

STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION

THE NARRAGANSETT ELECTRIC CO. D/B/A	:	
NATIONAL GRID'S 2022 ANNUAL	:	DOCKET NO. 5189
ENERGY EFFICIENCY PLAN	:	

**DIVISION OF PUBLIC UTILITIES AND CARRIERS' MOTION TO STRIKE OR IN
THE ALTERNATIVE, MOTION TO EXCLUDE FROM CONSIDERATION**

Now comes the Division of Public Utilities and Carriers and moves the Honorable Public Utilities Commission for an order striking National Grid's 3:57 PM filing of January 7, 2022, entitled: "Total Resource Cost Update for Provisional Plan" and attachments to that document which include Refiled Tables E-1 – E-10 for the Provisional Plan; PUC 1-20 Refiled; and PUC 3-1 Corrected (Refiled)." In the alternative, and at the minimum, the Division seeks to have such untimely filing excluded from consideration within the scope of this proceeding, which has been underway for three months.

As grounds therefore, the Division avers that National Grid's eleventh-hour filing is prejudicially untimely, comes to the Commission with unclean hands, changes the scope of the entire proceeding to date, and is in violation of the Commission's rules of procedure. In support of this Motion, the Division respectfully refers the Commission to the memorandum filed simultaneously herewith.

Division of Public Utilities & Carriers
By its Attorney

/s/
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**DIVISION OF PUBLIC UTILITIES AND CARRIERS’ MEMORANDUM IN SUPPORT
OF DIVISION’S MOTION TO STRIKE OR IN THE ALTERNATIVE, MOTION TO
EXCLUDE FROM CONSIDERATION**

I. INTRODUCTION

As the Commission is aware, the “Provisional Plan” was filed by National Grid, at the Commission’s direction three months ago, on October 8, 2021. This plan reallocated the sum of \$9 million that had originally been identified for potential spending on a combined heat and power (CHP) project in Exeter, Rhode Island, for Rhode Island Grows, LLC. Since that time, the Commission has issued several sets of data requests to National Grid, many of which are singularly focused on the provisional plan. Additionally, the EERMC and the Division have both issued numerous data requests, all to understand the differences between the provisional plan and the Commission’s alternative base plan. Finally, the Commission held two full days of contested proceedings on December 6 and 8, 2021 much of which was devoted to the cost effectiveness of the provisional plan.

At 3:57 PM on Friday, January 7, 2022, National Grid filed a document purporting to “update” and “correct” the provisional plan and associated tables. This filing arrived three minutes prior to the close of the Division’s business hours. By that time, Division staff and experts had concluded preparations for the continuation of the contested hearings scheduled for tomorrow morning, January 10, 2022. The Division argues that the filing should either be stricken from the record, or not considered by the Commission for four reasons: (1) this eleventh-hour filing is prejudicially untimely; (2) this filing comes to the Commission with unclean hands; (3) this filing changes the scope of the entire proceeding to date; and (4) this filing is in violation of Section 1.12 of the Commission’s rules of procedure which require a party to seek leave to amend applications and petitions.

II. ARGUMENT

1) NATIONAL GRID'S FILING AT THE CLOSE OF BUSINESS ON A FRIDAY, PRIOR TO A MONDAY HEARING, CAN ONLY BE CHARACTERIZED AS AN ELEVENTH-HOUR FILING WHICH, IN THIS CASE, HAS UNDULY PREJUDICED THE DIVISION IN ITS CAPACITY AS RATEPAYER ADVOCATE.

As the Ratepayer Advocate, the Division is an indispensable party in all proceedings before the Commission and is charged with examining and vetting all petitions. The Division's staff is limited and for this particular filing, staff must rely upon outside professional consultants for assistance. Upon receipt of the filing, the Division immediately forwarded the same to its consultants. On Saturday, January 8th, Division staff and its Consultants have all reviewed the filing and conferred. The Division does not understand elements of the filing, despite the accompanying description. For instance, on Table E-5, there is a total of \$3,791.5 million in negative customer contributions for C&I customers. From the Division's perspective, customer contributions should be included as a program expense.

Additionally, the Division finds it unlikely that the \$9M portion of the updated Provisional Plan is more cost effective (2.25 RI Test BCR without economic benefits) than the BCR for the C&I sector in the Alternate Base Plan (1.97). Had National Grid examined this shortly after December 8th and disclosed this issue weeks ago, the Division would have had the benefit of discovery to flesh out these resulting questions.

2) NATIONAL GRID'S FILING COMES IN WITH UNCLEAR HANDS IN THAT NATIONAL GRID KNEW AS EARLY AS DECEMBER 8, 2021 THAT THERE MIGHT BE A PROBLEM WITH ITS MODELING CONVENTION.

Attached as an exhibit to this memorandum is an Affidavit from Division Rate Analyst, Joel Munoz, setting forth the fact that upon the conclusion of the December 8, 2021 hearing, Sam Ross of the EERMC's C-Team approached Mr. Munoz, in the presence of National Grid's employee, Christopher Porter. Mr. Ross indicated that he believed that there was an error in the filing and that his team would be looking into that matter. This was the last that Mr. Munoz ever heard of the issue until he received a call from National Grid on January 6th.

The Division has no knowledge of what, if any, action National Grid took after the December 8th conversation with Mr. Ross. The Division argues that National Grid had a duty to examine this

issue, either independently, or in consultation with the parties. It is unclear as to what date National Grid examined Mr. Ross' claim and determined its validity, resulting in a desire for National Grid to amend its filing. The filing seems to suggest that this discovery was a late-breaking discovery within the last few days of last week. The Division avers that the failure of National Grid to investigate this matter in a timely manner after the December 8th alert from Mr. Ross leaves the Company with unclean hands in its close-of-business filing on January 7th. For this reason, the Division contends that the filing should either be stricken from the record, or, in the alternative, not be considered by the Commission in the remaining days of scheduled hearings.

3) NATIONAL GRID'S LATE FILING CHANGES THE ENTIRE SCOPE OF THE PROCEEDING TO DATE AND SHOULD BE CHARACTERIZED AS AN ENTIRELY DIFFERENT PLAN

The record of this proceeding continued after the conclusion of the December 6th and 8th hearings, with all parties answering data requests and several parties issuing them. In addition, National Grid also responded to record requests issued at the hearings. However, the scope of all the discovery both pre and post hearing has been the provisional plan, as filed and the alternative base plan proposed by the Commission. The provisional plan as filed, and as testified to on Dec 6th and 8th had a BCA of .99 and was greater than the cost of supply. The plan that has now been filed allegedly has a significantly higher BCA and is less than the cost of supply. This is not a corrected plan; it is a different plan, which would require significantly more examination by the parties to understand and to vet.

4) NATIONAL GRID SHOULD HAVE FILED A MOTION FOR LEAVE TO AMEND ITS PETITION, RATHER THAN A "CORRECTED" FILING.

Commission Rule 810-00-00-1.12 provides: "Amendments. Leave to amend any filing shall be requested by motion and will be allowed or denied as a matter of discretion." Although National Grid characterizes this filing as a mere correction of tables and resulting updated answers to data requests, the Division avers that the nature of the filing amends the provisional plan, as argued, supra. The approach taken in this "correction" is more than a correction and is a program that now shows negative customer contributions. As such, at a minimum, National Grid should have filed a motion to amend the provisional plan.

CONCLUSION

Discovery for the parties has been closed since December 15th. This filing, on Table E-5 of the January 7th filing shows \$3,791.5 million in negative customer contributions. This is an entirely new approach to the total resource cost than was espoused in prior filings. There is simply no time for the Division to conduct discovery. Moreover, as set forth by the accompanying affidavit of Joel Munoz, National Grid was apprised by Sam Ross of the EERMC's C-team a month ago, at the conclusion of the December 8th hearing, that the C-Team was questioning National Grid's modeling. What National Grid did about this, if anything, between then and January 7th is unclear. National Grid provided verbal notice to the Division on January 6th that there was an issue but did not provide any written materials until the 3:57 PM filing on January 7th.

The filing on January 7th is an amendment of the provisional plan and was presented without the Commission's advance approval. The Division avers that National Grid's eleventh-hour filing is prejudicially untimely, comes to the Commission with unclean hands, changes the scope of the entire proceeding to date, and is in violation of the Commission's rules of procedure. Accordingly, the Division prays for an order either striking these materials, or to exclude consideration of the filing, as out of order.

Respectfully submitted:
Division of Public Utilities & Carriers
By its Attorney

/s/Margaret L. Hogan
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Notice of Service

The undersigned hereby affirms that the Memorandum herein will be sent via email to the Service List, the 9th day of January 2022.

/s/Margaret L. Hogan

**STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION**

IN RE: THE NARRAGANSETT :
ELECTRIC COMPANY 2022 ANNUAL : **DOCKET NO. 5189**
ENERGY EFFICIENCY PLAN :

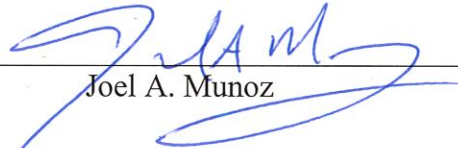
AFFIDAVIT OF JOEL A. MUNOZ

Now comes Joel A. Munoz, on behalf of the Division of Public Utilities and Carriers (“Division”), and being duly sworn deposes and states as follows:

1. After the conclusion of the December 8, 2021 Hearing in this matter, I was approached by Sam Ross, a member of the Consultant Team (C-Team) and witness for the EERMC, in the presence of a witness for National Grid (or the Company), Christopher Porter, and informed that there may be a potential error with the calculations and inputs into the Benefits Cost Ratio (BCR) of the \$9Million spend in the Provisional Plan. Mr. Ross stated that a correction of that error may result in the increase to the BCR of the \$9Million difference between the Alternate Base Plan and the Provisional Plan that would result in the BCR to be over 1.0 and thus make it cost-effective; and result in the \$9Million being less than the cost of supply. Mr. Ross stated that the C-Team would follow up with the Company on this issue and notify the Division of any changes to the BCR and calculations of cost of supply of the \$9Million portion of Provisional Plan.
2. The next day, at the EERMC monthly meeting on December 9, 2021, Mr. Ross approached me again, in the presence of fellow C-Team member, Craig Johnson, and reiterated that the C-Team believed that the Company’s BCR analysis and the calculation of the cost of supply of the \$9Million was inaccurate and should be modified and would result in the BCR of over 1 and result in the \$9 Million spend being less than the cost of supply. I encouraged Mr. Ross to present his findings to the Division and the other parties as soon as he had the results of his analysis.
3. I had not heard anything else from Mr. Ross or from the Company; nor did I see Data Requests relating to this issue until January 6, 2022, when Mr. Porter contacted me

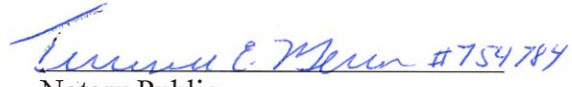
to provide advanced notice that the Company had spoken to Mr. Ross and that the Company agreed with Mr. Ross's conclusions about the error in the inputs and calculations of the BCR analysis as it related to the \$9Million portion of the Provisional Plan and that the Company planned on submitting a memo the next day, on January 7, 2022, explaining the revisions to the calculations of the Provisional Plan resulting from correcting the error.

The foregoing statements are signed under the pains and penalties of perjury this 7th day of January, 2022.


Joel A. Munoz

STATE OF RHODE ISLAND
County of Kent

In Warwick in said County on the 7th day of January, 2022, Joel A. Munoz personally appeared before me as the party executing the foregoing instrument and he acknowledged that his signature was his free act and deed.


Notary Public
Commission Expires 1/5/2023