



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*

September 12, 2005

*Via First Class Mail and Electronically*

Luly Massaro  
Clerk  
Public Utilities Commission  
89 Jefferson Boulevard  
Warwick, RI 02888

**Re: Narragansett Electric Company Standard Offer  
Rate Adjustment Filing – PUC Docket No. 3689**

Dear Ms. Massaro:

Enclosed for filing please find an original and nine (9) copies of the corrected testimony of Mr. John Farley, Executive Director of The Energy Council of Rhode Island (“TEC-RI”). We ask that the testimony submitted originally earlier this day be withdrawn in its entirety and that the corrected testimony enclosed be substituted therefore.

Although TEC-RI is itself a party in this docket, it is not at present represented by legal counsel and would thus be unable to submit pre-filed testimony on its own behalf for consideration by the Public Utilities Commission (“Commission”). The Attorney General believes that it would be a disservice to the rate-making process as a whole if the largest ratepayers in the state, represented by TEC-RI, were denied an opportunity to formally submit their views to the Commission, particularly with respect to the impact utility rate increases are having on them. Accordingly, the Attorney General has agreed to assist TEC-RI by offering Mr. Farley’s testimony.

However, to the extent that Mr. Farley’s testimony goes beyond the essentially factual discussion of the impact of rate hikes on his organization’s membership to include energy policy and other recommendations, Mr. Farley’s testimony must be viewed as reflecting only his position and that of TEC-RI; it may not be viewed as reflective of the position of the Attorney General in this matter.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "William K. Lueker". The signature is written in black ink and is positioned above the typed name.

William K. Lueker (R.I. Bar # 6334)

Special Assistant Attorney General

Tel. (401) 274-4400 ext. 2299

Fax (401) 222-3016

Encl.

**DIRECT TESTIMONY OF**  
**JOHN FARLEY, EXECUTIVE DIRECTOR**  
**THE ENERGY COUNCIL OF RHODE ISLAND**

**for**

**THE ENERGY COUNCIL OF RHODE ISLAND**

**and**

**THE DEPARTMENT OF THE ATTORNEY GENERAL**  
**STATE OF RHODE ISLAND AND THE PROVIDENCE PLANTATIONS**

**NARRAGANSETT ELECTRIC COMPANY**  
**STANDARD OFFER RATE ADJUSTMENT FILING**

**PUC DOCKET NO. 3689**

**SEPTEMBER 12, 2005**

**(Corrected testimony)**

1    **I.     Introduction**

2       Q.   Please state your full name and business address.

3       A.   John Farley, TEC-RI, One Richmond Square, Suite 340D, Providence, Rhode  
4       Island 02906

5       Q.   Please state your position, background, and professional experience.

6       A.   I am currently serving as the Executive Director of The Energy Council of Rhode  
7       Island (“TEC-RI”). TEC-RI is a non-profit consortium consisting of major users  
8       of energy in Rhode Island. Our members employ over 60,000 people in Rhode  
9       Island, and include manufacturers, hospitals, universities, government, defense,  
10      technology, and other commercial and industrial sectors.

11                I am a native Rhode Islander, and graduated summa cum laude from  
12      Providence College in 1982 with a degree in Physics/System Science. I have over  
13      20 years of experience in the energy sector, serving in technical and management  
14      capacities with government, utility, consulting and private practice organizations.  
15      In addition to my duties with TEC-RI, I also run my own private energy  
16      consulting practice incorporated in Rhode Island.

17    **II.    Purpose of Testimony**

18      Q.   What is the purpose of your testimony?

19      A.   The purpose of my testimony is to provide comments on behalf of the interests of  
20      standard offer customers generally, as well as large commercial and industrial  
21      customers in particular. I will describe the impact that this rate increase is going  
22      to have, provide an assessment of the situation, make several recommendations on  
23      behalf of TEC-RI, and answer one specific question about the Narragansett  
24      Electric filing.

1 **III. Impact of the request by Narragansett Electric**

2 Q. What impact is this rate increase going to have on customers?

3 A. Narragansett Electric is proposing that the standard offer rate for electricity be  
4 raised from 6.7 cents per kWh to 8.2 cents per kWh. This is an unprecedented  
5 increase. If this request is granted, the standard offer price in October 2005 will  
6 be 8.2 cents per kWh. In May of 2003, the standard offer stood at 4.662 cents per  
7 kWh. Ratepayers are being asked to absorb a 75% increase in under 2 ½ years.

8 Let's put that into perspective using consumption figures provided by the  
9 Company in their Second Quarter 2005 Open Access Customer Data Report.  
10 This 3.5 cent increase per kWh means that the economy of the state of Rhode  
11 Island, on an annual basis, will be spending over \$230 million MORE per year  
12 for its electricity starting this October than it did just 2 ½ years ago. And that is  
13 just the portion of the economy represented by the standard offer customers. That  
14 does not even include customers who are buying from competitive suppliers.

15 The standard offer currently is 6.7 cents per kWh. For a typical TEC-RI  
16 member on standard offer who uses 4 million kWh per year, the increase of 1.5  
17 cents per kWh translates into an annual electricity bill increase of \$60,000. The  
18 largest customers on standard offer will see their bills increase by \$375,000 and  
19 more per year.

20 **IV. Assessment of the Situation**

21 Q. What is your overall assessment of the situation brought about by this request?

22 A. It is time for shared sacrifice.

23 Ratepayers are being asked to shoulder an immense load, one that is going  
24 to have major additional negative consequences for the quality of life in and

1 economic health of Rhode Island. Whatever things can be done to mitigate these  
2 impacts ought to be done. Hopefully, parties with the means to do so will  
3 voluntarily take actions to assist. However, there are also steps that the  
4 Commission should require on the part of parties.

5 In this regard, we are strongly opposed to solutions that only benefit one  
6 subgroup of ratepayers while making the outcome even worse for other  
7 ratepayers. We strongly urge the Commission to seek solutions which treat all  
8 standard offer customers equally, by bringing benefits for all standard offer  
9 customers.

10 **V. What Narragansett Electric can contribute**

11 Q. What do you see as Narragansett Electric's contribution in this regard?

12 A. While perfectly legal, it is nonetheless uncomfortable to be pondering excess  
13 earnings in the low-risk, distribution side of the electricity business during a time  
14 when ratepayers are suffering greatly from their complete exposure to the high-  
15 risk generation side of the business. We ask Narragansett Electric to voluntarily  
16 consider directing future excess earnings toward mitigating these unprecedented  
17 increases in the standard offer price.

18 It is time for shared sacrifice.

19 **VI. What the wholesale suppliers can contribute**

20 Q. What things can the wholesale suppliers of standard offer contribute?

21 A. The reason that the standard offer is increasing from 6.7 cents to 8.2 cents is  
22 entirely due to the fuel index adjustment in the standard offer contracts with  
23 suppliers. Once the twelve-month weighted average prices for natural gas and oil

1 exceed the trigger point, the resultant standard offer price increases in nearly  
2 linear fashion as natural gas and oil prices continue to climb.

3 Yet it is not at all clear that the standard offer wholesale suppliers  
4 experience the same linear increases in their variable costs of generating and/or  
5 purchasing electricity. It would be useful to know the precise relationship today  
6 between the fuel price escalators in the standard offer contracts and the actual cost  
7 increases that the suppliers are incurring.

8 Here is what we do know: Narragansett Electric has started to report the  
9 generating source mix for its standard offer supply. That mix includes substantial  
10 shares of nuclear, coal, and hydro-electricity.

11 To the extent that any supplier has an actual mix that has prime movers  
12 powered by coal, nuclear and hydro, it may not be experiencing cost increases of  
13 anywhere near the same magnitude as the revenue increases it is receiving from  
14 ratepayers. The difference represents a windfall to the supplier.

15 Now, the revenues being earned by standard offer suppliers are legal and  
16 allowed according to the letter of the current contract.

17 However, it is also apparent that those who crafted the restructured  
18 environment we operate in now anticipated reductions in electricity price, and  
19 gave little credence to the possibility that prices would increase dramatically.

20 The stipulated prices that were set in 1997 were thought to get so high by  
21 2005 that the majority of customers would be encouraged to seek competitive  
22 supply.

1            Instead, if this increase is granted, the fuel index adjustments over and  
2 above the stipulated prices will create a situation where standard offer customers  
3 paying 75% more for electricity than they did just two and a half years ago.

4            It is time for shared sacrifice.

5            Q: Is there any other contribution that can be sought from the suppliers besides  
6 concessions in the event of windfall profits from fuel index payments?

7            A. Yes, there is another factor worth having Narragansett Electric pursue. Electricity  
8 generating companies received a new benefit from the Federal government this  
9 year in the form of a new tax deduction.

10           On October 22, 2004, President Bush signed H.R. 4520 (now Public Law  
11 108-357). Title I, Section 102 of this law (“Deduction Relating to Income  
12 Attributable to Domestic Production Activities”) changes U.S. corporate income  
13 tax law by classifying electricity production as “manufacturing”, allowing owners  
14 of power plants to deduct 3% of a company’s qualifying production income in  
15 2005 and 2006; rising to 6% in 2007-2009, and 9% after 2009.

16           This Federal tax law change represents a significant reduction in the cost  
17 of doing business for suppliers of standard offer to Rhode Island. Ratepayers  
18 should share in this cost savings.

19           This likely represents tax savings in the millions of dollars for the  
20 electricity supplied to Rhode Island customers. As a point of reference, in the  
21 state of Washington, the Washington Utilities and Transportation Commission  
22 opened docket UE-042243 to investigate the tax impacts from provisions of this  
23 act.



1           We respectfully request that the PUC require Narragansett Electric to  
2 determine the impact for Rhode Island, and to pursue legal avenues to make the  
3 suppliers share this tax windfall with customers.

4           Perhaps the tax benefit can be shared 50/50 between the suppliers and the  
5 ratepayers. In the past, the refrain has always been that these contracts are set in  
6 stone and cannot be litigated. But (and we applaud this) that is certainly no longer  
7 the case, seeing that Narragansett is actively pursuing civil cases with two  
8 suppliers over terms in these same standard offer contracts.

9           It is time for shared sacrifice.

10 **VII. What the State of Rhode Island can contribute**

11 Q. Is there any other party that is able to contribute?

12 A. Yes. The State of Rhode Island taxes sales of electricity to ratepayers in the form  
13 of a gross earnings tax. In addition, the ratepayer is paying extra money to fund  
14 other policy directives of the state, including systems benefits charges, subsidies  
15 to low income customers, and most recently the costs associated with the new  
16 Renewable Energy Standards. At the same time, we remain extremely dependent  
17 on natural gas as a fuel source for electricity generation.

18           It is time for shared sacrifice.

19           We respectfully ask that the Commission petition the State Legislature to  
20 reduce the gross earnings tax on electricity in order to offset the dramatic increase  
21 in electricity commodity prices.

22 **VIII. Recommendations**

23 Q. Could you please summarize the recommendations that you are making?

24 A. Certainly. TEC-RI recommends that the following actions be taken:

- 1           1. Request Narragansett Electric to devote future excess earnings, above its  
2           allotted rate of return, to lowering the standard offer increase, at least  
3           temporarily. It would be a magnanimous and helpful act.
- 4           2. Ask the Legislature to cut the state gross earnings tax on electricity to  
5           blunt the standard offer increase.
- 6           3. Order the Company to vigorously pursue settlements with suppliers to  
7           gain concessions. Recover for ratepayers a sizable share of the windfalls  
8           suppliers are experiencing as a result of (1) the new Federal production tax  
9           deduction, and (2) the difference between fuel cost increases and fuel  
10          revenue increases (resulting from the index term in the contract).

11 **IX. Dispute with TransCanada regarding Fuel Index payments**

12 Q. What is TEC-RI's position with respect to allowing Narragansett Electric to  
13 collect fuel adjustment factor revenues from Standard Offer Service customers to  
14 cover Narragansett's protest payments to TransCanada related to the disputed fuel  
15 index payments?

16 A. TEC-RI understands and is sensitive to the intergenerational equity issue which  
17 the Company's witness, Mr. Gerwatowski, makes in his pre-filed testimony in this  
18 docket.

19           Nevertheless, TEC-RI is against collecting fuel adjustment factor revenue  
20 payments from Standard Offer Service customers at this time. This is purely a  
21 matter of timing. We would prefer to see such payments come out of the  
22 Standard Offer Service customers' pockets later, when and if it becomes  
23 necessary, rather than now. TEC-RI makes no statement, and takes no position,  
24 regarding Narragansett paying the protest payments. That is a matter for their

1            legal team to decide. We speak only against having customers repay Narragansett  
2            Electric for those payments while the case is pending.

3    **X.    Conclusion**

4            Q. Do you have any concluding remarks?

5            A. Yes. We realize that the recommendations we are making are somewhat unique.

6            That is because the situation we find ourselves in is also unique. We urge the  
7            Commission to seriously consider the solutions we have presented here, and thank  
8            the Commissioners and staff in advance for all they are going to do to address this  
9            unique and painful situation.

10          Q. Does this conclude your testimony?

11          A. Yes it does.