

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

THE NARRAGANSETT ELECTRIC COMPANY :
d/b/a NATIONAL GRID ARREARAGE : DOCKET NO. 4651
MANAGEMENT PROGRAM PROVISION :

REPORT AND ORDER

I. Introduction

On June 24, 2016, Governor Raimondo signed into law legislation that made comprehensive amendments to the Narragansett Electric Company d/b/a National Grid's (National Grid or Company) three-year arrearage management program for low-income gas and electric customers set forth in R.I. Gen. Laws §§ 39-2-1 and 39-1-27.12 (collectively Henry Shelton Act).¹ The purpose of the law was to establish a new, one-year arrearage forgiveness program which allowed for incremental debt forgiveness. The new law required that five-percent of the Low Income Heating Assistance Program (LIHEAP) Enhancement Fund² be set aside annually to assist customers transitioning from shelters to permanent housing by providing down payments needed to enroll in the arrearage management program. Finally, the law directed National Grid to file tariffs to implement the new requirements of the Henry Shelton Act.³

On September 23, 2016, the Company filed with the Public Utilities Commission (PUC or Commission) a tariff advice request seeking additions and revisions to its electric and gas tariffs consistent with the recent amendments to the Henry Shelton Act. Specifically, the Company proposed to add an arrearage management program provision as a new electric tariff (RIPUC No.

¹ See 2016-S 2087 Substitution B, sponsored by Sen. Joshua Miller and co-sponsored by Sen. V. Susan Sosnowski, Sen. Juan M. Pichardo, Sen. Harold M. Metts, and Sen. Maryellen Goodwin; <http://webserver.rilin.state.ri.us/BillText/BillText16/SenateText16/S2087B.pdf>.

² For more information regarding the LIHEAP Enhancement Fund, see PUC Order No. 20699, Docket No. 4290 (April 13, 2012) [hereinafter PUC Order 20699]; [http://www.ripuc.org/eventsactions/docket/4290-NGrid-OER-Ord20699\(4-13-12\).pdf](http://www.ripuc.org/eventsactions/docket/4290-NGrid-OER-Ord20699(4-13-12).pdf).

³ R.I. Gen. Laws § 39-2-1(d)(2)(xii).

2171) and to add an arrearage management program and LIHEAP Enhancement Fund set-aside provisions to the gas tariff currently in effect (RIPUC NG-GAS No. 101).⁴ Finally, the Company proposed cancelling RIPUC No. 2143 and adding RIPUC No. 2170 in order to implement the allocation of LIHEAP Enhancement Funds for electric customers transitioning into permanent housing.⁵ The substance of the Company's proposed arrearage management program and set-aside provisions were substantially the same for the electric and gas tariffs.

On January 26, 2017, the Center for Justice submitted public comments raising several concerns regarding implementation of National Grid's proposed tariffs.⁶ On February 6, 2017, the Center for Justice filed with the Commission a Motion to Intervene, which was granted in accordance with Commission rules.⁷ After an exchange of discovery and following a public hearing, the Commission approved two settlements, one between National Grid and the Center for Justice and one between the Division of Public Utilities and Carriers (Division) and National Grid. In addition, the PUC ordered National Grid to file amended tariffs in compliance with the settlement agreements.

II. Legislative Amendments

The 2016 legislation made several changes to the Henry Shelton Act⁸ to allow LIHEAP-eligible residential customers who have had their utility service terminated or who have been scheduled for termination to earn incremental debt forgiveness while maintaining utility service.⁹

⁴ National Grid's Tariff Advice Filing [hereinafter Tariff Advice Filing] (Sept. 23, 2017); http://www.ripuc.org/eventsactions/docket/4651-NGrid-AMP_9-22-16.pdf. Tariff 2171 is a new tariff, and not an existing tariff that has been changed. *Id.* at 1.

⁵ *Id.* at 3.

⁶ Letter from Robert McCreanor (Jan. 26, 2017); http://www.ripuc.org/eventsactions/docket/4651-CFJ-Comments_1-26-17.pdf.

⁷ See PUC Rules of Practice and Procedure 1.13(e); Rhode Island Center for Justice's Motion to Intervene (Feb. 6, 2017); http://www.ripuc.org/eventsactions/docket/4651-CFJ-Intevene_2-1-16.pdf.

⁸ The Henry Shelton Act was named after the longtime, anti-poverty and social justice advocate who founded the George Wiley Center in Pawtucket, Rhode Island; <https://www.georgewileycenter.org/>.

⁹ R.I. Gen. Laws § 39-2-1(d)(2).

Customers enrolling in the arrearage management plan must have an account balance that is at least \$300 and sixty days past due. If service has been terminated, the customer must make an initial payment of twenty-five percent of the total unpaid balance, including current and past due amounts, unless otherwise directed by the PUC through emergency regulation.¹⁰ Program participants enroll in a one-year payment plan, with a fixed monthly charge equal to the customer's estimated average usage, as determined by National Grid.¹¹ With each payment made over the course of the year, one-twelfth of the customer's arrearage would be forgiven. Customers can earn up to \$1,500 of forgiveness in a year. If a customer's outstanding balance is greater than \$1,500, the plan may be extended for an additional twelve-month period. Customers must remain current with payments or be subject to removal from the program with all unpaid balances due and payable in full.¹²

The statute provides for cost recovery based on whether a customer defaults or successfully completes the arrearage management program. For customers who default under the program, any arrearage forgiven is recovered in full from all National Grid ratepayers through an annual reconciling factor.¹³ For customers who successfully complete the program, the arrearage forgiven shall be treated as bad debt. If the amount forgiven exceeds the bad debt allowance in the most recent general rate case, then the Company is entitled to recover the excess amount.¹⁴ While authorizing recovery, the statute does not contain language directing the manner in which the Company recovers arrearages for successfully completed plans.

¹⁰ *Id.*

¹¹ *Id.*

¹² The changes to the Henry Shelton Act were effective September 1, 2016. *See* R.I. Gen. Laws § 39-2-1(d)(2).

¹³ R.I. Gen. Laws § 39-2-1(d)(2)(x).

¹⁴ R.I. Gen. Laws § 39-2-1(d)(2)(xiv).

III. National Grid's Proposed Cost Recovery

The Company proposed an annual reconciling factor to recover amounts forgiven under both the gas and electric arrearage management programs.¹⁵ National Grid asserted that it is entitled to recovery of the arrearages forgiven for customers who default even if the total amount of bad debt incurred for the year does not exceed the bad debt allowance granted in the last general rate case.¹⁶ For customers who successfully complete the arrearage management program, however, the Company would recover only those amounts forgiven that exceed the adjusted bad debt allowance.¹⁷

In addition, the Company proposed recovery of incremental administrative costs for the implementation and operation of the arrearage management program, explaining that those costs would be incremental to costs currently recovered through base distribution rates.¹⁸ It was the Company's position that, although this ratemaking treatment is not specifically provided for in R.I. Gen. Laws § 39-2-1(d)(2), such recovery is not prohibited. In addition, such treatment would be consistent with the recovery of administrative costs associated with the LIHEAP Enhancement Plan pursuant to R.I. Gen. Laws § 39-1-27.12(e).¹⁹ The Company proposed recovery of these costs from gas customers through an Arrearage Management Adjustment Factor to the Distribution Adjustment Clause.²⁰

¹⁵ Tariff Advice Filing at Attach. 1, Sheet 5 and Attach. 3, Section 7, Schedule C, Sheet 11.

¹⁶ National Grid's Resp. to Division 1-2.

¹⁷ Tariff Advice Filing at Attach. 3, Section 7, Schedule C, Sheet 11.

¹⁸ National Grid's Resp. to Division 1-2.

¹⁹ The LIHEAP Enhancement Fund and the Arrearage Management Program are separate and distinct programs. *See* PUC Order 20699 at 8 (Former OER Administrator Dr. Kenneth Payne previously testified before the PUC that "there is no clear bridge in the Henry Shelton Act between the LIHEAP Enhancement provision and the arrearage forgiveness plan.").

²⁰ Tariff Advice Filing at Attach. 1, Sheet 5 and Attach. 3, Section 7, Schedule C, Sheet 11.

IV. Settlement Agreement with Division

On March 10, 2016, following an exchange of discovery with the Division, National Grid filed with the Commission a settlement agreement it entered into with the Division.²¹ Pursuant to the settlement agreement, the Division and National Grid agreed on an implementation mechanism for the Company's recovery of arrearages forgiven for those customers who successfully complete the arrearage management program.²² The Division and National Grid also agreed that any administrative costs associated with the arrearage management program would not be included in the annual reconciling factor.²³ The Company could, on a prospective basis, seek recovery of administrative costs in its next general rate case filing.²⁴

V. Settlement Agreement with Center for Justice

On March 17, 2017, National Grid filed with the Commission a settlement agreement it entered into with the Center for Justice (Center for Justice Settlement Agreement)²⁵ that addressed all of the Center for Justice's comments regarding the administration and implementation of the arrearage management program.²⁶ First, the settlement agreement addressed the problem arising for customers who are protected from termination during the utility moratorium period as defined in the PUC Rules and Regulations Governing the Termination of Residential Electric, Gas and

²¹ National Grid's Settlement Agreement Entered into with the Division of Public Utilities and Carriers (Mar. 8, 2017); [http://www.ripuc.org/eventsactions/docket/4651-NGrid-DPU-Settlement\(3-10-17\).pdf](http://www.ripuc.org/eventsactions/docket/4651-NGrid-DPU-Settlement(3-10-17).pdf) [hereinafter Division Settlement Agreement].

²² *Id.* at Paragraph 2.

²³ *Id.* at Paragraph 3.

²⁴ *Id.*

²⁵ National Grid's Settlement Agreement Entered into with the Center for Justice (March 8, 2017) [hereinafter Center for Justice Settlement Agreement]; [http://www.ripuc.org/eventsactions/docket/4651-NGrid-CFJ-Settlement\(3-17-17\).pdf](http://www.ripuc.org/eventsactions/docket/4651-NGrid-CFJ-Settlement(3-17-17).pdf).

²⁶ Letter from Robert McCreanor (Jan. 26, 2017); http://www.ripuc.org/eventsactions/docket/4651-CFJ-Comments_1-26-17.pdf. The Center for Justice withdrew one comment concerning the application of the Commission's emergency regulations with respect to the AMP Program. *See* PUC Report No. 22549 (Nov. 2, 2016); http://www.ripuc.org/eventsactions/docket/1725-EmergencyTerminationRuleChange-Ord22594_11-2-16.pdf.

Water Utility Service.²⁷ The Center for Justice was concerned that these customers could be deemed ineligible for the arrearage management program because their service was active and not scheduled “for actual shut-off of service on a specific date,” as required by R.I. Gen. Laws § 39-2-1(d)(2). Pursuant to the settlement, during the moratorium and the upon request of a customer, National Grid will send a written termination notice for the sole purpose of meeting eligibility for the arrearage management program.²⁸

Second, the settlement agreement recognized that only the customer of record may enroll in the arrearage management program, but clarified that the customer of record may authorize another to communicate with National Grid to assist in the enrollment process.²⁹ Finally, the parties agreed that customers with arrearage balances greater than \$1,500 who successfully complete the initial twelve-month term may request, and should not be denied by National Grid, enrollment in a subsequent twelve-month term.³⁰

VI. Position of the Parties

At the March 21, 2017 hearing, National Grid’s testimony centered around its support of the settlement agreements.³¹ The Commission asked the Company why there were two separate agreements rather than a single agreement signed by all the parties to this docket. The Company provided two reasons. The first reason related to timing. National Grid began settlement

²⁷ See PUC Rules and Regulations Governing the Termination of Residential Electric, Gas and Water Utility Service, Section 1(I). The Moratorium period runs from November 1 through April 15 of each year, unless otherwise extended by the PUC. The PUC extended the Moratorium to May 1, 2017. See PUC Order No. 22764 (Docket No. 1725) (April 13, 2017).

²⁸ This provision would also apply to customers who qualify as “seriously ill” under the PUC’s Termination Rules and who are further protected from termination by the terms of a Superior Court Consent Order. See Center for Justice Settlement Agreement at Paragraph 2.

²⁹ *Id.* at Paragraph 3.

³⁰ *Id.* at Paragraph 6.

³¹ The following individuals provided testimony on behalf of National Grid: Attorney Robert Humm; Gladys Sarji, Manager of Customer Satisfaction, Regulatory Compliance, and Low-Income Program, and Consumer Advocate of New England; Ann Leary, Manager of New England Gas Pricing; and Robin Pieri, Senior Analyst for New England Pricing for National Grid’s Regulation and Pricing Department. Humm Hr’g Tr. at 11-12.

discussions with the Division soon after responding to the agency's data requests.³² The second reason concerned the subject matter of the settlement agreements. The Division Settlement Agreement focused solely on the Company's cost recovery provisions in the filing, while the Center for Justice Settlement Agreement addressed implementation provisions of the arrearage management program.³³

The Division testified in support of its agreement with the Company.³⁴ The Division also provided express consent to National Grid's written termination notices as referenced in the Center for Justice Settlement Agreement and stated it had no objection to the other provisions contained in that settlement.³⁵ The Center for Justice stated that its agreement with National Grid represented a productive and collaborative effort that adequately addressed all of its concerns.³⁶ The Center for Justice further indicated that it had no objection to the Division Settlement Agreement.³⁷

VII. Commission Findings

Following the public hearing and after review of the record, the Commission voted unanimously to approve the tariff advice filing as amended by the Division and Center for Justice Settlement Agreements. The Commission found the settlements were the product of thoughtful negotiation among the Company, the Division, and the Center for Justice. It applauded the Company's collaborative efforts to find appropriate ways to address the concerns of all the parties to this docket. In particular, the Commission noted, the creative, common-sense solutions outlined in the Center for Justice Settlement Agreement will remove unnecessary obstacles to participation

³² Humm Hr'g Tr. at 10.

³³ *Id.* at

³⁴ Wold Hr'g Tr. at 25. Leo Wold, Assistant Attorney General, Department of the Attorney General, testified on behalf of the Division.

³⁵ *Id.*

³⁶ Willumsen-Friedman Hr'g Tr. at 26-27.

³⁷ *Id.* at 26.

in the arrearage management program, ensuring that the most vulnerable, low-income customers have an opportunity to obtain debt relief while maintaining continuity of utility service.

Additionally, the Commission found that the Division Settlement struck an appropriate balance, providing cost recovery of forgiven arrearages for those customers who successfully complete the arrearage management program, and allowing an annual reconciliation with an offset for bad debt allowance. Further, the provision excluding administrative costs from the annual reconciliation is appropriate. Incremental recovery of costs is an exception to the general practice of recovering costs through base distribution rates, as part of a general rate case. Since the Henry Shelton Act contains no such statutory requirement to depart from the general rule, it is wholly appropriate to exclude these costs from the annual reconciliation mechanism for the arrearage management program. National Grid may seek recovery of these costs prospectively when it files its next general rate case.

National Grid shall to continue its current reporting requirements relative to the Henry Shelton Act, subject to PUC modification in subsequent years.

Accordingly, it is hereby

(22925) ORDERED:

1. The Narragansett Electric Company d/b/a National Grid's Tariff Advice Filing of September 23, 2016, adding RIPUC No. 2171 and amending RIPUC No. 101, is rejected.
2. The Narragansett Electric Company d/b/a National Grid's Tariff Advice Filing of September 23, 2016, cancelling RIPUC No. 2143 and adding RIPUC No. 2170, is approved.

3. The Settlement Agreement between the Narragansett Electric Company d/b/a National Grid and the Division of Public Utilities and Carriers, filed with the Commission on March 10, 2017, is approved.

4. The Settlement Agreement between the Narragansett Electric Company d/b/a National Grid and the Center for Justice, filed with the Commission on March 17, 2017, is approved.

5. The Narragansett Electric Company d/b/a National Grid shall file with the Commission amended tariffs in compliance with the settlement agreements.

6. The Narragansett Electric Company d/b/a National Grid shall provide to the Division and the Commission quarterly updates with respect to the arrearage management program, as outlined in this Order, commencing on the date this Order is issued.

EFFECTIVE AT WARWICK, RHODE ISLAND ON MARCH 21, 2017 PURSUANT TO AN OPEN MEETING DECISION ON MARCH 21, 2017. WRITTEN ORDER ISSUED OCTOBER 18, 2017.

PUBLIC UTILITIES COMMISSION



Margaret E. Curran, Chairperson

*Herbert F. DeSimone, Jr., Commissioner



Marion S. Gold, Commissioner



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

Notice of Right of Appeal: Pursuant to R.I. Gen. Laws § 39-5-1, any person aggrieved by a decision or order of the PUC may, within 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.