DIVISION OF PUBLIC UTILITIES AND CARRIERS

MEMORANDUM

TO: LULY MASSARO
COMMISSION CLERK

DATE: October 28, 2011

FROM: STEPHEN SCIALABBA
CHIEF ACCOUNTANT, DPUC

SUBJECT: NATIONAL GRID DOCKET 4270, GAS MARKETER TERMS AND CONDITIONS

As the Commission is aware, National Grid has filed for modifications to its Gas Marketer Terms and Conditions, originally filed on August 1, 2011. On September 28, 2011, the Company supplemented the filing seeking to delay the implementation of the proposed changes until April 1, 2012. There was one exception to the requested delay to April 1, 2012, and that was revised capacity release provisions in the proposed tariff, for which the Company indicated the November 1, 2011 date was still in play[1]. The Division had overlooked this one exception to the requested implementation delay and was operating under the presumption that all aspects of the tariff advice filing were delayed until April 1, 2012. Therefore, when we recently became aware of the open meeting agenda of October 31, we endeavored to respond to the proposed tariff language change prior to the open meeting.

At the time of the August 1 filing, the Division expressed reservations and concerns to National Grid regarding the proposed tariff, not the least of which was that National Grid had been apparently meeting with gas marketers since midpoint of 2010 to discuss changes to gas marketer and transportation terms and conditions, with no notification to, and obviously no input from, the Division. In other words, the firm sales customers and the transportation customers as well, did not have representation in the process used to develop changes to the transportation service. The Division raised this issue with the Company at the time of the August 1 filing, especially in light of their request for what we believe was an expedited review and implementation date for their changes, as the filing was made at the same time as the DAC and GCR dockets.

I have received an initial assessment of the proposed change in the capacity release provision of the transportation terms and conditions from Bruce Oliver which I have attached for your review. For the reasons stated in his memorandum, he advises that the Division recommend that the Commission not allow the change to the capacity release provision to go into effect until all the proposed changes to transportation terms and conditions have been vetted in the course of the docket.

[1] See 9/28/11 filing Nestor testimony at p. 4, as well as the filing cover letter.

I point out that Mr. Nestor's testimony of 9/28/11 at page 4 states that "…the Company has already surveyed the Marketers for their pipeline choices for November 1, 2011, and has received their pipeline path requests. In order to honor these requests for the upcoming year, the Company is seeking approval of the capacity release section of the proposed tariff." In other words, for whatever reason it appears Marketers assumed that the proposed tariff modification would be approved by the Commission for effect for November 1, 2011.

While the Division stands by Mr. Oliver's advice to recommend deferring the proposed tariff modification, the gas transportation season begins Tuesday, November 1 and pipeline nominations have already been made. The Division does not know with certainty what effect an October 31 decision to not implement a tariff change effective November 1 would have on marketers or their customers.

National Grid should explain whether the Company at this point could make pipeline assignments under the current tariff provisions without causing a disruption in the Rhode Island gas transportation market. If the Company indicates to the Commission that it cannot have marketers renominate pipeline paths under the currently approved tariff without causing undue harm to transportation customers or marketers, then any approval of the proposed tariff language effective November 1, 2011 should be made on a provisional basis only, subject to possible further modification at the final disposition of all the issues in Docket 4270.[2]

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[2] The Division would also point out that the Company's testimony indicates that significant changes are presently being made to National Grid's billing system to accommodate the proposed changes to transportation terms and conditions for which the Company is seeking approval effective April, 1 2012. The Division hereby raises a concern that significant ratepayer funds are being spent on billing system modifications to accommodate yet- to- be approved changes in the transportation service. If the PUC ultimately determines some or all of the proposed changes are not in the best interest of either (or both) firm sales service or firm transportation service customers, then a problem may exist if the billing system has been modified and cannot accommodate the terms and conditions and tariffs ultimately approved by the Commission.

MEMORANDUM

To: Steve Scialabba

From: Bruce R. Oliver

Date: October 27, 2011

Subject: Concerns Regarding Immediate Implementation of National Grid's Proposed Changes in Capacity Release Provisions of Gas Marketers, Docket No. 4270

Per your request, I have reviewed National Grid's Testimony and Exhibits relating to the proposed changes in the Capacity Release provisions of its Gas Marketer Tariff for which it requests implementation on November 1, 2011. That review has identified several reasons which strongly suggest that Commission acceptance of those changes for implementation at this time is not warranted. My concerns regarding this proposed change in the Company's capacity release tariff provisions for Gas Marketers include the possible shifting of risk and costs from marketers, transportation customers, and the Company to Rhode Island Firm Sales Service customers. Although the Company indicates the proposed changes were developed through a collaborative process, that process did not include representation of the interests of any party representing the firm sales service customers who continue to constitute the vast majority of the Company's customer base and its core business.

The tariff changes for which National Grid seeks immediate approval involves the addition of the following paragraph to Section 1.07.0, Capacity Release, in Section 6, Transportation Terms and Conditions, Schedule C, Sheets 11-14. The one substantive addition to the Company's capacity release provisions is as follows:

> *"The Company will provide marketers with the **calculated base and thermal factors used to estimate each customer's peak day use**. The factors are provided based on the results of the Company's application of **the specific methodology in this tariff** and **certain historical data**. **Marketers may not assume** that use of the factors will yield correct estimates of any customer's use for any future period or that **the capacity provided as a result of the calculations will meet the customer's requirements under all conditions**."*[1] *(Emphasis Added)*

All other substantive changes involve the deletion of portions of the Company's existing capacity release provisions. In my assessment, implementation of these proposed tariff changes relating to capacity release at this time is problematic for the following reasons:

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[1] Attachment (Redlined Version), Docket No. 4270, Nestor Supplemental Testimony, September 28, 2011, Page 1 of 4.

- The "***calculated base and thermal factors used in the calculation of each customers peak day use***" have not been provided to the Division for review. In view of the concerns raised by the Division in the GCR Docket No. 4283 regarding the Company's forecasting and estimation of usage by class under Normal Weather, Design Winter and Design Peak conditions, a review of the basis for the Company's "calculated base and thermal factors" (which are not included in the proposed tariff changes) is essential for the Commission's assessment of the reasonableness and appropriateness of those factors for this application. The referenced "base and thermal factors" appear to be integrally related to forecasting issues the Division has already identified and should be assessed by the Division.

- The current tariff indicates that the quantity of capacity to be released is based on "***Average Normalized Winter Day Usage***." However, as indicated above, the proposed tariff language would premise capacity assignments on **estimates** of individual customers' **peak day use**. This change from a measure of **average winter day use** to **estimated peak day use** represents a substantive change that warrants further assessment of its impacts and implications before it is implemented.

- The reference to "***the specific methodology in this tariff***" is inappropriately vague. That reference should be to a specific Section of the tariff, schedule, sheet and paragraph.

- The reference to "***certain historical data***" needs to be more clearly stated such that the reader can understand the parameters of the data to which the "methodology" will be applied. As presented, this language does not ensure that the calculations will be applied to comparable measures of historical usage for all customers.

- The Company's capacity release plan is premised in part on assumed relationships between pipeline, storage, and peaking requirements for two categories of customers (i.e., high load factor customers and low load factor customers). However, National Grid's Supplemental Testimony in Docket No. 4283 withdrew the GCR rates that had been developed based on those two load factor classifications. As a result, the Division's review of the Company's 2011-12 GCR filing did not include a full examination of the appropriateness of this aspect of the proposal. Moreover, the factors the Company proposes to use to represent the percentages of customers' requirements by load factor category constituting pipeline, storage and peaking capacity requirements[2] are actually subject to change with changes in either, or both, class usage patterns and the composition of the Company's capacity resources.

- ***Marketers may not assume … the capacity provided as a result of the calculations will meet the customer's requirements under all conditions***. This provision introduces the potential that capacity assigned will not to meet Firm Transportation Service customers' requirements under all conditions. Yet, it does not describe how the Company will handle situations in which the amount of assigned capacity is not sufficient to meet the customer's requirements. All parties, including the Commission, need to know who will be at risk if such capacity shortfalls occur. Is this new provision implying that transportation services will no longer be considered Firm Services, or will Gas Marketers now assume the responsibility for supplying any incremental capacity resources that may be required? If the Company will be required to meet such potential capacity shortages, the Commission will need to understand how the Company's obligation to meet those shortfalls affect its capacity planning, and how the costs of providing such additional capacity will be reflected in the Company's charges to Gas Marketers, Transportation Service customers and/or Firm Sales Service customers.

The last of these issues is particularly important and must be resolved before any further consideration of implementation of the Company's proposed capacity release provisions is contemplated.

Importantly, the Commission should be aware that National Grid's proposed changes in its provisions relating to the release of capacity to Gas Marketers should likely impact the costs of gas for Firm Sales Service customers. Under the current capacity release provisions in the Company's Transportation Terms and Conditions, the pipeline capacity made available for release to Gas Marketers is designated by the Company after National Grid has assessed the mix of pipeline capacity resources that best serves the needs of its Firm Sales Service customers. The new provisions the Company has proposed would assign pipeline capacity to marketers on a "slice of the

[2] See Attachment NG-JFN-7 to the September 13, 2011 Direct Testimony in Docket No. 4283 of National Grid witness Nestor.

system" basis. This change to the use of "slice-of-system" methodology can be expected to limit the Company's ability to minimize its purchased gas costs for Firm Sales Service customers, and should not be accepted without careful analysis of the impact of this change on firm sales service customers.

The Commission should also be aware that while the proposed changes in capacity assignments may represent a convenience for the Company and for Gas Marketers, those changes may not be beneficial to individual Firm Transportation Service customers. Under the current Aggregation Pool approach, marketers could at times take advantage of diversity in the timing of the peak requirements for individual customers to lower their overall costs of gas supply services. The new approach that National Grid seeks to implement would effectively assign capacity separately to each transportation service customer account, and any potential benefits from diversity either among the accounts held by a single customer or among accounts served as part of a given marketer Aggregation Pool would be lost.

Although National Grid has asserted that the existing capacity release provisions impose difficulties for gas marketers, I am not aware of any gas marketer that has petitioned for any change of those rules or filed a formal or informal complaint regarding those capacity release rules with the Commission or the Division.

Finally, the primary drivers behind the need for a November 1, 2011 implementation of this change appear to be (1) representations the Company made to Marketers regarding the implementation of tariff changes prior to Commission authorization of those changes, and (2) the Company's plans to implement a new billing system which at this point is not expected to be operational until at least the spring of 2011.

RECOMMENDATION

The Commission should defer action on implementation of the proposed changes in National Grid's capacity release provisions for Firm Transportation Service customers until the matters noted above have been fully vetted and resolved. If nominations of pipeline capacity by pipeline path under the existing tariff provisions have not already been obtained from Marketers, the Company should be instructed to immediately do so with the resulting capacity assignments made retroactive to November 1, 2011.