

November 7, 2013

BY HAND DELIVERY & ELECTRONIC MAIL

Luly E. Massaro, Commission Clerk
Rhode Island Public Utilities Commission
89 Jefferson Boulevard
Warwick, RI 02888

**RE: Docket 4442 - The Narragansett Electric Company d/b/a National Grid
Tariff Advice Filing for Customer-Owned Street & Area Lighting Proposal
Opposition to Motion to Compel**

Dear Ms. Massaro:

I have enclosed ten (10) copies of National Grid's¹ opposition to the Rhode Island League of Cities and Towns and the Washington County Regional Planning Council's Motion to Compel.

Thank you for your attention to this matter. If you have any questions regarding this filing, please contact me at (401) 784-7667.

Very truly yours,



Thomas R. Teehan

Enclosures

cc: Docket 4442 Service List
Thomas Ahern, Administrator
Leo Wold, Esq.
Steve Scialabba, Division

¹ The Narragansett Electric Company d/b/a National Grid ("National Grid" or the "Company").

Certificate of Service

I hereby certify that a copy of the cover letter and/or any materials accompanying this certificate were electronically transmitted to the individuals listed below. Copies of this filing will be hand delivered to the RI Public Utilities Commission and the RI Division of Public Utilities and Carriers



Joanne M. Scanlon

November 7, 2013
Date

Docket No. 4442 - National Grid – LED Tariff Advice Filing
Service List updated 10/2/13

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File an original & 10 copies w/: Luly E. Massaro, Commission Clerk Public Utilities Commission 89 Jefferson Blvd. Warwick, RI 02888	Luly.massaro@puc.ri.gov	401-780-2017
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**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION**

IN RE: TARIFF ADVICE FILING FOR	:	
CUSTOMER-OWNED STREET	:	DOCKET NO. 4442
AND AREA LIGHTING PROPOSAL	:	

**THE NARRAGANSETT ELECTRIC COMPANY’S D/B/A NATIONAL GRID
OPPOSITION TO THE RHODE ISLAND LEAGUE OF CITIES AND TOWNS
AND THE WASHINGTON COUNTY REGIONAL PLANNING COUNCIL’S
MOTION TO COMPEL**

I. INTRODUCTION

The Narragansett Electric Company d/b/a National Grid (“National Grid” or the “Company”) files this opposition to the Rhode Island League of Cities and Towns and the Washington County Regional Planning Council’s (collectively, “League/WCRPC”) motion to compel National Grid to produce complete responses to the League/WCRPC’s second set of data requests (the “Motion”). The Company respectfully requests that the Rhode Island Public Utilities Commission (the “Commission”) deny the League/WCRPC’s Motion because the Company provided complete responses to all questions in the League/WCRPC’s second set of data requests. The Company also requests that the Commission issue a ruling that the Agreement of Sale and the License Agreements (the “Closing Documents”) are outside the scope of this proceeding.

II. BACKGROUND

On October 25, 2013, the Company filed responses to the League/WCRPC’s second set of data requests to National Grid. In 19 out of the 25 data requests in the League/WCRPC’s second set of requests, the League/WCRPC sought information concerning the Closing

Documents. The Closing Documents, which the Company submitted in discovery, include an Agreement of Sale, a License Agreement for Overhead Electrical Service and Attachments to Utility Poles for Street and Area Lighting (“Overhead License Agreement”), and a License Agreement for Underground Electrical Service and Attachments to Utility Structures for Street and Area Lighting (“Underground License Agreements”) (collectively, “Closing Documents”). These Closing Documents are currently used in Massachusetts when a Massachusetts city or town exercises its right to purchase street and area lighting facilities from Massachusetts Electric Company d/b/a National Grid (“Mass. Electric”) pursuant to M.G.L. c. 164, § 34A and the Mass. Electric’s Street and Area Lighting – Customer Owned Equipment S-5, Retail Delivery Service Tariff (“Rate S-5 Tariff”).¹ Similarly, in Rhode Island, the Company will use these Closing Documents when municipal customers exercise their rights to own their own street lighting equipment and receive retail delivery service from the Company pursuant to the Rhode Island Municipal Streetlight Investment Act, R.I.G.L. § 39-29-1, *et seq.* (the “Act”) and the proposed Rate S-05 Tariff, R.I.P.U.C. No. 2142 (the “Proposed Tariff.”).

The Closing Documents are the legal documents between the parties that accomplish the purchase and transfer of equipment and establish the rules for attachment to the Company’s utility poles. Following the execution of the Agreement of Sale, the Company will view and treat customer-owned street lighting as a third party electrified attachment mounted on or residing within Company-owned distribution infrastructure. Therefore, all basic attachment rules, standards, and processes apply and the Underground and Overhead License Agreements outline the rights and responsibilities of the Company and municipal customers that exercise

¹ In Massachusetts, these Closing Documents are not part of the Mass. Electric Street and Area Lighting – Customer Owned Equipment S-5, Retail Delivery Service Tariff, and were not submitted to the Massachusetts Department of Public Utilities for approval. Similar to the Proposed Tariff in Rhode Island, the Closing Documents are referenced in the Mass. Electric Rate S-5 Tariff.

their rights to own their street lighting equipment. The Underground and Overhead License Agreements are similar to other attachment agreements except that these agreements focus specifically on street lighting attachments. Fundamentally, the fees/charges and associated processes (except for the Lighting Service Charge) are similar for other types of attachments affixed to the Company's infrastructure.

As explained below, the Company believes that the Closing Documents are outside the scope of this tariff proceeding, which, pursuant to the Act, governs the alternative tariff the Company was required to create. Therefore, although the Company provided complete responses to the 19 questions in the League/WCRPC's second set of data requests concerning the Closing Documents, it responded to these requests subject to the objection that these questions were outside the scope of this tariff proceeding. On October 25, 2013, the League/WCRPC contacted National Grid pursuant to Commission Rule 1.15(b) to discuss National Grid's objections and responses to the League/WCRPC's second set of data requests. During their communications, National Grid explained to the League/WCRPC that it had provided complete responses to the second set of data requests but had simply preserved the Company's position that requests concerning the Closing Documents were outside the scope of this tariff proceeding. Despite this explanation, on October 28, 2013, the League/WCRPC filed their Motion, requesting that the Commission order the Company to produce complete responses to their second set of data requests without objection. The League/WCRPC also requests that the Commission issue a ruling on the relevancy of the Closing Documents to this tariff proceeding.

III. ARGUMENT

a. The Commission Should Deny the Motion Because National Grid Provided Complete Responses to the League/WCRPC's Second Set of Data Requests.

The Commission should deny the League/WCRPC's Motion because National Grid provided complete responses to the League/WCRPC's second set of data requests and did not withhold any documents or information based on the Company's objections to those requests. Rather, the Company provided complete responses to the League/WCRPC's second set of data requests subject to the objection that requests concerning the Closing Documents were outside the scope of this tariff proceeding. The Commission has not issued any rulings on the scope of this proceeding and the relevancy of the Closing Documents to this proceeding. As such, the Company's objection is not improper solely because the League/WCRPC disagrees with the Company's position. Accordingly, the Company respectfully requests that the Commission deny the Motion.

b. The Closing Documents are Outside the Scope of This Tariff Proceeding.

The Closing Documents are outside the scope of this tariff proceeding. The Act, which was passed on July 15, 2013, requires that the Company create an alternative tariff for delivery service to lighting equipment where a municipal customer opts to own its street lighting equipment pursuant to the Act and receive retail delivery service from the Company. *See* R.I.G.L. § 39-29-3(a)(1). Pursuant to the Act, the Company was required to file the proposed alternative tariff in a very short time frame – within 60 days of the effective date of the Act. *See id.* In addition, the Act requires that the Commission issue a decision within 60 days after the Company filed the Proposed Tariff to effectuate the purposes and provisions of the Act. *See id.* The Company does not disagree with the League/WCRPC that the Closing Documents are a

significant part of the process involving municipal customers that opt to own their street lighting equipment pursuant to the Act. However, the Company believes that as evidenced by the short time frame set forth in the Act and its delineation of the roles of both the Commission and the Division, the Act does not contemplate the Commission's review and approval of the ancillary Closing Documents, which are only involved *after* an approved delivery service tariff is in place and *after* a municipal customer notifies the Company that it intends to exercise the option to own its street lighting equipment. Moreover, the Company believes that the Act specifically grants the Rhode Island Division of Public Utilities and Carriers the jurisdiction to oversee issues involving the Closing Documents. Specifically, section 29-29-3(e) provides that:

Any dispute regarding the terms of the alternative tariff, the compensation to be paid the electric distribution company, *or any other matter arising in connection with the exercise of the option provided in subsection (a), including, but not limited to, the terms on which space is to be provided to the municipality in accordance with subsection (c)*, shall be resolved by the division of public utilities and carriers within ninety (90) days of any request for such resolution by the municipality or any person involved in such dispute.

R.I.G.L. § 39-29-3(e) (emphasis added). In short, the Company believes that the scope of this tariff proceeding is limited to the Commission's review of the Proposed Tariff and whether it complies with requirements of the Act. As such, the Company believes that the ancillary Closing Documents are outside the scope of this expedited tariff proceeding, and that the Act instead provides that the Division would handle disputes involving these Closing Documents and other matters arising in connection with the municipal customers' exercise of their rights under the Act. Accordingly, the Company respectfully requests that the Commission deny the Motion and issue a ruling that the Closing Documents are outside the scope of this proceeding.

III. CONCLUSION

For the foregoing reasons, National Grid respectfully requests that the Commission deny the League/WCRPC's Motion and issue a ruling that the Closing Documents are outside the scope of this proceeding.

Respectfully submitted,

**THE NARRAGANSETT ELECTRIC
COMPANY D/B/A NATIONAL GRID**

By its attorney,



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Dated: November 7, 2013