



State of Rhode Island and Providence Plantations

DEPARTMENT OF ATTORNEY GENERAL

150 South Main Street • Providence, RI 02903

(401) 274-4400

TDD (401) 453-0410

Patrick C. Lynch, Attorney General

May 18, 2006

Via Electronic and Regular Mail

John Spirito, Hearing Officer
Division of Public Utilities and Carriers
89 Jefferson Boulevard
Warwick, RI 02888

**Re: National Grid/Southern Union Acquisition
DPUC Docket No. D-06-13**

Dear Mr. Spirito:

I am writing to request a modification to the discovery schedule to accommodate the Rhode Island Department of Attorney General (“Attorney General”) in the above-referenced docket. As you know, the Division ruled on Motions to Intervene and the scope of permissible issues by written order issued on May 8, 2006, and subsequently convened a pre-hearing conference only three days later on May 11, 2006. At the time of the conference, you may recall that I was very concerned that the deadline might be too tight. In anticipation of potential discovery issues, you established a date for a discovery conference to work out any disagreements. As it stands now, the schedule provides for a deadline for issuing discovery by today, May 19, 2006. During the conference, you neither sanctioned nor ruled out the use of depositions as a discovery technique available to interested parties.

A day after the scheduling conference, the Attorney General forwarded data requests to the Narragansett Electric Company d/b/a National Grid (“National Grid”) and Southern Union Company (“Southern Union”) (i.e., Friday, May 12, 2006). While National Grid has responded to some of the Attorney General’s data requests, National Grid has also informed the Attorney General that it is not reasonably possible within the hearing schedule to literally provide “all documents” in response to the data requests, and has requested that the Attorney General engage in discovery through the establishment of a “data room,” which would act as a substitute discovery mechanism for allowing the Attorney General to access the requested information. The Attorney General has agreed to this approach in an effort to work within the constrained procedural schedule. In exchange for that accommodation, National Grid has agreed to waive the discovery deadline. They have committed to use all reasonable efforts to answer data requests up to the day before the hearing, taking into account the practical implications that some requests may be more difficult than others to respond to quickly.

John Spirito, Hearing Officer
Division of Public Utilities and Carriers
May 19, 2006
Page Two

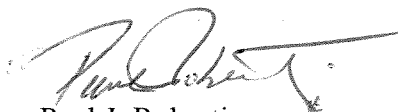
As to Southern Union, we have been discussing the possibility of a waiver, but have not yet reached any agreement. This leaves me with no alternative except to ask for the Hearing Officer's intervention. First, the Attorney General urges the Division to permit further discovery requests after the existing deadline. At this point, responses to many data requests will not be made available to the Attorney General until the day of the existing deadline, thereby effectively precluding any follow-up discovery to the first set. This is an unfairly rigid time frame, given the fact that the hearings are more than a month away. There is no reason why Southern Union should not be able to answer reasonable discovery requests up to the date that the testimony of intervenors is due. Southern union can claim no prejudice from this extension.

Secondly, the use of depositions was discussed at the procedural conference, and we agreed that this discovery technique, while "unorthodox," should remain available to the Attorney General and other interested parties. While the Attorney General is taking reasonable steps to obtain information through written interrogatories, the need for, and availability of, depositions will likely hinge on the nature and quality of responses to data requests, including the success of employing a "data room" approach in lieu of receiving formal responses, and the extension of the discovery deadline.

I trust that you can see the dilemma faced by the Attorney General in the current proceeding, and I would urge the Division to extend the May 19, 2006 deadline to at least June 15, which is three business days before the intervenor testimony is due, as well as make such further adjustments to the pending schedule as are necessary to enable the Attorney General to conduct complete and thorough discovery.

Thank you for your attention to this matter.

Very truly yours,



Paul J. Roberti
Assistant Attorney General
Chief, Regulatory Unit

PJR/rad

cc: Service List