

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: TERMINATION RULES :
REGARDING AN EXCESSIVE HEAT : DOCKET NO. 3761
MORATORIUM

REPORT ON FINAL RULES

On July 28, 2006, the George Wiley Center filed a petition requesting the Rhode Island Public Utilities Commission (“Commission”) to institute a heat related moratorium preventing a public utility from terminating any residential customer when the temperature reaches or exceeds 90 degrees Fahrenheit. At an open meeting on August 4, 2006, the Commission opened a docket to consider whether the Commission’s Rules and Regulations Governing the Termination of Residential Electric, Gas and Water Utility Service (“Termination Rules”) should be amended to implement a heat related moratorium. However, a majority of the Commission did not approve adopting, on an emergency basis, a rule prohibiting the termination of residential utility service whenever the temperature is 90 degrees Fahrenheit or above.¹

¹ The motion to adopt an emergency rule for a heat related moratorium was made by Commissioner Bray but was not seconded. On July 31, 2006, Commissioner Bray requested that the electric utilities, including Narragansett Electric Company, doing business as National Grid (“NGrid”), refrain from terminating utility service to all protected residential customers, such as the elderly, when the temperature reaches or exceeds 90 degrees Fahrenheit. On that same day, NGrid agreed not to terminate residential utility service on August 1 and 2, 2006 because of the extreme hot weather forecast on those dates. On August 1 and 2, 2006, Pascoag Utility District (“Pascoag”) and Block Island Power (“BIPCO”) both agreed not to disconnect residential utility service for the remainder of the summer period once the temperature reached 90 degrees. On August 2, 2006, NGrid filed a letter indicating that it would not perform any residential utility terminations on August 3, 2006. NGrid also noted that the highest temperatures on August 4, 2006 and the following week for Providence would be in the low 80s. Also, NGrid indicated it needed time to determine whether to adopt a heat related moratorium due to various implementation issues. On August 2, 2006, the Division of Public Utilities and Carriers (“Division”) filed a letter discussing various implementation issues related to a heat related moratorium. The Division recommended a moratorium on electric utility termination when the day ahead forecast of temperature was 90 degrees or higher and that temperature is expected to last for more than a four hour period. The Division recommended the moratorium end when the temperature falls below 90 degrees. On August 7, 2006, NGrid agreed that it would not terminate residential utility service for the remainder of the summer when the temperature is 90 degrees or above.

On August 17, 2006, the Commission received comments from various utilities. NGrid proposed implementing a policy that would prohibit it from terminating the service of any residential customer for non-payment when the National Weather Service (“NWS”) has issued an excessive heat advisory or warning for Rhode Island. NGrid explained that the NWS is an independent, government organization that issues excessive heat advisories for Rhode Island when the heat index is forecasted to be 100 degrees Fahrenheit or above, which is a measure of how hot it feels when relative humidity is factored in with actual air temperature. A heat warning would be issued when the Heat Index is forecasted to be 105 degrees Fahrenheit or above. NGrid stated that warnings and advisories are issued when a hazardous, non-precipitation weather event is occurring, is imminent or has a very high probability of occurrence, and that a warning is used for conditions posing a threat to life or property. NGrid noted that six states have heat related moratoriums: Arizona, Arkansas, Minnesota, Oklahoma, Texas and Wisconsin. Arizona’s moratorium in practice occurs when there is a three-digit temperature while Arkansas’ moratorium occurs when the temperature is forecasted to be 95 degrees Fahrenheit or higher. The remaining four states rely on the Heat Index or when the NWS issues a heat advisory or warning. NGrid suggested that the proposed policy be put into place for one full summer before formal rules are actually adopted.

Other utilities also filed comments. Providence Water Supply Board (“PWSB”) stated that it is amenable to a heat related moratorium for residential customers only, but it should trigger at 1:00 PM on the day when the day ahead forecast of the NWS issued. Also, the heat related moratorium would not apply in cases of emergencies or for repairs and maintenance. Woonsocket Water supported a heat related moratorium for residential

customers but termination must be allowed in case of emergency or repair needs. Kent County Water Authority ("KCWA") supported a heat related moratorium on utility terminations for non-payment but opposed a heat related moratorium if termination is required to implement mandatory outside water use bans. New England Gas Company ("NEGas") stated that a heat related moratorium is more appropriate for electric service than gas service because NEGas was unaware that gas is used for air conditioning or other temperature controls on days of extreme heat. Newport Water and Pawtucket Water Supply Board had no objection to a heat related moratorium.

After published notice, a public hearing was conducted on September 14, 2006 to accept public comment regarding whether the Commission should adopt a heat related moratorium. Representatives from the George Wiley Center, NGrid, Pascoag, PWSB, KCWA, Woonsocket Water, and the Division attended the hearing. Counsel for the George Wiley Center agreed with NGrid's proposal to use the NWS's advisory and warnings as the basis of when a heat related moratorium would go into effect. Pascoag, the Division and KCWA supported NGrid's proposal of a heat related moratorium. Counsel for PWSB stated that it supported NGrid's proposal, but indicated there is a need for lead time of a day before the moratorium goes into effect; that the moratorium should only apply to residential customers; and that it not be applicable for emergencies or when there is a need for repairs. Counsel for Woonsocket Water supported NGrid's proposal, but stated there is need for lead time before the moratorium goes into effect. Counsel for NGrid stated that NWS issues a heat advisory or warning 12 to 48 hours before the event, which would allow for lead time for a utility to prepare for when the moratorium would go into effect.

At an open meeting on September 28, 2006, the Commission proposed a change to the Commission's Termination Rules based on NGrid's proposal. The rule change stated that a utility, subject to the Termination Rules, shall not terminate the utility service of any residential customer for non-payment on those days for which the NWS has issued an excessive heat advisory or excessive heat warning for Rhode Island.

After published notice, a public hearing was conducted on November 27, 2006 to accept public comment regarding the proposed rule change in the Termination Rules to create a heat related moratorium. Representatives of the George Wiley Center, NGrid, PWSB, KCWA, Woonsocket Water and the Division attended the hearing. A representative of the AARP gave public comment recommending that the heat related moratorium should be extended to when the NWS issues an "excessive heat watch", because NWS uses the following terms: excessive heat watch, heat advisory, and excessive heat warning. Counsel for the George Wiley Center concurred with the recommendation of the AARP. Counsel for the Division expressed support for the rule change as proposed by the Commission. Counsel for NGrid stated it would review the terminology used by the NWS, and she indicated that an excessive heat watch only gives advance warning of an excessive heat warning.

Written comments were filed by various entities. The AARP stated that the NWS utilizes the term heat advisory and not excessive heat advisory as utilized by NGrid in its comments filed on August 17, 2006. Instead, the AARP recommended the use of the NWS "heat advisory" and extending the heat related moratorium to instances when the NWS issues an excessive heat watch, which is issued 12 to 48 hours before an excessive heat warning is issued.

PWSB opposed extending the heat related moratorium to include time periods when the NWS issues an excessive heat watch. PWSB stated that NWS issues excessive heat watches when the NWS has only a 50 percent confidence level that a heat event will occur and that during the excessive heat watch period, the heat index will not have reached either the heat advisory or the excessive heat warning level. PWSB expressed concern that including excessive heat watches in the Termination Rules would extend the heat related moratorium through a substantial portion of the summer. KCWA requested that, as in the prior Termination Rules, water utilities would continue to have a general exemption from compliance with the payment plan requirements of the Commission's Termination Rules. NGrid agreed that the language in the proposed rule should be changed from "excessive heat advisory" to merely "heat advisory" to mirror the language used by the NWS. However, NGrid opposed including "excessive heat watch" in the summer moratorium. NGrid argued that prohibiting utility termination during heat watches would significantly impact NGrid's performance, because a heat watch is issued when it is uncertain whether a heat event will actually occur. Also, NGrid noted that other states do not have a moratorium during heat watches and that the existing Termination Rules include special protection for the elderly, disabled and seriously ill.

The George Wiley Center suggested that the term "excessive heat advisory" be changed to "heat advisory". Also, it recommended including excessive heat watches in the summer moratorium and stated that adding heat watches to the moratorium would only have a slight impact on NGrid. Also, the George Wiley Center asserted that if consumers are terminated during the watch, then these consumers will have their health impacted if extreme heat materializes. In the alternative, the George Wiley Center stated

that if the rule does not include excessive heat watches then utilities should be required to track the number of customers terminated during such watch periods.

At an open meeting on December 19, 2006, the Commission adopted the heat related moratorium rule to the Termination Rules but altered the language from excessive heat advisory to heat advisory in order to mirror the NWS terminology. Also, the Commission rejected the addition of excessive heat watch to the heat related moratorium rule. The revised Termination Rules went into effect February 1, 2007.

An excessive heat moratorium was adopted, because it will provide health protection to residential electric, water and gas utility customers during extreme summer weather.² By placing an excessive heat moratorium provision in the Commission's Termination Rules, any confusion that could arise if it was merely a policy or practice followed by utilities on a discretionary basis will be avoided. The Rhode Island excessive heat moratorium is limited to days for which the NWS has issued a heat advisory or excess heat warning for Rhode Island. This will likely occur for only a handful of days during the summer and based on representations by the utilities, it should not detrimentally affect the operations of utilities. Extending the excessive heat moratorium to days for which an excessive heat watch is issued could cause a high number of days during the summer to be covered by the moratorium and detrimentally affect the collection efforts of utilities. Also, a clear majority of states with summer moratoriums utilize a Heat Index which does not encompass excessive heat watches. Thus, Rhode Island's excessive heat moratorium reliance on the NWS' issuance of heat

² The excessive heat moratorium will also apply to NGrid's gas operations, although gas utility service is not essential for cooling during a heat wave. The Commission did not exclude gas utilities because NGrid, as the sole gas utility in Rhode Island, did not submit comment seeking the exclusion of gas utilities from compliance with an excessive moratorium during the rulemaking phase of the proceeding.

advisories and excessive heat warning is consistent with other state jurisdictions and allows an independent expert governmental institution, the NWS, to determine when there is a health danger due to heat. Furthermore, the residents most at risk during heat events, such as the elderly, are already afforded special protection under the Termination Rules.

The Commission will not burden all utilities subject to the Termination Rules with additional reporting requirements about data tracking terminations during heat watch periods. The Commission may subsequently request this information if the Commission determines that such information would be useful. Lastly, based on KCWA's request, despite the revision to the Commission's Termination Rules, any exemption or waiver granted to a water utility in the past regarding payment plan requirements of the Termination Rules is still valid and in effect.

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EFFECTIVE AT WARWICK, RHODE ISLAND PURSUANT TO AN OPEN MEETING DECISION ON DECEMBER 19, 2006. WRITTEN REPORT ISSUED ON MARCH 5, 2007.

PUBLIC UTILITIES COMMISSION



Elia Germani

Elia Germani, Chairman

Robert B. Holbrook

Robert B. Holbrook, Commissioner

Mary E. Bray

Mary E. Bray, Commissioner