# STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
# PUBLIC UTILITIES COMMISSION

**IN RE: NATIONAL GRID'S DISTRIBUTION ADJUSTMENT CLAUSE : DOCKET NO. 4269**

## REPORT AND ORDER

### I. NATIONAL GRID'S FILING

On August 1, 2011, National Grid ("NGrid") filed with the Rhode Island Public Utilities Commission ("Commission") its annual Distribution Adjustment Clause ("DAC") for effect November 1, 2011.[1] The DAC is filed annually to establish a factor that returns or recovers funds from ratepayers to reconcile estimated costs to actual costs included in rates over the twelve-month period starting November 1st. The DAC provides for funding, or the reconciliation and refund, of amounts associated with nine specific programs and facilitates the timely rate recognition of incentive/penalty provisions. The DAC filing results in a factor that is applied to firm sales and firm transportation customers. The filing does not propose a specific rate because NGrid has not finalized the data for a number of the components. NGrid represented that it will supplement and update this filing in its September 1, 2010 filing.[2]

[1] In Docket No. 3401, February 28, 2003, the Commission ordered New England Gas Company to establish a Distribution Adjustment Charge for the purposes of crediting customers with any amounts associated with the earnings-sharing provisions of the Amended Settlement; refunding or recovering the amount by which non-firm margins deviate from $1.6 million; recovering LNG commodity costs associated with maintaining system pressures; crediting or collecting of any weather normalization adjustment revenues, and any other reconciliation of revenues or expenses approved by this Commission. On August 24, 2006, Narragansett Electric Company, doing business as National Grid, acquired the assets and gas business of Southern Union Company in Rhode Island, doing business as New England Gas Company. In Docket No. 3943, two additional factors were added: a Pension and Post-Retirement benefits factor and a Capital Expenditures Tracker factor.

[2] A table listing the eleven components of the DAC indicating the current factor, the factor as proposed by NGrid and the Division's recommendation is attached hereto as Appendix A.

The actual DAC factor results from eleven components, which are filed with a specific factor incorporated into the overall DAC factor. The component factors are:

(1) a System Pressure factor, in which 16.8 percent of LNG commodity costs, financing costs, and supplier demand costs are allocated to maintain system pressures in NGrid's distribution system;

(2) an Advanced Gas Technology (AGT") factor, which includes $300,000 annually in base distribution rates;

(3) a Low Income Assistance Program ("LIAP") factor, which collects $1,785,000 annually in base distribution rates consisting of; $1,585,000 in supplements to the Federal Low Income Home Energy Assistance Program ("LIHEAP") and $200,000 for a Low Income Weatherization Program, (the LIAP factor is zero unless the Commission changes the amount for LIAP funding);

(4) an Environmental Response Cost ("ERC") factor, which collects $1,310,000 annually in base distribution rates, but allows annual adjustments for incremental environmental costs or credits, such as insurance recoveries, which are amortized over a 10-year period through this factor;

(5) a Pension Costs and Post-Retirement Benefits ("PBOP")[3] factor, which reconciles pension and post-retirement benefits other than pensions expenses for the purpose of recovering or refunding the Company's actual expenses that were included in base rates;

[3] The PBOP factor was approved by the Commission in Docket No. 3943. The Commission found that a reconciliation of these expenses was justified because the Company's pension and PBOP expenses were large and unpredictable. Additionally, the Commission noted that the pension program was funded at 97 percent and that the reconciling mechanism would provide ratepayers with the assurance that NGrid was funding its pension and PBOP funds at the same level as amounts collected by customers and that current ratepayers are not shifting these costs to future ratepayers.

(6) a Capital Expenditures Tracker ("CAPX")/Accelerated Replacement Program ("APR")[4], which refunds or collects from customers the revenue requirement impact associated with variations in capital spending including the Accelerated Replacement Program ("ARP");

(7) an On-System Margin Credit ("MC") factor, which provides an offset to some of the distribution system costs. All revenue margins from dual fuel customers (firm and non-firm) as well as revenue margins from non-firm special contracts for the twelve month period ending June 30 that exceed an annual threshold of $2,816,000 exclusive of Rhode Island Gross Earnings Tax are credited 100% to customers through the MC Factor;

(8) a Weather Normalization ("WN") factor, which represents an adjustment to NGrid's revenues to account for the impact of weather that varies by more than 2 percent from normal degree days during the preceding winter period of November through April;

(9) an Earnings Sharing Mechanism ("ESM") factor, which provides for the sharing and refunding of NGrid's excess earnings, whereby ratepayers receive 50 percent of earnings between an 11.25 percent and 12.25 percent return on equity ("ROE"), and ratepayers receive 75 percent of earnings over a 12.25 percent ROE while NGrid retains the remaining share of earnings;

(10) a Reconciliation ("R") factor for the current DAC, which represents a true-up of the amount currently being collected for the nine DAC component factors approved by the Commission for the prior period; and

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[4] The CXT factor was approved by the Commission in Docket No. 3943.

(11) a Service Quality Performance ("SQI"), which is for any penalty assessed against NGrid for service deficiencies as measured through the Service Quality Plan approved by the Commission in Docket 3476.[5]

In support of its filing, NGrid submitted the pre-filed testimony of John F. Nestor, III, Specialist-Pricing – New England in the Gas Regulatory & Pricing for NGrid - Gas. Mr. Nestor's testimony described the DAC factors and the proposed changes to the various components of the DAC. He presented factors for nine of the eleven components with the exception of the ESM factor and the Service Quality Plan Penalty. Mr. Nestor noted that the preliminary DAC rate of $0.0035 per therm was not finalized because necessary data was not available at the time of the filing. A supplemental filing will include the updated DAC rate and a bill impact analysis.[6] The current DAC rate is $0.0098 per therm.[7]

Mr. Nestor asserted that the System Pressure factor is based on the projected commodity related portion of LNG costs, including non-economic dispatch LNG costs and the percentage of local storage used to maintain system pressure projected from November 1, 2011 through October 31, 2012. Mr. Nestor noted that in Docket No. 3943, the Commission established a system balancing percentage of 16.8 percent which was also used in Docket No. 3977. Mr. Nestor pointed out that the LNG Operating and Maintenance costs are recovered in base rates. He explained that in the previous DAC Docket No. 4196, the Company and the Division agreed to conduct a study to update

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[5] In Docket 3476, the Commission found that the general purpose of a service quality plan is to ensure that customers receive a reasonable level of service and identified five key aspects of any service quality plan as 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.
[6] NGrid Exhibit No. 1, Direct Testimony of John F. Nestor, III and attachments filed August 1, 2011 at 1-5.
[7] Docket No. 4196, Order No. 20231.

LNG costs and establish an appropriate system pressure factor for this year's DAC and GCR filings. Mr. Nestor represented that the Company provided its completed study to the Division in July 2011 and is currently engaged in discussions with the Division about the study results. He maintained that NGrid will file its proposed System Pressure Factor in its September 1, 2011 filing. The filing of the proposed factor will coincide with NGrid's GCR filing which will include non-economic dispatch LNG related costs for the period November 2011 to October 2012. Both filings will utilize the system balancing percentage that the study determined to be appropriate.[8]

Mr. Nestor explained that the AGT program[9] was established in Docket No. 2025 to promote the development of energy-efficient natural gas technologies that increase utilization of natural gas during periods of low demand. He noted that increased off-peak usage reduces the unit cost of gas for all customers by generating distribution revenues to support fixed costs associated with resources needed during peak periods. He explained that NGrid is proposing that the AGT account continue to be funded in the amount of $600,000[10] and noted a balance in the account as of the end of June 2011 of approximately $1.6 million. He identified four major projects that the Company has begun evaluating noting that the increased interest is being driven by the decrease in the cost of natural gas and the expansion of Energy Efficiency programs and the increase in funding of those programs. The proposed AGT factor is $0.0008.[11]

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[8] NGrid Exhibit No. 1, Direct Testimony of John F. Nestor, III at 5-6.

[9] NGrid refers to the DSM program as the Advanced Gas Technology Program ("AGT") so as to avoid any confusion with the Energy Efficiency Programs implemented by NGrid and that are sometimes referred to as DSM programs.

[10] Accepting the recommendation of the Division last year, the Commission allowed for an additional $300,000 to be included with the $300,000 already embedded in rates to fund the AGT program.

[11] NGrid Exhibit No. 1, Direct Testimony of John F. Nestor, III at 7-9, Attachment NG-JFN-1, NG-JFN-3.

Mr. Nestor stated that NGrid is not proposing to change the current level of funding provided by the LIAP factor, which provides additional funding to LIHEAP and to a low income weatherization program. He noted that annual funding in distribution rates for LIHEAP and weatherization are $1,585,000 and $200,000, respectively. Regarding the ERC factor, NGrid proposed a decrease in the credit factor from ($0.0013) to ($0.0001) per therm. This factor reflects a 10-year amortization of environmental response costs. The proposed ERC factor reflects annual amortization of expenses totaling $1,337,029. Since there is $1,310,000 of ERC funding embedded in base rates, the remaining balance of $27,029 must be collected from ratepayers.[12]

In Docket No. 3943, the Commission approved NGrid's proposal to reconcile pension and PBOP expenses through the DAC. The adjustment factor is based on the difference between the Company's actual expense for the prior twelve month period ending June 30 and the most recently approved base rate expense allowance. The current computation is based on the twelve month period ending June 30, 2011. NGrid proposed a factor of $0.0113 for pension and PBOP expenses noting that the calculation was preliminary and would be updated with the September 1 filing.[13]

Also approved by the Commission in Docket No. 3943 was a Capital Expenditures Tracker ("CXT") adjustment mechanism.[14] Mr. Nestor noted that this adjustment was refunding or collecting from customers the revenue requirement impact associated with variations in capital spending, including the ARP. He defined the ARP component of the CXT as the five year program designed to replace bare-steel and cast-iron mains and high pressure, bare-steel services located inside customers' premises. The

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[12] *Id.* at 10-12, Attachment JFN-1, JFN-4.
[13] *Id.* at 12-13, Attachments JFN-1, JFN-5.
[14] Docket No. 3943, Order No. 19562.

program allows the Company recovery of the incremental costs through a rate adjustment mechanism for costs assumed above a threshold level included in base rates. Mr. Nestor explained that the 2010 ARP factor was comprised of two components: the incremental spending for the period October 1, 2009 through March 31, 2010 and a one time adjustment for the period July 1, 2010 through October 31, 2010. He calculated the cumulative revenue requirement for the ARP component of the CXT for FY2011 to be $2,108,624. The Company's ISR Plan which was filed in compliance with R.I. Gen. Laws 39-1-27.7.1 and approved by the Commission provides a tariff modification which allows for April 1, 2010 through March 31, 2011 recovery of ARP costs through the DAC and after that termination of the ARP. NGrid proposed a CXT/ARP factor of $0.0002 per therm.[15]

In the area of on-system (non-firm) margins, NGrid proposed a credit factor of ($0.0022) per therm. In determining amounts to be returned to customers, NGrid tracks margins exclusive of the gross earnings tax for sixty-four (64) firm and non-firm dual customers at the time of the most recent rate case filing as well as any new non-firm customers and non-firm special contracts. These customers were referred to as "dual-fuel customers." Any amount collected in excess of $2,816,000 is to be returned to customers. Mr. Nestor noted that NGrid collected $3,594,043 and therefore, $778,043 or ($0.0022) per therm is to be returned to customers.[16]

[15] *See* Docket No. 3943, Order No. 19710 where the Commission approved a one-time refund to customers for excess revenues recovered from the effective date of the rates to November 1, 2009 and 2) an ongoing credit to customers equal to the revenue requirement on the difference in the Company's actual average net plant in service and that which was included in NGrid's cost of service in Docket No. 3943. NGrid Exhibit No. 1, Direct Testimony of John F. Nestor, III at 13-17, Attachments JFN-1, JFN-6.

[16] NGrid Exhibit No. 1, Direct Testimony of John F. Nestor, III at 17-18, Attachments JFN-1, JFN-7.

NGrid did not incur any service quality penalties for the fiscal year 2010. Regarding weather normalization, Mr. Nestor noted that in Docket No. 4206, the Commission approved a tariff that modified the Weather Normalization component for the 2011 DAC filing. He explained that the Company and the Division agreed to eliminate April 2011 heating degree days from the calculation of the weather normalization factor to avoid counting days that were already accounted for in the Company's Revenue Decoupling Mechanism Plan which covers the period April 1, 2011 through March 31, 2012. After the elimination of the April 2011 heating degree days, the weather was 247 degree days outside of the 2 percent colder than normal deadband. The proposed adjustment is $2,223,000 or ($0.0061) per therm to be credited to customers.[17]

Mr. Nestor explained that the earnings sharing calculation ("ESM") had not been completed, because NGrid's financial data for the fiscal year ending June 30, 2011 was not yet available. NGrid will supplement this filing and provide that calculation no later than September 1, 2011. As for the reconciliation factor for fiscal year 2011 and the gas year (November 2010 through October 2011), NGrid proposed a factor of ($0.0007) per therm to return an over-collection of the DAC in 2011 of $(248,239) to ratepayers. Mr. Nestor also explained the development of the forecast throughput requirements utilized in the preliminary DAC stating that it is the best available data at the time to begin to forecast 2012 throughput. He noted that this factor will be finalized and set forth in NGrid's GCR filing. Finally, he explained that in the ISR Docket, No. 4219, the

[17] *Id.* at 19-20, Attachments JFN-1, JFN-8. While the weather normalization clause provides for crediting/debiting customers when weather is warmer/colder than normal, it provides that in order to qualify for the $9,000 per day rate, the weather must be more than 2 percent warmer or colder than normal.

Commission approved rate-class specific DAC factors that will be added to the single DAC factor proposed by the Company establish the new DAC rate.[18]

## II. NGRID'S SEPTEMBER 14, 2011 FILING

On September 14, 2011, NGrid filed the supplemental testimonies of John Nestor to incorporate updates to the DAC components included in the August 1, 2011 filing, and William R. Richer to describe the calculation of the earnings sharing component of the proposed DAC. The updates resulted in a proposed DAC rate of $0.0061 per therm for firm service customers. Mr. Nestor updated the DAC components that were set forth in the August 1, 2011 filing, the ESM calculation, the proposed DAC base rate and overall DAC rate to include the ISR component and provided the rate impacts on customers' bills. Specifically, he updated the System Pressure calculation, updated the Pension and PBOP factor and the Reconciliation factor.[19]

With regard to the system pressure calculation, he noted that in last year's docket, the Company performed an updated LNG study which concluded the appropriate allocation to be 18.12% resulting in a System Pressure Factor of $0.0026. Mr. Nestor also noted that the reconciliation component of the August 1, 2011 DAC filing was updated to incorporate actual throughput for August 2010, resulting in no change to the original $0.0007 per therm originally proposed. He stated that NGrid's earnings calculation is discussed in the testimony of William R. Richer and that because it was below the threshold of 10.5%, there was no adjustment included for ESM in the DAC filing. He identified the forecasted throughput to be 36,155,589 dths for the November 1 through October 31, 2012 period and noted that the Reconciliation Factor would be

[18] *Id.* at 20-24, Attachments JFN-9, JFN-10.
[19] NGrid Exhibit No. 2a, Supplemental Testimony of John F. Nestor, III at 1-3, Attachments JFN-1S through JFN-9S.

updated again once the actual August[20] data became available. Finally, he noted that the impact on the bill of an average residential hearting customer utilizing 922 therms is an annual decrease of one quarter of a percent (0.25%) or $3.43 annually. Mr. Nestor also identified the final DAC rate with inclusion of the ISR component by class. With inclusion of the ISR component, the typical residential heating customer utilizing 922 therms will pay $0.0130 per therm.[21]

Mr. Richer provided the calculation of NGrid's earnings subject to the ESM factor for the fiscal year ending June 30, 2011 and provided dated testimony regarding the revenue requirement calculation for the ARP. He noted that the determination of earnings is based on a 10.5% return on equity. Any amount in excess of the 10.5% up to 11.5% is shared 50 percent with customers and 50 percent with NGrid. Earnings in excess of 11.5% return on equity are shared 75 percent with customers and 25 percent with NGrid. The return on equity is calculated by dividing the net income available for common equity by the common equity applicable to rate base. For FY 2011, NGrid calculated a net income available for common equity of $2,003,774.[22]

Mr. Richer discussed a number of adjustments made to operating revenues, expenses and interest charges. The adjustments to operating revenue included a $778,043 reduction reflecting an over-collection to be returned to customers in excess of the $2,816,000 threshold for firm and non-firm sales and transportation margins established in Docket No. 3943, Order No. 19528. The second adjustment to operating revenues was

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[20] This testimony is inconsistent with Mr. Nestor's response on the prior page that indicated the proposed reconciliation factor was updated to reflect "the actual results for August 2011." Mr. Nestor corrected the error at the hearing and represented that the testimony should have read "[t]he Company will be updating the Reconciliation factor in late September or early October once as actual ***September*** data is available." *Emphasis added.*

[21] NGrid Exhibit No. 2a, Supplemental Testimony of John F. Nestor, III at 3-6, Attachments JFN-1S through JFN-9S.

[22] NGrid Exhibit No. 2b, Direct Testimony of William R. Richer at 1-4, WRR-1.

an increase of $592,566 to FY 2010 operating revenues to reflect that same amount of a reduction in operating revenues in the FY 2010 ESM filing reflecting a true up from the estimate recorded for the customer portion of non-firm margins. Third, a $152,754 adjustment was made for the difference between the revenue allowed to the Company in the base rate case and what was actually received between April 1, 2011 and June 30, 2011 in accordance with the Company's Revenue Decoupling Plan ("RDM"). Fourth, operating revenues were increased by $615,173 to reflect NGrid's exclusion of unbilled revenues from the ESM calculation. Fifth, NGrid removed stored gas inventory from rate base to eliminate carrying costs on stored gas inventory from revenues, which decreased operating revenue by $2,356,585.[23]

The Company also made adjustments to three expense and interest accounts. First, NGrid increased operating expenses by $634,114 for unbilled gas costs. Second, $2,450,000 was included in operating expenses in accordance with the Commission's Order No. 19563 in Docket No. 3943 to include the investors' share of annual net merger savings. Finally, NGrid included $145,134 of costs related to customer deposits. Other charges not considered a normal part of the gas distribution business were recorded below the line and not included in the ESM calculation.[24]

Mr. Richer explained that, in order to account for the purchase by NGrid of the regulated Rhode Island assets of Southern Union, the pre-acquisition New England Gas Company's book/tax timing differences were transferred to the books of Southern Union. NGrid began recording its own deferred tax liabilities following the acquisition. He noted that FY2011 financial data includes actual deferred tax provisions recorded by the

[23] *Id.* at 5-7, WRR-1 at 2.
[24] *Id.* at 7-8, WRR-1 at 2.

Company through June 30, 2011. For the ESM federal income tax calculation, NGrid used the statutory rate of 35 percent for a total expense of ($1,078,955).[25]

Mr. Richer utilized an imputed capital structure as specified in Docket No. 3943, Order No. 19563 to calculate the average cost of capital: 11.66 percent short-term debt, 40.63 percent long-term debt, and 47.71 percent common equity. NGrid computed the cost of long-term debt by multiplying the base applicable to long-term debt by 5.40 percent which was NGrid's actual long-term debt rate for 2011. The Company calculated short-term debt by multiplying the rate base applicable to short-term debt by 0.21 percent which is the twelve month average cost of short-term debt. Also, funds used during construction were also included in calculating operating income.[26]

In calculating the rate base, NGrid used a five-quarter average for the year ending June 30, 2011. Mr. Richer excluded environmental response costs and prepaid taxes from rate base. He did include construction work in progress ("CWIP") in the rate base and computed the working capital allowance pursuant to the method approved in Docket No. 3943. Also, the deferred debits in the rate base included Y2K costs, to be amortized at the rate of $240,000 per year. Mr. Richer excluded the costs associated with legacy customer-information systems, stored gas inventory and customer deposits. Finally, NGrid included a hold harmless rate base credit as a reduction to rate base. Mr. Richer also noted that the annual reconciliation expense of pension and PBOP is handled through the DAC, while the annual funding reconciliation is reflected as an adjustment to rate base in the Earnings Sharing Mechanism. He noted a cumulative rate base decrease

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[25] *Id.* at 8-9, WRR-1 at 2, 3.
[26] *Id.* at 10-11, WRR-1 at 2, 4, 11, 12.

of $7,758,081 to reflect the annual funding reconciliation of pension and PBOP as allowed for in Docket No. 3943.[27]

Mr. Richer noted that common equity applicable to rate base was $305,905,137, which was the sum of the average rate base times 47.71 percent, the capital structure equity percentage approved in Docket No. 3943. Since the return on common equity for FY 2011 was 1.37 percent which is significantly below the 10.50 percent threshold for sharing, no earnings are available to be shared with customers.[28]

Mr. Richer sponsored Attachment NG-JFN-6S which provided the calculation of the revenue requirement calculation for the ARP. He described the two items necessitating the update of the ARP revenue requirement as being property tax expense, which should have been based on cumulative ARP incremental spending net of accumulated depreciation instead of applying the property tax rate to gross ARP investment, and actual tax depreciation, to deduct one hundred percent ARP investment assumed to be eligible for the Capital Repairs Tax Deduction. Mr. Richer anticipated that the ARP revenue requirement will increase by approximately $100,000 after the DAC Reconciliation factor is updated to actual tax depreciation and property tax updates are made to the filing in late September/early October.[29]

## III. DIVISION'S DIRECT TESTIMONY

On October 12, 2011, the Division of Public Utilities and Carriers ("Division") filed the direct testimony of its consultants, Bruce R. Oliver, President of Revilo Hill Associates, Inc., and David J. Effron, a consultant specializing in utility regulation. Mr. Oliver discussed all elements of the DAC except the PBOP, ESM and the CXT, which

[27] *Id.* at 11-12, WRR-1 at 5, 6, 7.
[28] *Id.* at 12, WRR-1 at 1.
[29] *Id.* at 13-15.

were reviewed Mr. Effron. Mr. Oliver noted that the current rate proposed by the Company reflects a $0.0037 decrease from the current net DAC charge. He presents a list of rates by class that show the inclusion of the ISR charges, which are different depending on rate class.[30]

Mr. Oliver noted his review of the Company's filing does not include any changes to the factors at the present time. He asserted that since the Commission's Order in Docket No. 4196, the Company has computed the System Pressure Factor by applying an allocation factor to the sum of the Company's forecasted LNG Withdrawal Commodity Costs, LNG Inventory Costs and LNG Demand Costs for the 2011-12 GCR period and then dividing this sum by the forecasted firm throughput for the 2011-12 GCR period. He identified the Company's allocation factor as 18.12% an update from the factor previously used of 16.80%. He described the calculation to arrive at the 18.12% as being the amount of LNG required for pressure support during a peak hour divided by the Company's peak hour Sendout requirement for 2010-11. He asserted that this updated allocation factor does not appropriately reflect the portion of the Company's annual LNG costs that is used for maintaining system pressure for a number of reasons. First he noted that computing the System Pressure Factor by using Peak Hour data does not capture the use of pressure support at times other than the system peak hour. Second, he asserted that the allocation does not depict what portion of LNG costs are used for system pressure purposes. Finally, he claimed that requirements for "Non-Utility Customers" should not be included in the allocation of LNG costs to utility customers. He reserved the

[30] Division Exhibit 1a, Direct Testimony of Bruce R. Oliver, filed October 12, 2011 at 2-3.

Division's right to update its position on the System Pressure allocation until such time as the Company provides additional information as to the construction of the allocator.[31]

Mr. Oliver discussed the AGT balance of $1,599,537 and how NGrid has requested that the $600,000 annual funding allowed last year be continued. While he noted that no projects were completed last year, there are four possible projects that NGrid is working with on customers. He pointed out that the last expenditure from AGT funds was in February 2008 in the amount of approximately $13,000 which Mr. Oliver characterized as trivial. Mr. Oliver recommended continuation of the funding for one additional year in light of the Company's representation that one or more of the projects being considered could warrant funding in excess of $500,000. He suggested that further review of this funding be conducted in NGrid's 2012 DAC filing. He also discussed the LIAP Factor and recommended the current level of funding for this program noting that there is an additional $6.5 to $7.5 million of annual funding available for LIHEAP eligible customers as the result of recent legislation.[32]

Mr. Oliver concluded that NGrid's environmental response costs were reasonable and supported by the detail provided by the Company with the exception of the $602,506 Insurance Recovery expenditure. He described the factor and detailed the amortization of ten years of costs. He explained that the FY2010 expense represents new environmental expense less proceeds from an insurance settlement. In discussing the Insurance Recovery expense, Mr. Oliver noted that approximately 99% of this claim is for attorneys' fees associated with pending litigation. He stated that whether this expense is prudent or reasonable cannot be assessed at the present time. He stressed the inability to

[31] *Id.* at 3-9.
[32] *Id.* at 9-13.

review the exact expenditures and asserted that the claims cannot be quantified. Further he pointed out that it is not possible to predict what the final payment under those claims will be. He suggested that the Commission reserve further prudency review on this expenditure until such time as the pending litigation is complete. Absent the Insurance Recovery expenditure, Mr. Oliver had no issue with the updated ERC Factor computations and noted that they were supported by the data provided by NGrid.[33]

Regarding the On-System Margin Credit, Mr. Oliver found that NGrid exceeded the $2,816,000 threshold during FY2011 and its margin revenue determinations were mathematically correct. He also recommended setting the Service Quality Factor at $0.0000 per therm as no penalties are reflected in the Company's Annual Report on Service Quality. Mr. Oliver noted one change to the methodology employed by the Company of its Weather Normalization factor. He pointed out that effective April 1, 2011, the Revenue Decoupling Mechanism ("RDM") statutorily mandated termination of the Weather Normalization mechanism. He asserted that Mr. Nestor's supplemental schedule JFN-8S reflects the discontinuation of this mechanism by posting zero values for the month of April. He verified that NGrid's Weather Normalization factor of $0.0077 per therm noting that because there were 247 heating degree days ("HDD") above the 2% threshold, customers were entitled to be credited $2,223,000. Mr. Oliver found no basis to question the reasonableness of the Company's reconciliation adjustment and noted that it appears to be mathematically correct. He recommended no changes to NGrid's DAC calculations but reserved the right to update his position regarding the System Pressure Factor determination.[34]

[33] *Id.* at 13-20.
[34] *Id.* at 21-27.

Mr. Effron reviewed the calculation of the Pension and PBOP, the Capital Expenditures Tracker and the Earnings Sharing Mechanism components of the DAC. He indicated that he analyzed all of the exhibits, supplements and responses to data requests and did not propose any modifications to what the Company filed.[35]

## IV. NATIONAL GRID'S REBUTTAL TESTIMONY

On October 18, 2011, NGrid filed the rebuttal testimony of Mr. Nestor. Mr. Nestor addressed Mr. Oliver's testimony regarding the System Pressure Factor, described the impact of an update to the ARP, updated the Reconciliation factor for September with actual results, provided final calculations of the base DAC rate and the overall DAC rate and provided bill impacts of the proposed overall DAC rates. Regarding Mr. Oliver's assertion that the 18.12% proposed by the Company does not appropriately reflect LNG costs used for system pressure, Mr. Nestor represented that the Company utilized the same methodology to develop the 18.12% as it used in Docket No. 3943. He acknowledged that Mr. Oliver has raised important points and that the Company will be compiling additional data for Mr. Oliver's review. However, he claimed that additional time is required to provide the requested information to Mr. Oliver and proposed that the Commission approve the 18.12% factor until such time as NGrid and the Division can engage in further discussions and the Company can ensure that any major changes can coincide with the modifications scheduled for the Company's billing and operations systems. He noted that the additional time will allow for review of any changes with Marketers as well.[36]

[35] Division Exhibit 1b, Testimony of David J. Effron filed October 12, 2011 at 3.
[36] NGrid Exhibit 3, Rebuttal Testimony of John F. Nestor, III filed October 18, 2011 at 1-4.

Mr. Nestor updated the ARP Factor to include related tax deductible data and revenue requirement characterizing the tax data as *de minimus*. He stated that the Reconciliation Factor remains the same after the incorporation of actual September 2011 data. He provided the final November base DAC rate which excludes the ISR component as $0.0062 per therm and also provided the class specific ISR rates that are added to this base DAC rate for the final DAC rates. He noted that for an average residential heating customer utilizing 922 therms the proposed rates result in an annual decrease of 0.24% or $3.34.[37]

## V. DIVISION'S SUPPLEMENTAL TESTIMONY

On October 21, 2011, the Division filed the supplemental testimony of David Effron to address the Company's response to a data request inquiring about the underfunding of the pension and PBOP obligations.[38] He noted that NGrid explained the underfunding as its lack of including its April 2008 contribution. Mr. Effon asserted, however, that even with the April 2008 contribution, the obligation was still underfunded by $3,460,000 as of June 30, 2011. He also alleged that the April 2008 contribution was made more than six months prior to the approval of the pension and PBOP reconciliation mechanism and cannot be properly attributed to the period during which the mechanism has been in existence. He explained capitalized pension and PBOP cost and how, even though it is recovered in the revenue requirement through the return on and of plant included in rate base, it is as much of an obligation as the pension and PBOP cost charged to expense. He discussed how the Company has not provided a clear explanation of its plans to make up the underfunding or the pension and PBOP obligation. Mr. Effron

[37] *Id.* at 4-6.
[38] This testimony was refiled on October 24, 2011 with the inclusion of Schedule DJE-1 which was not included in the October 21, filing of this same testimony.

stated that NGrid should be fully funding its accrued pension and PBOP obligations and that in Docket No. 3943, it represented that a reconciliation mechanism would ensure it was funding its pension and PBOP obligations at the same level as amounts collected from customers. He recommended that absent a commitment from the Company to fund the existing shortfall as soon as reasonably possible and to fully fund the ongoing costs prospectively, the pension and PBOP mechanism be discontinued.[39]

## VI. HEARING

Following published notice, a public hearing was conducted on October 26, 2011 at the Commission's offices at 89 Jefferson Boulevard, Warwick, Rhode Island. The following appearances were entered:

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| FOR NGRID | : | Thomas Teehan, Esq. |
| FOR THE DIVISION | : | Leo Wold, Esq.<br>Assistant Attorney General |
| FOR THE COMMISSION: | | Patricia S. Lucarelli, Esq.<br>Chief of Legal Services |

Mr. Nestor and Mr. Richer responded to questions regarding the filing. When questioned about Mr. Effron's assertion that the Company was not fully funding its pension and PBOP plans, Mr. Richer agreed that NGrid should fund that portion of the costs that are capitalized as part of construction of plant assets. He noted that since the Commission's approval of the reconciliation mechanism for these costs, the Company has been funding the accounts with the amount collected from ratepayers. He testified that the Company would agree with Mr. Effron's recommendation that the capitalized portion of this expense be fully funded. He also represented that the Company would fully fund any previously capitalized pension PBOP amounts. Mr. Richer indicated that

[39] Division Exhibit 3, Supplemental Testimony of David Effron filed October 21, 2011 at 1-5.

as a result of discussions with the Division, agreement was reached that the $4.3 million contribution to the pension and PBOP funds made by the Company for the 2009 fiscal year would be credited as part of the funding reconciliation mechanism. He stated that the Division and the Company would continue discussions on funding the pension/PBOP accounts and incorporate into these discussions the 2009 fiscal year contributions. Upon agreement, the parties would submit a letter to the Commission setting forth the results of that agreement. Mr. Richer represented that the agreement with the Division regarding the funding of the pension and PBOP would not result in any change to the factors proposed by the Company.[40]

Mr. Richer noted that there remained an additional $1.3 million that the Company was planning to fund but that the plan was more than 80 percent funded. He explained that most of the Company's assets are constructed by its employees so it follows that those employees' salaries are included in the cost of capital and that it also includes a proportionate share of those employees' benefits. He took a record request to find out how funded the Company is presently in terms of the pension.[41]

When questioned about the AGT funding, Mr. Nestor noted that while there are four active customers, there are no commitments by anyone at the present time. He noted that one or possibly two customers could receive rebates in the current year and that the amount requested would not exceed the amount currently in the fund. When asked whether he believed that the Company needed additional funding to the AGT program in light of the fact that there are currently sufficient funds to provide rebates to the two

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[40] Transcript of Hearing ("T."), October 26, 2011 at 11-15.

[41] *Id.* at 28-33. On November 22, 2011, NGrid responded to a record request posed by the Commission during the October 26, 2011 hearing which asked the Company to provide the current funding percentage of its pension plan. In its response, NGrid stated that as of March 31, 2011, its pension plan is 86% funded.

customers that could request rebates for the current year, Mr. Nestor testified that it was the Division's proposal to increase the funding to the account in last year's DAC proceeding. He supported the request for increased funding by asserting that one customer rebate could take up most of the funding. Mr. Nestor explained that customers will come to NGrid as opposed to the Company seeking the customer out for rebate opportunities. He noted that the approval time varies depending on the amount requested. When questioned as to whether he could identify the large customer, he indicated that he normally keeps the names of customers seeking rebates confidential but that the customer was a large educational institution that is not a taxpayer supported effort.[42]

Regarding the weather normalization factor, Mr. Nestor testified that beginning next year, this factor would no longer be included in the DAC filing as it is now part of the revenue decoupling mechanism. When asked to explain the large increases between the forecasted amounts and the actual costs for the ARP, Mr. Nestor noted that he did not have the information for specific projects. Mr. Richer assisted and indicated that specific drivers were included with the tables of costs to note the drivers for these big variances.[43]

Mr. Oliver and Mr. Effron testified on behalf of the Division. Mr. Oliver addressed several housekeeping issues associated with his testimony. Mr. Oliver justified his recommendation to increase the AGT funding by noting that the largest proposal NGrid has received would absorb most of the money currently in the fund. He stated that

[42] *Id.* at 15-20, 35-36.
[43] *Id.* at 21-27

if the Commission views this fund as ongoing and the majority of it will be depleted by one project, then to not further fund it would be premature.[44]

Mr. Effron responded to questions about the pension funding noting that even ignoring the capitalized portion and the credit for the April 2008 contribution, there was still a shortfall. He cautioned that it was important to not only make up the shortfall but to make sure that the shortfall does not continue to increase. He pointed out that in April 2008, the pension was overfunded and that the contribution that year was a going-forward contribution rather than a contribution to make up for a shortfall.[45]

Mr. Oliver also addressed questions regarding the LNG sendout. He described NGrid's calculation as based on two measures of hourly capabilities that were divided by the total system sendout. He criticized that this divisor did not indicate how LNG costs get allocated, which portion of LNG costs for the peak hour are system pressure related. He changed the divisor and was able to determine that approximately 53 percent of those costs are system pressure requirement costs. He defined peak flow as what is needed to supply all of the Company's customers' requirements with the pressure requirement, which reflects the portion of supply necessary to maintain the flow of gas in the system. He distinguished the pressure requirement from economic dispatch noting the portion used for pressure is available irrespective of economic dispatch. He discussed how economic dispatch should occur throughout the year as a of cost effective measure while pressure requirements can be required where the Company has to use LNG even though it is not the least cost supply option. Mr. Oliver testified that the current percentage that the Company is using to maintain pressure support is 18.12 percent although he believes that

[44] *Id.* at 37-42.
[45] *Id.* at 42-49.

the percentage is greater. He noted that he is working with NGrid to attempt to refine this percentage.[46]

## COMMISSION FINDINGS

At the conclusion of the hearing, the Chairman moved that the Commission approve the following factors: System Pressure - $0.0026 per therm; Advanced Gas Technology Program (AGT) - $0.0008 per therm; Low Income Assistance (LIAP) - $0.0000 per therm; Environmental Response Cost (ERC) - $0.0001 per therm; Pension and Post-Retirement Benefits - $0.0112 per therm; Capital Tracker and Accelerated Replacement Program - $0.0003 per therm; On-System Margin Credits (MC) - ($0.0022) per therm; Service Quality Performance (SQ) - $0.0000 per therm; Weather Normalization - ($0.0061) per therm; Earnings Sharing Mechanism - $0.0000 per therm; and Reconciliation Factor - ($0.0007) per therm. He also moved that the Commission approve the Uncollectible Percentage of 2.46% for a final DAC adjusted for uncollectibles of $0.0062 per therm. He noted that added to the ISR component the final DAC rate per class would be $0.0197 per therm for residential non-heating customers and residential non-heating low income customers, $0.0131 per therm for residential heating customers and residential heating low income customers, $0.0142 per therm for Small commercial customers, $0.0114 per therm for Medium commercial customers, $0.0109 per therm for Large low load commercial customers, $0.0097 per therm for Large high load commercial, $0.0081 per therm for Extra Large low load commercial customers and $0.0075 per therm for Extra Large high load commercial customers. The Motion was seconded and approved unanimously. The Commission finds that the evidence, both oral and written, presented by NGrid and the Division support the

46 *Id.* at 49-56.

reconciliation of the factors set forth above and is satisfied that the calculations supporting these factors are accurate.

Accordingly, it is

(20581) ORDERED:

1. The System Pressure factor of $0.0026 per therm is approved for effect November 1, 2011.
2. The Advanced Gas Technology factor of $0.0008 per therm is approved for effect November 1, 2011.
3. The Environmental Response Cost credit factor of $0.0001 per therm is approved for effect November 1, 2011.
4. The Weather Normalization factor of ($0.0061) per therm is approved for effect November 1, 2011.
5. The Reconciliation factor of ($0.0007) per therm is approved for effect November 1, 2011.
6. The On-System Margin credit factor of ($0.0022) per therm is approved for effect November 1, 2011.
7. The Pension and Post-Retirement Benefits factor of $0.0112 per therm is approved for effect November 1, 2011.
8. The Capital Expenditure Tracker factor of $0.0003 per therm is approved for effect November 1, 2011.
9. The overall Distribution Adjustment Charge credit of $0.0062 per therm is approved for effect November 1, 2011.

10. NGrid shall obtain Commission approval prior to issuing a rebate from AGT funds of any amount in excess of $500,000.

11. National Grid shall comply with all other findings and instructions contained in this Report and Order.

EFFECTIVE NOVEMBER 1, 2011 AT WARWICK, RHODE ISLAND PURSUANT TO AN OPEN MEETING ON OCTOBER 26, 2011. WRITTEN ORDER ISSUED DECEMBER 12, 2011.

PUBLIC UTILITIES COMMISSION

Elia Germani, Chairman

Mary E. Bray, Commissioner

Paul J. Roberti, Commissioner

## Attachment A

## National Grid - RI Gas

*Docket No. 4269*

***DAC Summary & Comparison to National Grid's Updated DAC***

| Line No. | | Current | As Agreed to By the Parties |
|---|---|---|---|
| 1 System Pressure (SP) Factor | | $ 0.0024 | $ 0.0026 |
| 2 Advanced Gas Technology (AGT) Factor | | $ 0.0009 | $ 0.0008 |
| 3 Low Income Assistance Program (LIAP) Factor | | $ - | $ - |
| 4 Environmental Response Cost (ERC) Factor | | $ (0.0013) | $ 0.0001 |
| 5 Pension and Post-Retirement Benefits (PBOP) Factor | | $ 0.0078 | $ 0.0112 |
| 6 Capital Expenditures Tracker (CXT)/Accelerated Replacement Program (ARP) | | $ (0.0054) | $ 0.0003 |
| 7 On-System Margin Credit (MC) Factor | | $ (0.0018) | $ (0.0022) |
| 8 Service Quality Performance (SQP) | | $ - | $ - |
| 9 Weather Normalization (WN) Factor | | $ 0.0077 | $ (0.0061) |
| 10 Earnings Sharing Mechanism (ESM) | | $ - | $ - |
| 11 Reconciliation (R) Factor | | $ (0.0008) | $ (0.0007) |
| **12 Subtotal** | | **$ 0.0095** | **$ 0.0060** |
| 13 Uncollectible Percentage | 2.46% | 2.46% | |
| 14 **DAC Adjusted for Uncollectibles** | | **$ 0.0098** | **$ 0.0062** |

## Attachment B

## National Grid - RI Gas

*Docket No. 4269*

***New DAC Rates by Rate Class – November 1, 2011***

| Rate Class | November 1,2011Component (therm) | April 1, 2011 ISRComponent (therm) | November 1,2011 DACRates (therm) |
|---|---|---|---|
| Res-NH | $0.0062 | $0.0135 | $0.0197 |
| Res-NH-LI | $0.0062 | $0.0135 | $0.0197 |
| Res-H | $0.0062 | $0.0069 | $0.0131 |
| Res-H-LI | $0.0062 | $0.0069 | $0.0131 |
| Small | $0.0062 | $0.0080 | $0.0142 |
| Medium | $0.0062 | $0.0052 | $0.0114 |
| Large LL | $0.0062 | $0.0047 | $0.0109 |
| Large HL | $0.0062 | $0.0035 | $0.0097 |
| XL-LL | $0.0062 | $0.0019 | $0.0081 |
| XL-HL | $0.0062 | $0.0013 | $0.0075 |