

National Grid argues that the issues related to the GBE constitute an exogenous event and because of this, it should be relieved from paying the penalty associated with its deficient score. It pointed out its history of meeting the metric as evidence supporting its assertion that but for the unforeseeable issues experienced with the GBE rollout, it would not have fallen below the threshold for responses.

National Grid also seeks relief from a \$273,337.08 penalty it incurred in the second quarter (Q2) for not meeting the standard in the leak call responsiveness after business hours metric. National Grid stated that of the 1,244 calls it received after business hours, it responded to 1,164 within 45 minutes or less. However, it fell below the penalty threshold which it attributed in part to the 12 odor calls it received on Christmas Day 2019. Of the 12 calls, it was unable to respond to 9 of them within 45 minutes. Seven of those odor calls came from a concentrated area of East Providence which the Company coined as “the Christmas Day event.” Investigation revealed no clear indication as to the source of the foreign odor. The Company asserts that but for these 7 calls, it would have been able to respond to other calls within the allotted time. National Grid is requesting that seven of the Christmas Day event calls be calculated as one and that the penalty be reduced to reflect only one missed call instead of nine. If allowed, the penalty would be reduced by \$207,337.08 to \$66,000.00. Like the GBE incident, the Company asserts that the Christmas Day event constitutes an exogenous event because it is “highly unusual for the Company to receive twelve (12) calls in an hour.”

On September 24, 2020, the Company filed an updated request to the Relief of Penalty Request. In the request, it amended the original request to reduce the Q2 penalty. After engaging in discussions with the Division of Public Utilities and Carriers, National Grid ran a simulation to determine how many calls it would have been able to respond to if the Christmas Day event was

one call as opposed to seven calls. The simulation revealed that even if the Christmas Day event was only one call, the Company still would have missed three calls. With this new information, the Company recalculated a penalty of \$120,471.99.

After receiving the Petition, the Commission instructed National Grid to submit a legal brief with supporting citations addressing the term “exogeneous event” and how it should be defined for the purpose of evaluating performance under the Company’s service quality standards. National Grid filed the brief on August 27, 2020. The Commission asked the same of the Division which filed its recommendation on September 29, 2020. The Company proposed that “exogenous event” be defined as “an event outside National Grid’s control and could not be avoided by National Grid’s reasonable exercise of care.” It noted that usually “exogenous event” is used in decisions related to a rate change and discussed how the term is used in the context of rate changes here and in other jurisdictions. It likened an exogenous event to a force majeure and noted that the Commission previously granted a penalty waiver when there was a severe wind and rainstorm. The Division’s limited discussion referred the Commission only to the term used in the context of cost changes.

On December 22, 2020, the Commission discussed National Grid’s waiver request at an Open Meeting and voted unanimously to deny the request. With regard to the \$91,008.47 penalty associated with the GBE, the Commission found that because the Company had control over the rollout of its own program, labelling it as an exogenous event was unjustified. It noted that the problems meeting the metrics were a direct result of the new program that the Company chose to implement. National Grid’s failure to anticipate every issue that could occur is not an exogenous event but part of doing business. Furthermore, the Company’s acknowledgment that it addressed these issues to improve performance and to ensure they do not occur again is additional proof that

the issues are not an exogeneous event and were not unforeseeable; for if the rollout was in fact exogenous, there would have been nothing they could have done to improve it. The Commission found that waiving the penalty would hinder efforts in driving the Company to achieve superior performance.

Regarding the Christmas Day event, the Commission expressed that if this had been a gas leak, it would have expected the Company to respond in a timely fashion to seven calls for one incident. It stated that the analysis conducted by the Company and the Division did not justify waiving the penalty. It noted that an analysis of the entire year would have been more helpful than the one-day analysis and may have revealed that had the Company achieved 100% performance of every day all year, it may not have fallen below the metric with the events that occurred on Christmas day.²

While the Commission has never specifically defined an “exogenous event” in the context of service quality metrics, it finds it appropriate to consider a claim of an exogenous event for service quality performance by applying three criteria, all of which must be met: 1) whether there was an event or occurrence impeding performance that was out of the Company’s reasonable control; 2) whether such an event was reasonably unforeseeable in the context of the duties and circumstances to which the metric applies; and 3) when the first two criteria are met, whether the Company could have avoided the non-compliance by responding in a reasonable manner under the given circumstances.

In this case, implementation of the GBE program was well within the Company’s control and the issues encountered when the program was being rolled out were not unforeseeable. With

² While the event occurred on Christmas Day, the Commission emphasizes that the standards of response is in no way relaxed because of a holiday.

respect to the Christmas Day event, while a gas leak is not within the Company's control, it is foreseeable that when there is a gas leak in an area, there are likely to be multiple calls occurring at the same time. Further, while the number of calls received on this day made it challenging, the Commission finds that they were not so numerous as to unreasonably impede compliance under the circumstances.

Accordingly, it is hereby

(23962) ORDERED:

The Narragansett Electric Company d/b/a National Grid's Request for Relief of Penalty is denied.

EFFECTIVE AT WARWICK, RHODE ISLAND ON DECEMBER 22, 2020
PURSUANT TO AN OPEN MEETING DECISION ON DECEMBER 22, 2020. WRITTEN
ORDER ISSUED JANUARY 5, 2021.

PUBLIC UTILITIES COMMISSION



Ronald T. Gerwatowski, Chairperson



Marion S. Gold, Commissioner



Abigail Anthony, Commissioner

NOTICE OF RIGHT TO APPEAL: Pursuant to R.I. Gen. Laws § 39-5-1, any person aggrieved by a decision or order of the PUC may, within seven days from the date of the order, petition the Supreme Court for a Writ of Certiorari to review the legality and reasonableness of the decision or order.