permit, trying to get the permit as quickly as possible; the Construction Department obtained the final permission on July 17, and on July 18 it installed the street valve.³¹

In response to a question from the Advocacy Section as to why a street valve had not been installed for 190 Dunnell Avenue the last time National Grid had terminated gas service there, the company explained that it was because of the history of this account. In the past, the company had been able to obtain access to the meter inside the building to terminate the gas service. Since they had been able to get to the meter in the past, and since it can be expensive and time-consuming to install street valves, the company saw no reason to go through the process of installing a street valve here in the past.³² It costs about \$1,500.00 to install a typical street valve, but depending on such variables as road restoration costs, police details, and others, the cost for a particular valve could be considerable higher or lower.³³ In this particular case, the actual cost assigned to the work order was \$1,409.85.³⁴

Finally, the Advocacy Section, referring to numbered paragraph 6 on page 24 of the Division's November 9, 2011, Report and Order concerning Mr. Barrientos' gas service,³⁵ asked Ms. Sarji whether or not National Grid had sent

³¹ Testimony of Ms. Sarji.

³² Testimony of Ms. Sarji.

³³ Testimony of Mr. Lucchetti.

³⁴ NGRID Exhibit 5 *in absentia* at 2. This exhibit was provided in response to an in-hearing data request from the Advocacy Section.

³⁵ See Hearing Officer Exhibit 1 for Identification (Division Report and Order number 20530 dated and effective November 9, 2011, in Division Docket number D-11-79) at 24. Numbered Order paragraph 6 thereof provides:

That National Grid shall send a letter report to the Division within two (2) business days whenever any of the following actions occur: (a) the

in the required letter reports to the Division within two days concerning the problems with terminating Mr. Barrientos' gas service as the Order required. In response, Ms. Sarji testified that because the company sent a spreadsheet report to the Division weekly that updated the status of each and every docket, it had not sent separate letter reports as well. The company believed that this practice complied with the spirit of the Orders, and kept it in compliance with the Order (as well as with all of the similar Orders).³⁶

This concluded National Grid's case. The Advocacy Section had no evidence to offer.

In his closing remarks, National Grid's counsel pointed out that, because this was a gas case with all of the additional safety issues that implies, and because the company could not get access to the premises (in order to secure the gas at the meter), National Grid was faced with far more challenges in complying with the underlying Division Report and Order than would be the case for electric services (where National Grid could normally secure electrical service at the pole even if it could not get to the electric meter). National Grid was not idle, actively trying to obtain access to the premises and, when that failed, trying to obtain the necessary permits to install a new street valve

expiration deadlines described above has arrived and the Complainant has agreed or failed to agree to the payment plan directed by this Report and Order; (b) service termination due to failure to enter into the payment plan directed by this Report and Order; (c) the Complainant defaults on the payment plan directed by this Report and Order; (d) service termination due to defaulting on the payment plan directed by this Report and Order; (e) service termination due to the Complainant's request; or (f) any other action that results in a deviation from the actions directed by this Report and Order. The letter report shall be sent to: **Division of Public Utilities and Carriers (Attn: Compliance Office), 89 Jefferson Boulevard, Warwick, Rhode Island 02888.**

(Emphasis in original.)

³⁶ Testimony of Ms. Sarji.

(calling the municipality almost daily to check on the status of their permit application). National Grid acted as quickly as it could, given that this was a gas service case and it became necessary to install a street valve.

The Advocacy Section noted in closing that this was, indeed, a somewhat unique case. National Grid did make an effort to comply, and eventually succeeded both in installing a street valve and getting a payment plan in effect, but the Advocacy Section expressed concern that National Grid did not start its efforts to get the necessary permits for installing a street valve earlier, perhaps during the moratorium. The Advocacy Section also observed that simply annotating a weekly spreadsheet concerning the current status of cases involving formal orders might not be sufficient in cases such as this where National Grid found itself unable to comply fully with a Report and Order due to circumstances (i.e., obtaining permits from a municipality) beyond National Grid's control. In such cases, the Advocacy Section believed that National Grid should provide the Division with more detailed explanations of the situation.

Numbered paragraph 6 of Division Report and Order number 20530 provides as follows:

That National Grid shall send a letter report to the Division within two (2) business days whenever any of the following actions occur: (a) the expiration deadlines described above has arrived and the Complainant has agreed or failed to agree to the payment plan directed by this Report and Order; (b) service termination due to failure to enter into the payment plan directed by this Report and Order; (c) the Complainant defaults on the payment plan directed by this Report and Order; (d) service termination due to defaulting on the payment plan directed by this Report and Order; (e) service termination due to the Complainant's request; or (f) any other action that results in a deviation from the actions directed by this Report and Order. The letter report shall

be sent to: **Division of Public Utilities and Carriers (Attn: Compliance Office), 89 Jefferson Boulevard, Warwick, Rhode Island 02888.**

(**Emphasis** in original.) As a matter of practice, though, the Division has accepted annotations of the Division's "Formal Hearing Tracking Sheet" as sufficient to satisfy the spirit of this requirement in view of the rather large number of termination cases that have been processed over the past couple of years in lieu of insisting on a letter every time one of the enumerated actions occurred. In view of this practice, and in view of the fact that the annotations so provided have generally been adequate to provide the requested information, the Division will not impose any sanctions on National Grid for having simply followed that practice in this case, too.

However, it is clear from this case that a brief annotation along the lines of "Street valve must be installed in order to terminate" really is not sufficient to fully inform the Division as to why a problem first noted in November has not been successfully corrected by the following May or June. If, as was apparently the case here, part of the problem is a municipal official failing to act promptly on a permit application (something that would seem to be beyond National Grid's control), National Grid needs to explain that to the Division.³⁷ This would accomplish two things: (1) it would reassure the Division that National Grid is being diligent in its efforts to comply with a Division Order;

³⁷ Other information would also be useful. For example, it would have been useful to know that while the customer had willingly granted access to the premises in the past (leading National Grid to expect similar access this year), this year the customer refused multiple requests from National Grid for access to the gas meter. Similarly, it would have been helpful to have been informed that the city had recently repaved that section of street and was therefore very reluctant to grant permission to dig up a portion of it to install a street valve.

and, (2) it might enable the Division's Engineering Section to contact the relevant municipal official with a view toward expediting matters. In the absence of a detailed explanation for any delay in complying with a Division Order directing termination of a utility service by a date certain, the Division is left with no option but to proceed on the assumption that National Grid has simply failed to comply.

In the future, the Division expects National Grid to provide it with a clear and concise explanation of the nature of the problem whenever National Grid learns that it will not be able to comply with a Division Order to terminate a utility service by a date certain. That explanation will include an explanation of the problem, the steps National Grid is taking to correct the problem, and the estimated date by which National Grid expects to be fully in compliance with the Division Order.

Finally, the Division notes that the actual cost assigned to the work order to install the street valve in this case was \$1,409.85. Although this cost was incurred solely as a result of the customer's refusal to allow National Grid access to National Grid's meter, the cost itself is currently passed on to the ratepayers as a whole. The Division believes this is inherently unfair. The Division believes that in cases where National Grid has been authorized to secure gas utility service to a customer for nonpayment of utility bills, but is unable to do so because the customer refuses to give National Grid access to the account's gas meter and that gas service has no street valve in place, the customer whose service is being terminated for nonpayment and who has

refused to give National Grid access to the gas meter should be responsible for the full cost of installing the needed street valve. For that reason, the Division directs National Grid to petition the Rhode Island Public Utilities Commission for authority to amend its gas utility tariff (or terms and conditions of service) to allow the cost of installing a street valve to be assigned entirely to the account of the customer whose gas service is being terminated for nonpayment and has refused to give National Grid access to the customer's gas meter in order to effect that service termination.

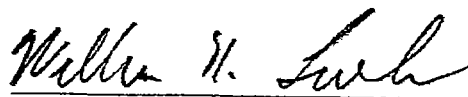
It is, therefore,

(20834) Ordered:

1. That the Narragansett Electric Company d/b/a National Grid – Gas (“National Grid” or “the company”) did not, technically, comply with Division Report and Order number 20530, with respect to a complaint filed by Mr. Erik Barrientos regarding his bill for gas services at Mr. Barrientos’ residence at 190 Dunnell Avenue, Fl. 1, Pawtucket, Rhode Island 02860, when it failed to terminate Mr. Barrientos’ gas service by close of business (4:00 p.m.) on Monday, May 14, 2012.
2. That National Grid technically failed to comply with Division Report and Order number 20530 by not adequately informing the Division as to the reasons why it was unable to install a street valve and terminate Mr. Barrientos’ gas service by close of business (4:00 p.m.) on Monday, May 14, 2012, though it did report to the Division that it needed to install a street valve in order to terminate Mr. Barrientos’ gas service.

3. That under the facts of this case, it would be inappropriate to impose any administrative penalties on National Grid.
4. That in future cases the Division expects National Grid to provide it with a clear and concise explanation of the nature of the problem whenever National Grid learns that it will not be able to comply with a Division Order to terminate a utility service by a date certain. That explanation will include an explanation of the problem, the steps National Grid is taking to correct the problem, and the estimated date by which National Grid expects to be fully in compliance with the Division Order. Failure to provide such an explanation may result in the imposition of sanctions.
5. That, within six (6) months of the effective date of this Report and Order, National Grid shall petition the Rhode Island Public Utilities Commission for authority to amend its tariff (or terms and conditions of service) to assign the full cost of installing a street valve to the account of the customer whose gas service is being terminated for nonpayment and who has refused to give National Grid access to the customer's gas meter in order to effect that service termination.

DATED AND EFFECTIVE AT WARWICK, RHODE ISLAND, OCTOBER 11, 2012.



William K. Lueker, Esq.
Deputy Chief of Legal Services
Hearing Officer

APPROVED:



Thomas F. Ahern
Administrator



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DIVISION OF PUBLIC UTILITIES AND CARRIERS
89 Jefferson Boulevard
Warwick R.I. 02888
(401) 941-4500

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NOTICE OF AVAILABILITY OF JUDICIAL REVIEW
(PROVIDED PURSUANT TO R.I.G.L. §42-35-12)

Please be advised that if you are aggrieved by this final decision (report and order) of the Rhode Island Division of Public Utilities and Carriers ("Division") you may seek judicial review of the Division's final decision by filing an appeal with the Rhode Island Superior Court. You have thirty (30) days from the mailing date (or hand delivery date) of the Division's final decision to file your appeal. The procedures for filing the appeal are set forth in Rhode Island General Laws, Section 42-35-15.

Proceedings for review may be instituted by filing a complaint in the Superior Court of Providence or Kent Counties. Copies of the complaint must be served upon the Division and all other parties of record in your case. You must serve copies of the complaint within ten (10) days after your complaint is filed with the Superior Court.

Please be advised that the filing of a complaint (appeal) with the Superior Court does not itself stay enforcement of the Division's final decision. You may however, seek a stay from the Division and/or from the Court.

The judicial review shall be conducted by the Superior Court without a jury and shall be confined to the record. The Court, upon request, shall hear oral argument and receive written briefs.