

PUC 5-4

Request:

Referencing The Massachusetts Electric Company and Nantucket Electric Company's response to DPU-Comm 9-11 in Docket No. D.P.U. 21-128, please answer the following questions in detail regarding the Rhode Island energy efficiency program:

- a. Whether any vendors have abused upstream incentives resulting in fraud or noncompliance with program rules;
- b. Whether and how program administrators have been able to monitor upstream incentives. If the Company is unable to monitor upstream incentives, explain why;
- c. The cost to Rhode Island ratepayers of any fraud or noncompliance with program rules related to upstream incentives;
- d. As a result of the investigation referenced in DPU-Comm 9-11 or any other related internal or external investigation, including of National Grid personnel involved in administering the energy efficiency program, was any other fraud, misconduct, mistake, or noncompliance with program rules discovered; and
- e. If the answer to (d) is yes, please describe in detail the fraud, misconduct, mistake, or noncompliance with program rules discovered, the impact on Rhode Island ratepayers, how the Company proposes to address the impact, and all remedial or corrective measures the Company has taken or intends to take as a result.

Response:

- a. The Company and its Massachusetts affiliates, Massachusetts Electric Company and Nantucket Electric Company, (collectively, the Company and the Company's Massachusetts affiliates are referred to as "National Grid") along with other energy efficiency program administrators in Massachusetts (collectively, National Grid and the other energy efficiency program administrators in Massachusetts are referred to as the "PAs") identified noncompliance with certain program rules by one program participant serving as a manufacturer/distributor of energy efficient lighting products (the "manufacturer"). The manufacturer served as a program participant in both Massachusetts and Rhode Island and National Grid determined that the noncompliance described in the Company's Massachusetts affiliates' response to DPU-Comm 9-11(a) applied to both Massachusetts and Rhode Island program rules. As such, the essence of

this response, although tailored to Rhode Island, echoes the response provided by Company's Massachusetts affiliates to DPU-Comm 9-11(a).

National Grid's residential upstream lighting initiative involves multiple program participants, including several manufacturers and numerous retailers. As explained below, National Grid identified noncompliance with certain program rules by one manufacturer such that rebates were sought for claimed sales volumes of lighting products which appeared to exceed the distribution capabilities of the retailers involved, and specifically, two retailers listed as distributing a significant portion of the manufacturer's product. The PAs engaged outside professionals to assist them in investigating this activity. The professionals reviewed the period of August 2018 to July 2020 and did not find that the noncompliance with program rules, although material, amounted to fraud.

As background, the residential upstream lighting program offered financial incentives to wholesalers (also referred to as manufacturers) for the distribution of energy efficient lighting products, through various retailers, to consumers. The objective of the program has been to transform the lighting market by making energy efficient lighting products more easily available and less expensive for consumers. The initiative has been successful in realizing this goal.

National Grid engaged two vendors to assist in administering the programs in Rhode Island and Massachusetts, an "incentive processor" and a "field implementer." In the upstream delivery model, participating manufacturers agree to provide invoices accompanied by sales data on a monthly basis to the incentive processor. The incentive processor is responsible for review of the data for compliance with program requirements, and for submission of compliant invoices to National Grid for payment. Among other responsibilities, the field implementer is required to perform periodic on-site evaluations at retailer locations to assure program compliance.

In order to meet upstream lighting's high saturation/low-cost objective, the standard for determining whether payment of incentives is proper does not involve tracking the installation of every bulb to a socket. Instead, determination to pay incentives is based upon records of sales made by retailers, as presented by manufacturers to the incentive processor, and examined by the incentive processor for compliance with program requirements.

The program controls imposed by National Grid, and implemented by the incentive processor and field implementer, have been intended to ensure, among other things, that incentives are not paid other than for covered products distributed to consumers in the

designated service territories. Notwithstanding these controls, it was inherently possible that some program participants might circumvent the rules in certain respects where bulb-to-socket tracking was not required.

In early 2020, the PAs were alerted to and identified anomalous reported sales activity involving one manufacturer and two retailers. That manufacturer had presented to the incentive processor records of sales made by these two retailers that were likely in excess of those retailers' capacities to distribute products through their stores to consumers in the designated service territories. This anomalous sales activity led to further PA investigation (with the assistance of outside professionals) and remedial actions, including but not limited to the removal of the manufacturer from the program in Massachusetts and Rhode Island, refusal to pay any of the manufacturer's open invoices for sales of those two retailers, and refusal to pay any of that manufacturer's claimed yet-to-be invoiced amounts for products distributed to those retailers. Since the manufacturer participated in both the Massachusetts and Rhode Island programs, National Grid applied the same remedial actions for both service territories. In both Massachusetts and Rhode Island, the Company and other PAs are not claiming any savings for products for which they refused to pay incentives.

For both Massachusetts and Rhode Island, the Company and other PAs also implemented certain additional program controls designed to enhance program operations. These controls included, without limitation, issuing revised contract documents executed by all pertinent parties including the incentive processor, manufacturer and retail representative (referred to as Memoranda of Understanding or "MOUs") providing for enhanced audit rights and other increased controls, and improving validation measures to be taken by the incentive processor before invoicing.

Notably, the outside professionals engaged by the PAs to investigate this matter did not determine that fraud had occurred, but instead that this manufacturer and these retailers had not complied with certain contractual terms and conditions of the program. Importantly, the PAs' investigation found that this manufacturer had in fact purchased from its suppliers all the lighting products for which it sought rebates. The efficient lighting products were indeed delivered to the manufacturer's warehouse. The manufacturer cooperated with the investigation.

The manufacturer, however, failed to request or otherwise ensure that the retailers provide adequate supporting documentation for their claimed sales to end-use consumers so as to ensure that only such sales made to the respective Massachusetts and Rhode Island consumers were credited with incentives. Further, given store and warehouse capacity of these two retailers' stores, the manufacturer should have known that a certain

portion of the products shipped to or picked up by these retailers likely were sold outside of the designated service territories, in the form of internet sales or otherwise. It was not established if the manufacturer or retailers knowingly diverted product in violation of program requirements; however, the PAs' decision to withhold payment to the manufacturer for products provided to the two retailers was believed justified in the circumstances.

- b. The Company has been able to monitor upstream incentives. The Company has done so through a variety of means, as described in response to (a) above and subsection (e) below.
- c. Again, the outside professionals engaged by the PAs to investigate this matter did not determine that any fraud had occurred. There was evidence of contract non-compliance, however, as described in response to subsection (a) above. At an overall level, costs related to contract noncompliance and potential fraud, which exist to some degree in all market programs, are reflected in the form of administrative costs for contracting, invoice verification, inspections, audits, etc., and are reflected in overall program budgets and spending. These are programmatic costs borne by all customers and are inherent in any program in which funds are paid or products are made available. The Company did and will continue to take actions to mitigate the cost to Rhode Island ratepayers of contract noncompliance and potential fraud.
- d. Yes, as discussed in response to question (e) below.
- e. During National Grid's investigation of the manufacturer as detailed in subsection (a) above, the manufacturer raised an unrelated allegation that, in late 2017, it was asked by National Grid to hold off on submitting invoices in Rhode Island for the last three months of 2017 until early 2018. The manufacturer also claimed that, in 2018, National Grid again asked the vendor to hold off submitting invoices in Rhode Island until early 2019. National Grid conducted an internal investigation to confirm or deny the veracity of the manufacturer's statements related to "out-of-period" invoices. Ultimately, National Grid was able to confirm the validity of the manufacturer's statements and five National Grid employees (two of whom participated in the request to hold back invoices and three of whom were not directly involved in the request) were disciplined.

Following confirmation of the manufacturer's statements, National Grid engaged outside professionals to undertake a comprehensive review of out-of-period invoices for purposes of quantifying the impact, if any, of the actions of the disciplined employees on Rhode Island customers. National Grid learned that out-of-period invoices were more prevalent than anticipated across the residential upstream lighting program but were more likely a

function of imprecise accounting practices rather than the isolated incidents of misconduct. Accordingly, National Grid extended the scope of its review and looked at invoices recorded in 2016, 2017, 2018, 2019, 2020, and 2021. National Grid examined the initial batches of invoices submitted by primary manufacturers after January 1<sup>st</sup> of each year since those batches would most likely be the batches that would contain invoices that should have been accounted for during the previous calendar year. (RI energy efficiency program years operate on a calendar year basis.) National Grid took all of the out-of-period invoices that it found had been accounted for in the wrong calendar year and placed associated spend and claimed savings back into the appropriate calendar year. Next, National Grid recalculated total non-income eligible residential sector spend and savings, and resulting shareholder incentive, for each program year that was impacted to see if there was any impact on Rhode Island customers. (The impacted program years were 2015, 2016, 2017, 2018, 2019, and 2020 because all of the out-of-period invoices were recorded in the calendar year following the year the invoices should have been accounted for.) In aggregate, total spend over the multi-year period was unchanged and reportable aggregate savings increased as a result of these adjustments (a function of the fact that, due to evaluation impacts, moving the reported sale of a light bulb or fixture from one year to the following year would typically lead to a decrease in claimable net annual kWh savings and kW demand reductions for that same bulb or fixture). These adjustments, however, did lead to a downward adjustment in earned performance incentive because the Company was already above or sufficiently close to the maximum potential performance incentive earnings in specific areas in two of the years in which net kWh and kW savings were increased as a result of these adjustments. Accordingly, adding savings and spend in these years led to minor or no increase in performance incentive earnings, while reducing reported savings and spend in ensuing years as a result of these adjustments did reduce earnings in those years. As a result of performing these adjustments, National Grid was able to quantify the impact on Rhode Island customers stemming from the corrected annual shareholder incentive amounts. The result, which was recently calculated, was an aggregate, net downward adjustment of the shareholder incentive (meaning money returned to the energy efficiency program) of \$124,135. The Company plans to credit this money to the energy efficiency fund prior to February 1, 2022 so that this credit will be reflected in advance of a potential new energy efficiency surcharge for 2022.

Please note the Company is no longer proposing offering the residential upstream lighting program in Rhode Island in 2022. As was the case in Massachusetts, the Company's ability to monitor upstream incentives was not a factor in this decision. Rather, the Company's decision was due to evidence regarding the state of market transformation demonstrating that residential customers are increasingly adopting LEDs on their own.

However, the corrective and remedial measures that the Company has taken or is considering taking, include but are not limited to, the following actions:

- Implement an enhanced formal accrual process to capture incentive payments in the year that the sales period occurred. This will assist in capturing the incentive payments in the correct program period.  
Status: The Company conducted training in March 2021 on the existing accrual process with refreshers in July 2021 and December 2021. The Company also added an ongoing training requirement for new hires and implemented a manager sign-off for calendar year 2021 year-end.
- Capture the sales period for the manufacturer's sales activity that is being submitted via the third-party program administrator's invoice in the Company's InDemand system. Including this data point can provide a mechanism to trace transactions, specifically those that have a higher likelihood of being classified incorrectly (between January - April for a given calendar year), to the shareholder incentive calculation to obtain comfort that it is being recorded in the appropriate period.  
Status: The Company is able to review sales period when approving sales activity in the InDemand system.
- Establish formal policies and procedures related to the energy efficiency programs to ensure (i) quality review of supporting documentation submitted to the program administrator by the manufacturer; and (ii) guidelines for each respective party (i.e., sponsor, program administrator, manufacturer and retailer) and their responsibilities to ensure that the sales are validated prior to the release of an incentive payment.  
Status: The Company requires signatures on all MOUs from participating retailers and manufacturers. Retailer caps, with a budget and a unit allocation, were developed and incorporated into individual MOUs. If retailer sales/caps are exceeded, it requires internal delegation of authority ("DOA") level approval. DOA levels for invoice payment signoff were implemented and additional quality control ("QC") for any invoiced quantities above allocated retailer level budgets. A payment processing checklist was developed and deployed, as well as a standard operating procedure ("SOP") for processing payments.

- Conduct a quarterly or annual training for energy efficiency program managers to reiterate the importance of the key controls, roles and responsibilities of each respective party and lessons learned from past experiences where issues arise.  
Status: A compliance training was deployed for all jurisdictions in July and August of 2021, including obligations of accurate savings and financial reporting, obligation of proper accruals and do the right thing, fraud prevention and proper management of records. As part of the onboarding process, all program staff will also be required to take this training.
- Implement a monitoring process to ensure that the required supporting documentation outlined in the MOUs is being received and reviewed by a third-party.  
Status: This is being done by the field implementor and provided to National Grid for approval.
- Include specific requirements in the MOU for the manufacturer to receive an incentive payment. Such requirements may include supporting documentation to be submitted by the manufacturer to the program administrator and that supporting documentation will not be accepted after a given period from the sales period.  
Status: MOUs have been updated to include these requirements.
- Document standard processes for retailer field visits, procedures performed and observations to formalize the analysis and findings of site visits. This could be documented in the form of a memorandum or a template that details the procedures to be performed and the observations.  
Status: Quality assurance (“QA”)/QC checklists have been developed and implemented.
- Formalize key controls for the Residential Upstream Lighting Energy Efficiency program and developing a plan to routinely audit those controls and processes.  
Status: A payment processing checklist was developed and deployed, as well as an SOP for processing payments and audits to review MOU portal to ensure MOUs are executed.