

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: NEW ENGLAND GAS COMPANY'S :
SERVICE QUALITY PLAN : DOCKET NO. 3476

REPORT AND ORDER

I. NEGas' September 30, 2002 Filing

On September 30, 2002, New England Gas Company ("NEGas") filed direct testimony in support of a proposed Service Quality Plan ("SQP"). Karen Czaplewski, Vice President of Customer Service and Information Technology addressed the comprehensive nature of the SQP proposed by NEGas. Charles Meunier, Senior Vice President of Operations addressed the reason why NEGas is proposing a SQP.

Mr. Meunier stated that a settlement agreement entered into with the Division of Public Utilities and Carriers ("Division") required that the quality of service provided to customers of the merged companies would not be diminished because of the acquisition and merger. Mr. Meunier stated that according to the terms of the Settlement Agreement in Docket No. 3401, it was the intention of the parties to submit a joint proposal to the Commission no later than September 30, 2002 and that if the parties could not reach agreement on a joint proposal, NEGas would submit its own SQP by that date.¹

Mr. Meunier indicated that there are eight service quality measures proposed to monitor service quality: abandoned call rate; average speed of answer; on-cycle meter reads; testing of meters; customer requested meter tests completed; service appointments met as scheduled; leak call responsiveness – normal business hours; and leak call responsiveness – after normal business hours. He categorized five general categories that

¹ NEGas Ex. 2 (Czaplewski's & Meunier's direct testimony), pp. 5-6.

encompass these measures: call center responsiveness; meter reads; meter testing; service appointments; and safety.

Ms. Czaplewski reviewed the call center responsiveness measures: abandoned call rate and average speed of answer. She stated that the abandoned call percentage is the annual number of abandoned calls as a percentage of the total number of calls into the call center, and she defined these as abandoned calls answered after the caller hangs up. For the average speed of answer category, she stated that both Providence and Cumberland operations have historically collected data differently to monitor this measure. Ms. Czaplewski stated that as of August 1, 2001, the annual percentage of calls answered within 60 seconds is the proposed performance measure for the combined Rhode Island operations.

Mr. Meunier discussed on-cycle meter reads. He noted that the Providence operations had Automated Meter Reading (“AMR”) devices and, therefore, NEGas is able to perform a 99% actual meter reads. However, Cumberland operations have not implemented AMR technology and, therefore, are able to perform only 75% of actual meter reads.

Relative to measures for meter testing, Mr. Meunier stated that NEGas proposed to test 15,000 total meters annually. Another service quality measure relative to meter testing is customer requested meter tests completed within 15 days from the request.

In the area of service appointments performance, NEGas proposed that the performance criteria for service appointments be defined as the annual percentage of general service appointments met as scheduled. Mr. Meunier stated that these

appointments include meter installations, meter removals, meter change-outs, starting and final meter reads, reconnections, and high bill investigations.

Relative to safety, NEGas proposed two measures to monitor customer safety described as leak call responsiveness. The first measure proposed is to use the percentage of leak calls responded to within 30 minutes during normal business hours. The second measure proposed is to use the annual percentage of leak calls responded to within 45 minutes during non-business hours.²

Ms. Czaplewski proposed that the implementation of the SQP be a 3-year plan running concurrent with the 3-year base rate freeze approved in Docket No. 3401 and that the performance period be based on NEGas' current fiscal year running from July 1, 2002 through June 30, 2003.

Relative to the benchmarks for the call center service quality measures, Ms. Czaplewski proposed that the annual abandoned call rate service quality benchmark be 15.1% which is based on the combined historical service for the legacy companies for three years. Ms. Czaplewski proposed that the annual performance benchmark for the average speed of answer be based on the data collected on the percentage of telephone calls handled within 60 seconds since July 1, 2001.

For meter reads, Mr. Meunier stated that NEGas proposed a benchmark of 94.4% for on-cycle meter readings, which is based on two years of historical data. For periodic meter testing, Mr. Meunier proposed a combined 15,000 total meters annually to be tested. For customer requested meter tests, Mr. Meunier proposed a benchmark of 77.4%, which is based on performance since September, 2001.

² Id., pp. 6-10.

Relative to service appointments, Mr. Meunier proposed a performance benchmark of 97.2%, which is based on two years of historical data. He also proposed that the leak response benchmarks during normal business hours and after normal business hours be set at 83.2% and 86.3% respectively, which is based on one year of historical data.³

Ms. Czaplewski proposed that a penalty would be incurred if actual performance is not within a deadband for the benchmark. She stated that the deadband would be established by calculating the standard deviation from historical information for those measures where the performance benchmark is calculated. Furthermore, Ms. Czaplewski stated that annual performance that falls within, or is equal to one standard deviation from the benchmark, will result in no revenue penalty for that measure. However, if NEGas' annual performance for a measure negatively exceeds one standard deviation up to two standard deviations of the benchmark, the result would be a penalty. If an unforeseen exogenous event occurs, NEGas would exclude the data from the annual performance calculation. However, the burden of proof lies with NEGas to demonstrate that the event was exogenous. In the area of incentive offsets, Ms. Czaplewski explained that annual performance that falls within the established deadband will result in no incentive offset. However, NEGas would be eligible for an incentive offset to any penalty incurred within the same performance year for another measure with the exception of any safety measure. Also, Ms. Czaplewski explained that if NEGas falls outside the two standard deviations in performance, the incentive offset is capped at the maximum level. Furthermore, Ms. Czaplewski stated that the maximum penalty

³ Id., pp. 10-13.

adjustment would be \$500,000 for the year and that the Division agrees with this penalty amount.

The penalty weight would be apportioned among the various performance measures as follows: average speed of answer would be 12%; abandoned call rate would be 12%; on cycle meter reads would be 6%; periodic testing of meters would be 6%; customer requested meter tests would be 4%; service appointments met would be 12%; leak call responsiveness during normal business hours would be 24%; and leak call responsiveness after business hours would be 24%.

Finally, NEGas will provide the Division and Commission with quarterly reports on the service quality statistics collected within 30 days of the end of each quarter. Ms. Czaplewski stated that this filing will occur no later than August 1 of each year and the results will be incorporated into in the Distribution Adjustment Charge filing.⁴

II. Division's Direct Testimony

On November 22, 2002, the Division submitted the direct testimony of Richard LeLash. Mr. LeLash stated that relative to the SQP, the typical objective for such a program is to ensure reasonable performance and to remedy any service deficiencies. He also stated that benchmarks for a typical SQP would be, in most instances, based on the utility's past level of performance and/or some established gas industry standard.

Mr. LeLash stated that any SQP penalty should be sufficient to provide a disincentive to the utility for deficient performance. He stated that the level of the penalty should reflect the importance of the related service area and that pipeline safety

⁴ Id., pp. 13-19.

areas would be given the highest penalties, with the direct customer related areas given the next highest level.

Discussing NEGas' proposal that annual average performance is appropriate for the SQP, Mr. LeLash disagreed. He stated that NEGas' performance could be below an established standard for several months but NEGas could avoid any potential penalty. Because NEGas' utility service is seasonal in nature, Mr. LeLash stated that there is a need for monthly service reporting and monitoring because annual benchmarks will only mask inadequate performance during peak periods. He stated that with reasonable benchmarks and a procedure to allow remedial action by NEGas prior to assessing penalties for inadequate performance, there is no justification to have credits for performance that exceed the benchmark's requirement. Furthermore, Mr. LeLash stated that from a customer's point of view, good performance in one area does not cancel out deficient service in another area. Therefore, Mr. LeLash stated that neither a credit mechanism nor deadbands would be necessary or appropriate for the SQP.

Addressing the level of penalties to be assessed in the event of an unresolved service deficiency, Mr. LeLash stated that NEGas' proposed maximum level of penalties is reasonable. However, he also stated that the Commission should take exogenous events into account if such events have an impact on any deficiency.

Mr. LeLash also discussed two policy issues that he stated need clarification. The first one is NEGas' proposal to have the SQP for a three-year duration. Mr. LeLash disagreed with this proposal and stated that an annual revision at least for the SQP's first years of operation was necessary. After some annual reviews are done, he agreed that the program could be put into effect for longer intervals of time.

Secondly, Mr. LeLash discussed the treatment of force majeure or exogenous events. He stated that notwithstanding Narragansett Electric's performance standards, NEGas should not be allowed to exclude or fail to report data that it believes to be the result of a force majeure or exogenous event, but instead all reporting should include all data and an explanation of how such data was affected by a claimed exogenous event. He stated that whether an occurrence is an exogenous event should be at the sole discretion of the Commission.⁵

Mr. LeLash went on to explain customer-related measures and stated that these activities are labor intensive areas for a utility and these activities are directly dependent upon adequate staffing levels. According to Mr. LeLash, deficient service in these areas are frequently indicative of inadequate staffing after service consolidations are associated with utility cost reduction initiatives.

Relative to NEGas' call center, Mr. LeLash defined the average speed of answer ("ASA") as a measurement based on data concerning the interval of time between when a caller interacts with the answer system and when the customer connects with the customer service representative. The abandon call percentage ("ACP") is measured by the level of calls terminated by the caller prior to being answered.

Mr. LeLash discussed the call center measure proposed by NEGas of 15.1% as to its ACP benchmark and its ASA benchmark of 55.9% for customer calls be answered within 60 seconds. He stated that for both of these measures NEGas also proposed a deadband of 7.3%. As a starting point, he recommended that the service benchmark for ACP be set at 20% with no associated deadband because in 2002 NEGas achieved a 13.8% ACP. He also recommended that the ASA benchmark be 80% of the calls

⁵ Div. Ex. 1 (LeLash's direct testimony), pp. 5-15.

answered within 120 seconds. He also stated that the ASA should be an all inclusive measure which incorporates abandoned as well as answered calls.⁶

Relative to service appointments, Mr. LeLash indicated that NEGAs should better describe what criteria is to be used for both the numerator and the denominator of the derived service percentage. He stated that NEGAs has proposed a 97.2% benchmark with a 0.8% deadband. In the alternative, Mr. LeLash recommended that a monthly benchmark of 95.0% without any deadband since NEGAs has met a 95.0% level since January, 2000.

Mr. LeLash discussed NEGAs' proposed meter related service measures: cycle meter reads; meter testing; and customer requested meter tests. The on-cycle meter reads percentage, as defined by NEGAs, measures the ratio of actual meter reads to the number of meters assigned to be read. The meter testing measure, Mr. LeLash stated, requires NEGAs to test a specified number of meters in an annual period.

Relative to on-cycle meter reads, Mr. LeLash recommended that NEGAs' definition of this measure be modified slightly so that the denominator in the percentage calculation is the number of active meters. Since NEGAs' historical percentage for on-cycle reads is between 94.3% and 94.5% for annual on-cycle meter reads, he recommended a monthly benchmark of 94.9% with no associated deadband.

According to Mr. LeLash, NEGAs' benchmark of testing 15,000 meters per year is based upon a meter testing cycle of at least one test every 15 years for small meters and at least one test every 10 years for large meters. Mr. LeLash recommended no modification in the category other than to suggest an annual 15,000 benchmark with no deadband.

⁶ Id., pp. 15-20.

Mr. LeLash indicated that a monthly benchmark of 73.5% for completion of requested meter tests appears relative low but noted that there was no deadband.⁷

Relative to NEGas' proposed service measure for leak call responsiveness, Mr. LeLash stated that the Company should specify what constitutes a "response" under its proposal. In the categories for leak calls during normal business hours and for calls outside of normal business hours, the Company proposes a benchmark of 83.2% within 30 minutes in the first instance and 86.3% within 45 minutes in the second instance. He recommended that the Commission adopt an 80% response within 30 minutes for business hours and 80% response within 45 minutes for outside business hours. He also recommended that NEGas be required to provide reporting for any leak response which is not made within 60 minutes so that the Commission can monitor the 20% of responses which do not fall within the prescribed time interval.⁸

In the area of penalties, Mr. LeLash agreed with the maximum of \$500,000 per year. Mr. LeLash proposed the following annual penalties: \$50,000 for the 10% measures such as ASA and ACP; \$75,000 for the 15% measures such as safety; and \$100,000 for the 20% measures such as service appointments. He further recommended that for all but the periodic testing of meters, these penalties be imposed quarterly with the quarterly penalty equal to one-fourth of the proposed annual amounts.

Mr. LeLash stated that the primary objective in establishing the proposed framework is to remedy service deficiencies rather than to impose penalties. He offered a detailed approach in which NEGas would be required to immediately file a remedial action plan or face quarterly penalties.

⁷ Id., pp. 20-24.

⁸ Id., pp. 25-26.

Relative to a force majeure event, Mr. LeLash stated that he anticipated that NEGas will document such a claim when it submits monthly service reports. In cases where NEGas claims a force majeure event, the Commission would make a determination as to whether a force majeure event occurred.⁹

III. Direct Testimony of Lawrence Kaufmann, PhD, for NEGas

On January 15, 2003 NEGas submitted the direct testimony of Dr. Lawrence Kaufmann. Dr. Kaufmann evaluated the service quality proposals submitted by NEGas and the Division and proposed modifications to NEGas' SQP that would make it more consistent with the objective principles for SQPs.

Dr. Kaufmann explained that, based on price and quality, consumers choose among goods and services in the marketplace. He used the analogy that firms which provide poor quality products suffer loss of sales to competitors and, by the same token, firms providing superior quality products are rewarded with increased sales and profits. Therefore, he believed that competitive markets have powerful incentives to provide appropriate quality levels to meet customers' demands.

Dr. Kaufmann stated that regulated services also have certain incentives to provide appropriate service quality levels to their customers because competition can exist from other products for the end uses that regulated services provided to customers. For example, he maintained that gas utilities compete with heating oil companies to provide residential heating services in much of New England. He stated that, nevertheless, these market forces are weaker for regulated utilities like gas distribution companies than in most competitive markets and, therefore, regulation must play an important role in ensuring that utility customers receive appropriate service quality.

⁹ Id., pp. 27-31.

According to Dr. Kaufmann, SQPs are supposed to create appropriate incentives by replicating the market-type forces in which a firm's financial performance is linked to its service quality performance. He stated that a firm operating under a SQP may be penalized if its service quality declines but a utility may be rewarded for service quality improvements similar to firms in competitive markets.

Dr. Kaufmann stated that in order to create performance incentives, the incentive regulation plan must be in place for a multi-year period because a multi-year plan creates a more stable operating and regulatory environment for the utility. He also stated that since it takes time to change operations in ways that improve service quality and many of these efforts entail up-front implementation costs, it would not be reasonable to modify the plan before operational changes have occurred, especially if new costs have to be incurred.¹⁰

Furthermore, Dr. Kaufmann argued that there are three basic elements of an SQP: a series of indicators of a company's quality of service; related performance benchmarks with deadbands around those benchmarks; and a method for translating a utility's quality performance into a change in utility rates via rewards or penalties. Also, Dr. Kaufmann indicated that there are three criteria that should be used for electing quality indicators: aspects that are related to service quality that customers value; focus on monopoly services; and a chance for utilities to be able to affect the measured quality. Overall, Dr. Kaufmann stated that quality indicators should not focus on some areas while ignoring others because performance deteriorates in the non-targeted areas.

Dr. Kaufmann defined quality benchmarks as the standards against which measured quality is judged. He stated that benchmarks and deadbands should reflect

¹⁰ NEGas Ex. 1 (Kaufmann's direct testimony), pp. 3-8.

external business conditions in a utility's service territory. Dr. Kaufmann stated that external business conditions can be defined as factors that affect measured quality performance but are beyond the control of utility management such as weather, the incidence of poverty, the heterogeneity of languages spoken, and the tendency of customers to relocate.¹¹

Dr. Kaufmann argued that the two main data sources used to set benchmarks are: NEGAs' historical performance and peer performance. Relative to the using of a utility's historical performance to set benchmarks, Dr. Kaufmann stated that in many respects this criteria is appealing. He stated that historical benchmarks reflect a company's own operating circumstances as well as the external factors faced by NEGAs if the period used to set benchmarks is long enough to reflect the expected variations in these factors. Dr. Kaufmann stated that longer periods are preferred since this method is more likely to achieve the desired goal. If only short time periods are available, benchmarks can be updated at the outset of future plans as more data becomes available, but the rules for updating benchmarks should be spelled out clearly in advance. Furthermore, Dr. Kaufmann indicated that historically-based benchmarks are the only reasonable choice if the objective of the SQP is to prevent service declines from the levels traditionally experienced by a company's customers. In principle, Dr. Kaufmann stated that peer-based benchmarks may be attractive since they reflect the operation and outcomes of competitive markets. In practice, however, he stated that industry-based benchmarks are often problematic.

Dr. Kaufmann stated that benchmarks should be as stable as possible over the term of a SQP since stable benchmarks give utility managers more certainty over the

¹¹ Id., pp. 8-11.

resources they must devote to providing adequate service quality. Furthermore, Dr. Kaufmann stated that as much historical data as possible should be used to set benchmarks because the benchmark should reflect the typical external factors that are faced by NEGAs. He noted that some Commissions have concluded that benchmarks are not reliable unless there are at least three annual, historical data points.

Dr. Kaufmann defined deadbands as the zone around the benchmarks within which utility performance is neither penalized nor rewarded. He explained that it is appropriate to include deadbands around historically-based benchmarks, because even though historical averages of a company's performance will reflect typical external factors faced by a company, they will not control for shorter-term fluctuations in external factors around the norms. He stated that weather is the salient example which can affect a host of service-quality measures.

When using deadbands as the control for these year-to-year fluctuations in external factors, Dr. Kaufmann indicated that the mean value of this indicator over a suitable historical period would reflect the typical long run external business conditions faced by NEGAs. Variation in NEGAs' performance around this historical mean will accordingly reflect short run fluctuations in business conditions and, thus, he stated that deadbands should reflect the observed historical variability in measures of service quality performance. Dr. Kaufmann maintained that one straightforward measure of this year-to-year variability is the standard deviation of the quality indicator around its mean.

Dr. Kaufmann argued that deadbands become even more appropriate as the amount of data used to compute the benchmarks declines. He believed that when the

benchmark is based on less historical data, there is less certainty that the benchmark will reflect the full range of external factors that a company may confront.¹²

Dr. Kaufmann stated that if service quality plans allow only for penalties like those proposed by NEGas and the Division, then deadbands are especially important for protecting against inappropriate penalties due to “bad” business conditions like severe weather that could push service quality performance below the benchmark. Dr. Kaufmann argued that service quality plans should not evaluate gas utility performance too frequently since overly frequently performance reviews are likely to give a distorted view of a gas distributor’s quality performance because performance evaluations over short intervals are distorted by the seasonal nature of the gas distribution business. He asserted that the most natural period over which to evaluate utility performance is one year.¹³

Describing the differences in rationale of NEGas and the Division’s plans, Dr. Kaufmann stated that NEGas’ plan is designed to maintain appropriate service quality by penalizing itself in the event that quality declines. In contrast, he stated that the Division has designed a plan with a central purpose of identifying service quality problems and presenting those alleged problems to the Commission with a remedy. Consequently, he believes that the Division’s proposal would focus NEGas’ efforts and resources on a burdensome administrative process to identify quick fixes for what may be a temporary issue.

In measuring the overall quality of service, he noted that NEGas’ proposal allows good service quality performance on some indicators to offset bad performance on other

¹² Id., pp. 13-16.

¹³ Id., pp. 17-18.

indicators, while the Division's does not. Dr. Kaufmann argued that the Division's proposal does not, and, therefore, NEGAs' proposal with respect to offsets is more reasonable.

In describing the differences between the plans relative to how often NEGAs' service quality performance is evaluated, Dr. Kaufmann believed that NEGAs' measured quality proposal is clearly more consistent with standard practice for energy utilities than the Division's approach. He stated that he is not aware of any approved energy utility plan that includes a monthly evaluation period

Noting that the Division advocates for a series of three one-year service quality plans, Dr. Kaufmann argued that NEGAs' proposal for a three-year plan is more reasonable. He indicated that a three-year term is well within the mainstream of regulatory practice and that many plans have longer terms. In contrast, he stated that he is not aware of any approved plan where all the main elements are subject to change each year.

In describing the differences between the Division's and NEGAs' benchmarks, Dr. Kaufmann stated that the Division's are not always clear or explicit while NEGAs' benchmarks and deadbands are based on its own historical performance and is, therefore, more reasonable. He stated that determining whether peer information can be used to set appropriate benchmarks requires an evaluation of many complex issues about the data comparability and business conditions. In contrast, Dr. Kaufmann stated that NEGAs' use of its historical data to set benchmarks is well within the mainstream of United States

regulatory practice while the Division’s benchmarks are not derived explicitly from verifiable data and are, therefore, largely subjective.¹⁴

Dr. Kaufmann indicated that a slight change in NEGas’ method for computing deadbands would represent an improvement over both proposals. Dr. Kaufmann proposed that the following deadbands and benchmarks be set and he described “LowBand” as a term used to explain the level at which penalties would be imposed:

<u>Measure</u>	<u>Benchmark</u>	<u>Deadband</u>	<u>LowBand</u>
Aband call rate	15.1%	1.7%	16.8%
Average speed answer	55.9%	1.7%	54.2%
On-cycle meter reads	94.4%	0.1%	94.3%
Testing of meters	15,000	0	15,000
Meter tests completed	77.4%	3.9%	73.5%
Service appointments met	97.2%	0.6%	96.6%
Leak response-bus hrs	83.2%	3.4%	79.8%
Leak response-other	86.3%	4.2%	82.1%

Dr. Kaufmann stated that, overall, his proposal leads to lower bands that are usually more demanding than those proposed by either NEGas or the Division.

In describing the differences between the penalty structure that NEGas and the Division proposed, Dr. Kaufmann stated that the proposals agreed on the total potential penalties but differed on how penalties are allocated among indicators. He maintained that NEGas’ allocation is more consistent with industry practice. He stated that NEGas allocated nearly half of the potential penalties to the two safety measures which are

¹⁴ Id., pp. 15-31.

clearly the most important customer concerns, especially the utility's response to odor calls that can be a matter of life and death.¹⁵

IV. NEGas' Rebuttal Testimony

On January 15, 2003, Ms. Czaplewski filed rebuttal testimony on behalf of NEGas. Ms. Czaplewski stated that the key objective of the SQP is to ensure that service quality does not diminish as NEGas moves forward with its post-merger consolidation efforts. She argued that it is not reasonable or appropriate to evaluate and apply penalties on a monthly or quarterly basis and that the annual approach recognizes that there will be variations in NEGas' level of service from month-to-month often due to factors beyond NEGas' control.

Concerning external factors that affect NEGas' performance, she stated that there are many factors that occur outside of NEGas' control such as cold or severe weather, high bill amounts resulting from cold weather, and changes in gas costs. She also stated that Mr. LeLash's proposal to require plans to remedy service "deficiencies" are not feasible and will be extremely burdensome for all parties involved.

In putting together a workable SQP, Ms. Czaplewski stated that it is of critical importance that performance measures be defined consistently with the way historical data for those measures are collected. She stated that if performance measures are not defined consistently with the way in which data was collected in the past, then the comparison between current performance levels and the benchmarks will represent a mismatch. Ms. Czaplewski stated that, in the Division's proposal, the definitions

¹⁵ Id., pp. 31-37.

attributed to the performance measures are inappropriate and that the suggested changes would render the historical data and the proposed benchmarks irrelevant.¹⁶

Relative to the call center, Ms. Czaplewski stated that the Division is recommending two changes to the ASA measure: 1) that the ASA measure include abandoned calls; and 2) that the ASA measure be modified to identify the percentage of calls answered in 120 seconds rather than 60 seconds. She stated that NEGas recently invested in a new switch to allow the ASA to measure on a consistent basis for all areas of the Rhode Island service territory on a 60 second basis. Therefore, she indicated that moving to a 120 second standard would involve new costs for the purpose of delivering a lower level of customer service.

Relative to service appointments, one difference described by Ms. Czaplewski between the Division and NEGas' proposals is the recommendation by the Division that the measure should exclude instances where NEGas showed up for an appointment and the customer did not. She disagreed with the Division because NEGas' historical data does not exclude these appointments.

Relative to on-cycle meter reads, Ms. Czaplewski stated that NEGas does not schedule a reading of every active meter every month; however, she said that NEGas will provide the Division with its monthly meter reading schedules for the service areas where automated meter reading is not available at the beginning of each annual measurement period.

Relative to leak call response times, Ms. Czaplewski stated that NEGas will include in its data the time that elapses from the time a call is received until the point that qualified company personnel arrive at the scene, which does not include repair time.

¹⁶ NEGas Ex. 3 (Czaplewski's rebuttal testimony), pp. 1-17.

Ms. Czaplewski stated that Dr. Kaufmann proposed a set of performance benchmarks and deadbands that are more stringent than those previously proposed by either NEGas or the Division. She stated that NEGas supports Dr. Kaufmann's proposal because he has applied a systematic approach to the establishment of deadbands and benchmarks.

Ms. Czaplewski stated that she does not agree with Mr. LeLash's proposals relating to the weighting that should be given to each performance measure. She stated that his proposals are not consistent with industry practice, which favors heavier penalties on safety-related measures. Lastly, Ms. Czaplewski stated that there does not appear to be any justification for the Division's exclusion of penalty offsets since the inclusion of these offsets is required under the terms of the Rate Settlement Agreement in Docket No. 3401.¹⁷

V. Division's Surrebuttal Testimony

On February 7, 2003, the Division filed the surrebuttal testimony of Mr. LeLash. At the outset, Mr. LeLash stated that the Commission should not limit the scope of any plan to just maintaining the status quo. Also, he stated that a utility's customers should have the reasonable expectation that adequate service means good service throughout the year. On this basis, Mr. LeLash stated that a monthly rather than an annual benchmark better matches customer requirements and the Commission's ongoing service monitoring objectives.

In describing monthly benchmarks, Mr. LeLash stated that if there were months in which an exogenous event took place, deficient performance could be excused.

¹⁷ Id., pp. 18-29.

However, he stated that NEGAs would have to show that such exogenous events were the basic cause of the inadequate performance.

Relative to credits or offsets in a SQP, Mr. LeLash stated it was not contemplated that the plan would make provision for a rewards mechanism. He noted Dr. Kaufmann's testimony where he stated that SQPs provide for only penalty provisions. According to Mr. LeLash, by utilizing an annual or quarterly benchmark, the plan already allows such offsetting for a monthly performance in any specific service measure. Therefore, he stated that one month's deficient performance in a quarter can be offset by two other months when performance might be better than required by a benchmark.

Mr. LeLash stated that the remedial mechanism could be eliminated so as to simplify the overall plan. He indicated that the SQP could be structured on a quarterly rather than a monthly basis. Mr. LeLash argued that a quarterly framework can avoid most of the problems associated with an annual mechanism and still ensure reasonable ongoing service monitoring and evaluation.¹⁸

Relative to call center measures, Mr. LeLash explained that NEGAs' benchmark was intended to include abandoned calls within the calculation of the percentage of calls answered within a specified time period. He stated that NEGAs proposes that a 60 second interval be used and that such a defined performance measure is reasonable. He believed the alternative plan should utilize an initial compliance level of 60% of calls answered within 60 seconds. In periods where there are atypically high calling volumes, Mr. LeLash stated that the Commission should specify that these volumes would be a basis for excluding a particular month as being exogenous. He stated that for the call center, such a volume threshold would currently appear to be in the range of 50,000 to 55,000

¹⁸ Div. Ex. 2 (LeLash's surrebuttal testimony), pp. 1-11.

calls per month. Relative to the abandoned call percentage, Mr. LeLash stated that a first year threshold of 20% is reasonable with 15% for the second year and 10% for the third year.

Relative to periodic meter testing, Mr. LeLash indicated that the SQP should utilize an annual benchmark of 15,000. Relative to reading of meters within 15 days, he stated that NEGas has shown 100% compliance with the 15 day requirement for the period July through November, 2002, thus making a 90% benchmark level.

Relative to the service measure for scheduled meter reads, Mr. LeLash stated that NEGas has met a 94% benchmark in every quarter since the fall of 2002. Therefore, he believed a 94% quarterly benchmark would be reasonable. Relative to the service appointment measure, he noted that NEGas has defined service appointments to include instances where NEGas personnel show up but are not able to perform the required work and indicated this definition does not require a modification. For the nine quarters where historical data is available, Mr. LeLash stated that NEGas has had a 97.4% compliance rate and, therefore a 96% benchmark would be reasonable.

Relative to leak call response, Mr. LeLash argued that NEGas should clearly specify what constitutes a response under its measurement procedures. With respect to the proposed benchmark, he stated that NEGas had proposed two separate benchmarks: a 30 minute response for leaks during normal business hours and a 45 minute response for leaks outside of normal business hours. He believed that according to industry practice, it would appear reasonable to consolidate the two measures under a single 45 minute response time measure. Relative to performance benchmarks recommended for the SQP, Mr. LeLash stated that both leak response benchmarks initially be set at 80% and further

noted that NEGAs' performance would have exceeded this benchmark in each of the last five quarters. However, he maintained that given the nature of this service level, the benchmark should be raised to 85% in the second year and to 90% in the third year. Additionally, he recommended that the Commission require incident reports from NEGAs for any response which is not made within a one-hour period.¹⁹

Relative to proposed weighting of penalties, Mr. LeLash does not believe that lower penalty levels should be assigned where NEGAs has performed well in the past. He argued that the Division's allocations are intended to reflect the relative importance which customers place on the underlying service. Further, he explained that penalty offsets exist in the Division's proposal by virtue of the fact that deficient performance in one month, that should otherwise be penalized, is potentially offset by better than benchmark performance in the other months of a quarter. Therefore, he argued that there is a provision for penalty offsets within the Division's proposal.²⁰

VI. NEGAs' Supplemental Rebuttal Testimony

On February 21, 2003, NEGAs submitted the supplemental rebuttal testimony of Ms. Czaplewski. Ms. Czaplewski argued that the Division's proposal to establish a plan that relies on performance benchmarks unrelated to historical service levels may require significant service improvements and, therefore, is unreasonable. She stated that NEGAs' service quality related costs are locked into current rates as a result of the rate freeze and, therefore, NEGAs' ability to improve service levels is constrained by the costs that underlie the rates currently in effect.

¹⁹ Id., pp. 11-19.

²⁰ Id., pp. 20-24.

Relative to the Division's recommendation regarding service levels, she stated that the recommendations are completely arbitrary and, in some cases, the Division has opted to pick a lower level of service than proposed by NEGAs. In other cases, Ms. Czaplewski maintained that Mr. LeLash is attempting to establish performance levels that would increase the level of performance required of NEGAs substantially beyond historical levels.

Ms. Czaplewski argued that it is not reasonable or appropriate to evaluate and apply penalties on a quarterly basis since NEGAs will inevitably experience variations in performance levels between one or more months during the year. These variations, she asserted, do not necessarily indicate any change or deterioration in the level of service provided by NEGAs.²¹

VII. Hearings

After notice public hearings were conducted on May 5, 6, and 15, 2003, at the Commission's offices at 89 Jefferson Boulevard, Warwick.²² The following appearances were entered:

FOR NEGAS :	Robert Keegan, Esq. Craig Eaton, Esq.
FOR DIVISION:	Paul Roberti, Esq. Assistant Attorney General
FOR LOCAL NO. 12431: ²³	Dennis J. Roberts, II, Esq.
FOR COMMISSION:	Steven Frias, Esq. Executive Counsel

²¹ NEGAs Ex. 4 (Czaplewski's supplemental rebuttal testimony), pp. 1-16.

²² Hearings in this docket were originally scheduled for December 16, 2002 but were postponed three times, twice at the request of NEGAs and once at the request of Local No. 12431.

²³ NEGAs objected to the motion to intervene by United Steelworkers of America Local Union 12431. However, the Commission granted the motion to intervene.

On May 5, 2003, NEGas presented Dr. Lawrence Kaufmann as its witness. Dr. Kaufmann testified that NEGas' proposal was superior to the Division proposal because it was based on NEGas' own measures and historical performance and it contains deadbands to reflect the effect of external factors, such as weather, on NEGas' service quality.²⁴ Furthermore, he indicated that NEGas' proposal was more reasonable than the Division's proposal because NEGas had annual benchmarks and offsets.²⁵ Under cross-examination by the Division, Dr. Kaufmann admitted that other states have more demanding benchmarks and that most benchmarks based on historical data are based on more historical data than NEGas has collected in this case. He indicated there were not service quality industry standards for gas utilities. However, he was also aware of the existence of some service quality plans for energy utilities that utilize benchmarks that are less frequent than annual. Furthermore, Dr. Kaufmann indicated that the maximum service quality penalty in Massachusetts for a gas utility is 2 percent of its distribution revenues.²⁶

Under cross-examination by Commission counsel, Mr. Kaufmann admitted that NEGas' safety measures were "a matter of life and death, which makes NEGas unique among Rhode Island utilities". He also conceded that under NEGas' proposal, NEGas could have deficient performance for four to five months and still not incur a penalty.²⁷ Dr. Kaufmann accepted that it would be appropriate to have a larger penalty placed on service quality plans with safety measures. Also, he agreed that although Verizon-Rhode

²⁴ Tr. 5/5/03, pp. 23-27.

²⁵ Id., pp. 27-30.

²⁶ Id., pp. 61, 82, 119 and 123.

²⁷ Id., pp. 154-155 and 157.

Island (“VZ-RI”) is under greater competitive pressure than NEGas, under NEGas’ proposal it would have a smaller percentage of its revenues at risk than VZ-RI.

Dr. Kaufmann acknowledged that if recent performance is markedly better than past performance then the past performance is less relevant and the more recent data should be given more weight.²⁸

Under cross-examination by the Commission fiscal analyst, Dr. Kaufmann indicated that he supported a moving average benchmark but “in general you would want the benchmark only tightened up”. Also, Dr. Kaufmann stated that the Commission could “impose additional penalties” for “clearly substandard performance.”²⁹

At the May 6, 2003 hearing, Ms. Karen Czaplewski and Mr. Meunier testified on behalf of NEGas. Under cross-examination by the Division, Mr. Meunier acknowledged that during the Division’s merger proceeding, Southern Union and Providence Gas made representations that customer service and operations would improve as a result of the merger.³⁰ Under cross-examination by the Commission, Ms. Czaplewski acknowledged that it is possible to use a year’s worth of data to establish a benchmark. Furthermore, Mr. Czaplewski admitted that a few years ago when she arrived at NEGas, the performance for the call center measures “were...horrendous”. On redirect, Mr. Meunier indicated that some of the Division’s benchmarks are less stringent than the benchmarks proposed by NEGas.³¹

At the May 15, 2003 hearing, Mr. Richard LeLash testified on behalf of the Division. Mr. LeLash indicated that there are limitations on industry data for service

²⁸ Id., pp. 164, 166 and 169-171.

²⁹ Id., pp. 178, 179.

³⁰ Tr. 5/6/03, pp. 15-16 and 24.

³¹ Id., pp. 177, 202 and 236.

measures but they are still useful in setting benchmarks.³² Under cross-examination by NEGAs, Mr. LeLash conceded that the level of service that a company provides to its customers over time is relevant to establishing benchmarks. Also, Mr. LeLash indicated that offsetting exists within a quarterly benchmark and not between benchmarks, because one month's poor performance can be offset by good performance in the other two months.³³ Under cross-examination by Commission counsel, Mr. LeLash indicated that in Georgia, penalties are, in some instances, assessed monthly. He also stated that leak survey measures could be part of a service quality plan and stated that billing accuracy measures are included in other service quality plans.³⁴ Mr. LeLash acknowledged that a larger multi-state corporation may need to be subject to a larger service quality penalty in order for a commission to get the corporation's attention.³⁵ Under redirect examination, Mr. LeLash stated that NEGAs should have no problem achieving the Division's proposed benchmarks for the first year and probably no problem during the second year either.³⁶

VIII. Briefs

A. NEGAs

On June 23, 2003, NEGAs filed its brief and SQP synopsis. NEGAs reiterated the eight performance measures it originally proposed. However, NEGAs revised its definition of "percentage of abandoned calls" so as to include automated calls to make it more consistent with other gas utilities and also included automated calls in the performance benchmarks calculation. As a result of the hearings, NEGAs proposed

³² Tr. 5/15/03, pp. 10-11.

³³ Id., pp. 22, 67.

³⁴ Id., pp. 73, 87.

³⁵ Id., p. 105.

³⁶ Id., pp. 143-144.

setting performance benchmarks using historical data from July 1, 2002 through June 30, 2003.³⁷ The deadbands and benchmarks were as follows:

<u>Measure</u>	<u>Benchmark</u>	<u>Deadband</u>	<u>Penalty Threshold</u>
Abandoned Call Rate	5.38%	2.40%	7.8%
Calls Answered w/in 60 sec.	79.44%	8.54%	71.0%
On-Cycle Meter Reads	94.52%	1.18%	93.3%
Meter Testing	15,000		15,000
Customer Requested Meter Testing	97.9%	5.50%	92.4%
Service Appointments Met	97.6%	1.30%	96.3%
Leak Response in 30 min	89.66%	2.69%	87.0%
Leak Response in 45 min	89.67%	2.80%	86.9%

Furthermore, the benchmarks would be updated each year to include the most recent 12 months of performance. Once three years of data is collected, benchmarks and deadbands could be calculated using three annual data points. NEGas indicated that pre-merger data and data collected during the work stoppage was not representative of a normal year. Also, NEGas could incur a penalty if its performance over the 12 month fiscal year fell below the penalty threshold for any one of the six non-safety measures. However, the two safety measures would be evaluated quarterly and NEGas would incur a penalty if performance was below the penalty threshold for any quarter. NEGas indicated that penalties or offsets would be assessed when performance exceeds one standard deviation with the maximum penalty assessed at two standard deviations of the

³⁷ As an example of this approach, NEGas utilized the data collected from June 1, 2002 through May 30, 2003.

benchmark. However, there would be no offsets to poor performance for safety measures.³⁸

B. Division

On June 23, 2003, the Division filed its brief. The Division argued that NERGA's SQP should be designed to improve service for ratepayers and that NERGA promised to improve service before the Division's approval of the merger. The Division advocated for quarterly assessment of penalties. In addition, the Division opposed deadbands for each performance benchmark and offsets between performance benchmarks. Furthermore, the Division suggested that the performance benchmarks be subject to an annual review and that only the Commission should be allowed to determine if data should be excluded because of an exogenous event or force majeure.³⁹

C. Union

On June 24, 2003, Local No. 12431 filed its brief. Local No. 12431 supported the Division's position in the docket. In addition, Local No. 12431 filed a motion to strike the testimony of Ms. Czaplowski except in regards to call center issues because of lack of expertise.⁴⁰

COMMISSION FINDINGS

At an open meeting on June 30, 2003, the Commission reviewed the evidence and arguments. The Commission adopted NERGA's SQP revised by its June 23, 2003 brief with significant modifications. The Commission determined that the SQP revised on

³⁸ NERGA's SQP Synopsis and Brief.

³⁹ Division's Brief.

⁴⁰ Local No. 12431's Brief and Motion to Strike. At the June 30, 2003 open meeting the Commission did not grant Local No. 12431's motion. Instead, the Commission gave Ms. Czaplowski's testimony the appropriate weight.

June 23, 2003 with modifications was in the public interest and in the best interest of the ratepayers.

The general purpose of a service quality program is to ensure that ratepayers receive a reasonable level of service. In a competitive market, there is less need for government intervention to establish service quality standards in an industry because competition requires an enterprise to provide reasonable quality of service or face the possibility that customers will shift to another competitor. In this instance, NEGas does not experience direct competition for natural gas delivery service in Rhode Island. As a result, a service quality program for NEGas is an appropriate safeguard.⁴¹ A service quality program for NEGas is now more necessary to ensure that the costs associated with the Southern Union merger acquisition of ProvGas and Valley Gas are not recouped through reductions in personnel costs and the resulting reduction in service quality.

There are essentially five key aspects of any service quality program. They are as follows: service measures, benchmark standards, the amount of the penalty, the penalty weight for each measure, and the time period for measuring performance to assess a penalty.

I. Service Measures

NEGas proposed eight service measures: percentage of abandoned calls, average speed of answer, on-cycle meter reads, testing of meters, customer-requested meter test, service appointment met as scheduled, response to emergency calls during normal business hours, and response to emergency calls after normal business hours. These service measures allow this Commission to evaluate the performance of NEGas over a

⁴¹ The Commission has broad authority under R.I.G.L. §39-1-1, 39-1-27.5, 39-1-38, and 39-2-1 to establish service quality programs for public utilities.

wide range of services. The Commission expressed a concern that other service measures should be developed such as billing accuracy and leak detection.⁴² However, NEGas has not collected any data for other service measures.⁴³ If the Commission feels it is necessary to develop additional service measures, the Commission will hold a technical conference.⁴⁴ Accordingly, the Commission adopts the eight service measures proposed by NEGas. These eight service measures are comparable to the measures utilized by other state commissions to measure service performed by local gas distribution companies.

II. Benchmark Standards

The benchmark standards for the service measures was an area of significant controversy. Originally, NEGas proposed benchmark standards based on NEGas or its predecessors' performance dating, in some instances, over four years with a deadband in which no penalty would be incurred. In contrast, the Division established benchmark standards that gradually increased over three years with no deadband/standard deviation. The flaw in the original NEGas' approach was that it based benchmark standards on clearly outdated historical data. Since the merger and the end of the 2002 lock-out,

⁴² Leak detection is of concern to the Commission because NEGas acknowledged that the "legacy companies were conducting their leakage survey programs under a misinterpretation and application of the federal regulations." Federal regulation "called for the follow-up survey to occur within 36 months." NEGas "expects to achieve full compliance in 2004." 5/15/03 Record Response 1-02.

⁴³ NEGas should begin to track emergency response times beyond the 30 and 45 minute time intervals, and be prepared to explain the reasons why a response went beyond the benchmark time intervals.

⁴⁴ The Commission will take this opportunity to express its concern that NEGas "has indefinitely postponed the implementation of the AMR program in the former Valley service area." 6/2/03 Record Response 1-01. The implementation of AMR to the Valley service area would increase the percentage of actual meter reads that are assigned to be read. See NEGas Ex. 2, p. 8. AMR could also assist NEGas in achieving better billing accuracy. See 5/15/03 Record Response 1-03. Lastly, NEGas represented to the Commission during hearings for approval of the Settlement in Docket No. 3401 that NEGas planned to implement AMR in the Valley service area. Ms. Partridge testified that AMR would "give the customers better information of actual reads." Docket No. 3401, Tr. 5/8/02, pp. 23-25. The lack of AMR in the Valley area impacts service quality and the Commission reserves the right to require NEGas to implement AMR in the Valley service area during the rate freeze period in the Settlement approved by the Commission in Docket No. 3401 or any other action it deems reasonable.

NEGas' overall performance has improved. Basing benchmark standards on older and less relevant historical data would only set a low and easy standard for NEEGAS to surpass. The Division is correct that benchmark standards should be established to improve services that customers experienced prior to the merger. Unfortunately, the Division's benchmark standards are not based on an objective rationale. There appears to be a lack of industry-wide benchmark standards. Instead, the Division proposed a gradual increase in benchmark standards over the course of three years. Ironically, some of NEEGAS' proposed benchmark standards were actually more stringent than the Division's proposed benchmark standards.

Fortunately, NEEGAS revised its original proposal by basing the benchmark standards on the 12 most recent months of data and utilized June 2002 through May 2003 as an example.⁴⁵ This data reflects the improvements subsequent to the merger and does not incorporate data affected by the lock-out.⁴⁶ These benchmark standards, even with a deadband based on a standard deviation, would establish penalty thresholds above the levels the Division proposed for the second year of the SQP.⁴⁷ For the first year of the SQP, NEEGAS proposed to base the benchmarks on the most recent months of data from July 2002 to June 2003. The Commission accepts this methodology and these benchmark standards. These benchmark standards are based on historical data but represent an improvement in service quality since the merger and mirrors the standards required of

⁴⁵ This methodology was based on a Commission record request 1-02 dated June 2, 2003.

⁴⁶ For instance, NEEGAS acknowledged that meter testing was affected by the work stoppage and, therefore, performance from January 2002 to May 2002 "should be excluded" from SQP benchmarks. June 2, 2003 Record Response 1-03.

⁴⁷ The benchmarks proposed by NEEGAS in its brief are nearly identical to the Division's proposed benchmarks for the third year of the SQP and the "typical industry benchmarks" according to the Division. PUC Ex. 1 (Division Data Response 1). Over time, the Commission could consider reducing or eliminating the deadband. In particular, the Commission is concerned that the leak response benchmarks may need to become more stringent.

other local gas utilities. In addition, NEGas proposed to annually revise the benchmark standards by incorporating new data from subsequent years. The Commission finds this approach to be reasonable. However, the Commission may decide not to incorporate new data if it will result in less stringent benchmark standards unless NEGas can demonstrate that this poor performance was not caused by NEGas itself, such as by reducing its service personnel to achieve merger savings.

III. Penalty Amount

NEGas and the Division proposed that the potential penalty for the SQP should be limited to \$500,000 annually or .4 percent of NEGas' annual distribution revenues. The Commission finds this amount to be inadequate to incent NEGas to provide quality service. The penalty amount for a service quality plan should be sufficient to deter a utility from providing poor services. The amount of \$500,000 is not large enough to incent NEGas. NEGas could incur reduced personnel costs and incur \$500,000 in SQP penalties but the personnel reductions could be greater than \$500,000 for NEGas.

In contrast, under its SQP, VZ-RI is subject to an annual \$1.35 million penalty or .5 percent of its revenue. In addition, under its SQP, Narragansett Electric is subject to an annual \$2.4 million penalty or 1.1 percent of its revenues.⁴⁸ The quality of service from a gas utility is particularly important because some services, such as leak response, are a matter of "life and death". This makes gas utilities' services unique among all utilities. It is not surprising that in Massachusetts gas utilities have 2 percent of their revenue at risk under their service quality plans.

At this time, the Commission finds a potential penalty amount of \$1.25 million every fiscal year, or 1 percent of NEGas' revenues at risk, to be reasonable. The

⁴⁸ PUC Ex. 1 (Div. Data Response 2)

Commission could have required a larger percentage to be at risk for NEGas under the SQP. However, NEGas, in its brief, proposed more stringent benchmark standards than the Division. These benchmark standards are based on limited historical data. Also, the Commission has imposed potential quarterly penalties for the safety measures. In addition, the Commission has not allowed for offsets of penalties for one service measure if other service measures exhibit good performance. Furthermore, the Commission recently imposed a potential \$500,000 gas procurement penalty.⁴⁹ In light of these additional requirements, the Commission determines that 1 percent of revenue at risk is sufficient at this time. Of course if the Commission finds that \$1.25 million is an insufficient incentive, especially if safety measures demonstrate poor performance, the Commission may increase the penalty amount at risk.

IV. Weight of Penalty

NEGas proposed that the weight of the penalties for the service measures be as follows: 48 percent for leaks response measures, 24 percent for call center measures, 16 percent for meter testing, and 12 percent for service appointments. In contrast, the Division proposed the penalty weight as follows: 32 percent for leak response measures, 24 percent for call center measures, 24 percent for meter testing measures, and 20 percent for service appointments. NEGas places more penalty weight on safety measures than proposed by the Division. Instead, the Division places additional weight on meter testing and service appointments. The uniqueness and importance of a SQP for NEGas is that NEGas' services can be a matter of "life and death". NEGas' leak response measures are safety measures that if NEGas failed to adequately meet these service measures, physical

⁴⁹ If actual combined gas procurement and service quality penalties imposed on NEGas actually exceeded \$1.25 million in a single fiscal year, NEGas could petition the Commission for relief.

injury could result to ratepayers. NEGas' proposal to place 48 percent of the penalty weight on leak responses more appropriately reflects the importance that the Commission and ratepayers place on these measures. Accordingly, the Commission adopted NEGas' proposal for penalty weights of the service measures.

V. Penalty Assessment

Penalty assessment was an area of significant controversy between the parties. NEGas proposed that penalties be determined on an annual basis with offsets to the penalties for measures, except safety measures, if NEGas' performance is better than the benchmark. In contrast, the Division proposed that penalties be determined on a quarterly basis with no offsets to penalties for better performance in other service measures. Also, NEGas argued that penalties should only be assessed if NEGas' performance falls below the deadband while the Division argued that there should be no deadband. In determining how often to review the period of performance it is important to assess the importance of the service measures and the historical validity of the data used to set the benchmarks. Due to the fact that the benchmarks are being set using very recent data, only the twelve months ending June 30, 2003, it would be more reasonable to establish the penalty determination on an annual basis. To establish quarterly or even monthly benchmarks, based on this limited historical data, could cause NEGas to incur penalties for performance which are appropriate under circumstances not incorporated in the historical data. As more historical data is collected, a move to quarterly or monthly benchmarks would be appropriate. Of course, if the Commission determines that an annual benchmark is not a sufficient incentive for NEGas to provide a reasonable service throughout the year, the Commission may consider establishing quarterly or monthly

benchmarks. At this time, however, the Commission will establish quarterly benchmarks for only the two safety measures. The safety measures relating to leak response are a matter of life and death. These safety measures are of the utmost importance to ratepayers and should have quarterly benchmarks to ensure NEGas' performance for these measures will protect the public. As for the issue of a deadband or standard deviations, the Commission notes that both the service quality plans for Narragansett Electric and VZ-RI have some form of a standard deviation, or deadband. A standard deviation/deadband is appropriate, because as a general matter, a utility should not incur a large penalty if it fails the benchmark by a de minimus amount. Accordingly, the Commission will accept a standard deviation for the service measures. However, if the Commission notes that NEGas' performance is consistently below the benchmarks, but within the standard deviation, the Commission may revise the approach so that NEGas would pay some penalty even if its performance falls within the standard deviation.

As for the issue of offsets, NEGas' approach would allow bad performance in some measures to be offset by good performance in other measures. The Commission is moving away from this approach. A standard deviation allows, to some extent, for an offset of bad performance. Also, quarterly and annual benchmarks allow for poor performance in any one month to be offset by good performance in the same measure in other months. Quarterly/annual benchmarks and a standard deviation is a sufficient offset. The Commission does not want to create offsets between measures because it would allow utilities to ignore poor performance in certain service measures.

VI. Miscellaneous

The duration of the SQP will be at least three years. However, the Commission may review the SQP annually to ensure that NEGas is providing quality service. Furthermore, NEGas must report all data collected quarterly. If NEGas contends that an exogenous event or a force majeure occurred, it must seek relief from the Commission and the burden of proof will be on NEGas.

Accordingly, it is

(17605) ORDERED:

1. New England Gas Company's proposed Service Quality Plan, filed on September 30, 2002 is denied.
2. New England Gas Company's proposed eight service measures are adopted.
3. New England Gas Company's proposed methodology for the benchmarks with the proposed deadbands on page three of the SQP Plan Synopsis filed on June 23, 2003 is adopted.
4. New England Gas Company's proposed weights for penalties for the service measures are adopted.
5. New England Gas Company's proposed annual benchmarks are adopted except for the two safety measures which will be assessed quarterly.
6. New England Gas Company's proposed offsets are denied.
7. The penalty amount for New England Gas Company's Service Quality Plan is \$1.25 million per fiscal year.
8. New England Gas Company will comply with all other finding and instructions contained in this Report and Order.

EFFECTIVE IN WARWICK, RHODE ISLAND ON JULY 1, 2003 PURSUANT
TO AN OPEN MEETING ON JUNE 30, 2003. WRITTEN ORDER ISSUED
NOVEMBER 21, 2003.

PUBLIC UTILITIES COMMISSION

Elia Germani, Chairman*

Kate F. Racine, Commissioner

Brenda K. Gaynor, Commissioner*

*Chairman Germani dissented regarding the issue of offsets. Chairman Germani would allow for offsets between service measures for good performance by NEGAs.

*Commissioner Gaynor concurs but is unavailable for signature.