

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION**

IN RE: REVIEW OF THE REVENUE REQUIREMENT :
UNDER R.I GEN. LAWS § 39-3-11 IN LIGHT OF THE : **DOCKET NO. 4808**
TAX CUTS AND JOBS ACT :

ORDER

On December 22, 2017, the Tax Cuts and Jobs Act of 2017 was signed into law (Tax Act).¹ As part of the Tax Act, the federal corporate income tax rate was reduced from 35% to 21%. Then-current rates were set based on a 35% tax rate. On December 21, 2017, the Public Utilities Commission (PUC) issued a data request in the then-pending distribution rate case of The Narragansett Electric Company d/b/a National Grid (National Grid or Company) for a quantification of the expected tax savings.² On March 2, 2018, the Company filed a revised rate request to account for certain expected tax impacts resulting from the Tax Act for the period commencing September 1, 2018, the requested start of the rate year.³ On March 12, 2018, the PUC initiated the instant docket to determine whether the Company should be required to credit customers with tax savings from the Tax Act for the period January 1, 2018 through August 31, 2018, the period prior to the start of the new rate year.⁴

On August 24, 2018, the PUC approved an Amended Settlement between National Grid, the Division of Public Utilities and Carriers (Division), and fifteen other parties to the distribution rate case. The Amended Settlement addressed the effects of the Tax Act for the period commencing September 1, 2018, but not the period from January 1, 2018 through August 31,

¹ Pub. L. No. 115-97, 131 Stat. 2054 (the Tax Act).

² National Grid's Response to PUC 4-1 (Docket No. 4770); [http://www.ripuc.org/eventsactions/docket/4770-NGrid-DR-PUC4-1%20Supplemental%20\(Book%201%20Pages%205\)%20March%2028,%202018.pdf](http://www.ripuc.org/eventsactions/docket/4770-NGrid-DR-PUC4-1%20Supplemental%20(Book%201%20Pages%205)%20March%2028,%202018.pdf).

³ National Grid's Revised Filing (Mar. 2, 2018); http://www.ripuc.org/eventsactions/docket/4770-NGrid-Transmittal-RevSchedules_4-3-18.pdf.

⁴ Cynthia Wilson-Frias Mem. to National Grid (Mar. 12, 2018); [http://www.ripuc.org/eventsactions/docket/4808-PUC-Memo-TaxChanges-NGrid\(3-12-18\).pdf](http://www.ripuc.org/eventsactions/docket/4808-PUC-Memo-TaxChanges-NGrid(3-12-18).pdf).

2018.⁵ Subsequently, National Grid filed an initial brief on the legal issues surrounding whether the Company should be required to apply savings from the Tax Act during the period January 1, 2018 through August 31, 2018 to the benefit of ratepayers. In its brief, National Grid argued that the PUC lacked the legal authority to order a refund relating to the Tax Act for that period.⁶ Subsequently, however, the Division advised PUC legal counsel the flow-back of benefits had been settled in principle and requested time to memorialize the terms of the agreement in lieu of the parties filing responsive briefs.⁷

On January 31, 2019, National Grid submitted a Settlement Agreement, signed by all parties to this docket, that addressed the application of savings resulting from the Tax Act for the period January 1, 2018 through August 31, 2018.⁸ As part of the Settlement Agreement, the parties agreed to a quantification of the tax savings for the period January 1, 2018 through August 31, 2018. The amount to be returned to customers of Narragansett Electric was set at \$4,842,025 and the amount to be returned to customers of Narragansett Gas was set at \$3,064,228.⁹ These amounts represent the benefits of the Company's reduced federal corporate income tax payment obligations for the period January 1, 2018 through August 31, 2018.¹⁰ The parties further agreed that these funds should be returned to customers through the electric revenue decoupling mechanism,

⁵ Amended Settlement (Docket No. 4770) (Aug. 16, 2018); <http://www.ripuc.org/eventsactions/docket/4770-4780-NGrid-ComplianceFiling-Book%201%20through%207%20-%20August%2016,%202018.pdf>.

⁶ National Grid's Initial Brief (Oct. 25, 2018); [http://www.ripuc.org/eventsactions/docket/4808-NGrid-InitialBrief\(10-25-18\).pdf](http://www.ripuc.org/eventsactions/docket/4808-NGrid-InitialBrief(10-25-18).pdf).

⁷ Email from Attorney Leo Wold to Attorney Wilson-Frias (Nov. 26, 2018). The requested extension was granted on November 29, 2018. The deadline to file responsive briefs was extended to January 31, 2019, in the event a settlement could not be finalized. Email from Attorney Wilson-Frias to Attorney Wold (Nov. 29, 2019).

⁸ Settlement Agreement (Jan. 24, 2019). The parties to the docket are National Grid, the Division, the Office of Energy Resources, and the Lieutenant Governor. [http://www.ripuc.org/eventsactions/docket/4808-SettlementAgreement%20\(1-24-19\).pdf](http://www.ripuc.org/eventsactions/docket/4808-SettlementAgreement%20(1-24-19).pdf).

⁹ Settlement Agreement at 4. The Narragansett Electric Company d/b/a National Grid is the name of both the electric and gas distribution utilities. For clarity, the PUC is using Narragansett Electric to denote the electric distribution company and Narragansett Gas to denote the gas distribution company.

¹⁰ *Id.*

commencing on July 1, 2019, and through the gas distribution adjustment clause, commencing on November 1, 2019.¹¹

At an Open Meeting held on May 17, 2019, the PUC reviewed the Settlement Agreement and approved it. In approving the Settlement Agreement, the PUC did not reach the legal questions raised in National Grid's brief. Neither did the PUC address whether the Settlement Agreement's method of crediting customers was the best choice for ratepayers. The Settlement Agreement results in a de minimus rate credit to customers (approximately \$3.60 per year for residential electric ratepayers and \$6.71 per year for residential gas ratepayers).

Because this was a settled matter, it is not clear whether the parties explored alternative methods providing benefits to customers. It is also not clear whether the proposal provides the most benefit to customers over the long term. For example, through discovery on the Settlement Agreement, the PUC has learned that the Storm Fund deficit has grown to over \$125 million.¹² This deficit is a ratepayer obligation, accruing interest every month. While a reduction of \$4.8 million may not seem like a lot of money, the reduction would save approximately \$140,000 per year in interest. While ratepayers will receive some reduced distribution rate for a period of one year, they will, at some point, need to repay National Grid the same \$4.8 million plus interest. Parties and ratepayers should be cognizant of the fact that small volumetric rate reductions, while expedient and press-worthy, do not always best reflect what is in the best interest of ratepayers over the long term.

Regardless of the PUC's concerns about whether this settlement was the best outcome, National Grid has agreed to return funds to ratepayers for the period January 1, 2018 through

¹¹ *Id.* Calculation of the credit was described in more detail in footnotes 3-4 of the Settlement Agreement.

¹² National Grid Response to PUC 2-5; [http://www.ripuc.org/eventsactions/docket/4808-NGrid-DR-PUC2%20\(2-20-19\).pdf](http://www.ripuc.org/eventsactions/docket/4808-NGrid-DR-PUC2%20(2-20-19).pdf).

August 31, 2018. The settlement sets forth one reasonable method of crediting customers with the benefits of the Tax Act.

Accordingly, it is hereby

(23595) ORDERED:

The Settlement Agreement filed on January 31, 2019 is hereby approved.

EFFECTIVE AT WARWICK, RHODE ISLAND ON MAY 17, 2019 PURSUANT TO AN OPEN MEETING DECISION. WRITTEN ORDER ISSUED MAY 23, 2019.

PUBLIC UTILITIES COMMISSION



Margaret E. Curran

Margaret E. Curran, Chairperson

Marion S. Gold

Marion S. Gold, Commissioner

Abigail Anthony

Abigail Anthony, Commissioner

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 seven days from the date of the order, petition the Rhode Island Supreme Court for a Writ of Certiorari to review the legality and reasonableness of the decision or order.