

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PUBLIC UTILITIES COMMISSION

IN RE: OFFICE OF ENERGY RESOURCES :
PROPOSED LIHEAP ENHANCEMENT CHARGE : DOCKET NO. 4290
FOR CALENDAR YEAR 2012 :

REPORT AND ORDER

I. Introduction

On July 13, 2011, Governor Chafee signed into law R.I. Gen. Laws § 39-1-27.12, the Low Income Home Energy Assistance Program (“LIHEAP”) Enhancement Plan. The purpose of the LIHEAP Enhancement Plan was to create a separate fund through the creation of a new surcharge on all electric and gas customers’ bills¹ in order to provide additional funding to supplement the federal LIHEAP funding that the State receives to assist low income customers in paying their energy bills. The new law requires the Rhode Island Office of Energy Resources (“OER”) to develop and recommend to the Public Utilities Commission (“Commission”) a monthly LIHEAP Enhancement Charge for each class of electric and natural gas distribution company customer by October 15 of each year for the upcoming calendar year. The charge cannot exceed ten dollars (\$10.00) per year for each customer account and must be designed to collect a minimum of six million five hundred thousand (\$6,500,000) and a maximum of seven million five hundred thousand (\$7,500,000) per year. Upon receipt of the recommendation, the Commission has sixty (60) days to review the recommendation.²

II. OER’s Filing

¹ Under the definitions in the law, the only electric and gas company customers affected by the new law are those of National Grid. R.I. Gen. Laws § 39-1-27.12(f): “As used in this section, ‘electric and natural gas distribution company’ means a company as defined in subsection 39-1-2(12), but not including the Block Island Power Company or the Pascoag Utility District.”

² R.I. Gen. Laws § 39-1-27.12(b)-(d).

On October 11, 2011, OER filed with the Commission its recommended LIHEAP Enhancement Charge for calendar year 2012. The OER proposed that:

The LIHEAP Enhancement Charge shall be eighty-three and thirty-three one hundredths cents (\$0.8333) per month for each customer for the calendar year 2012, with the term 'customer' defined as any person taking service from a[n] electric or gas distribution company at a single point of electricity or gas delivery or electric or gas meter, with the maximum total annual LIHEAP Enhancement Charge to any 'customer' capped at ten dollars (\$10).³

According to OER, the recommended rate, if made effective January 1, 2012, would generate total revenues between \$6.5 million and \$7.5 million. Additionally, OER recommended that the funds collected from the LIHEAP Enhancement Charge be deposited into a single account held and administered by National Grid to provide a credit to customers receiving LIHEAP assistance payments as designated by the OER.⁴

In response to data requests propounded by the Commission, OER explained that the LIHEAP surcharge was developed by multiplying the average number of National Grid customers in 2010 by ten dollars (\$10.00). The resulting total was \$7,320,000 which was between the statutory minimum of \$6.5 million and \$7.5 million. Therefore, having determined that the monthly maximum would result in a statutorily allowed total, OER divided ten dollars by twelve months to reach the monthly charge of 83.33 cents.⁵ OER indicated that the straight monthly charge on each account regardless of customer class was the most straightforward manner in which to ensure collections within the statutory limits.⁶ According to OER, because the agency had not received any administrative cost estimates from National Grid and did not believe that the administration of the LIHEAP Enhancement Fund would be difficult, OER did

³ OER Exhibit 1 at 1.

⁴ OER Exhibit 1 at 2.

⁵ Commission Exhibit 3 (OER's Response to COM 1-1).

⁶ Commission Exhibit 3 (OER's Response to COM 1-2).

not include the reimbursement of National Grid's administrative fees through the LIHEAP Enhancement Charge.⁷

Describing the administration of the LIHEAP Enhancement Fund, OER indicated that when an eligible account receives a federal LIHEAP payment, it will also be credited with a LIHEAP Enhancement payment. According to OER, based on prior experience, assuming 21,000 gas primary payment accounts, 2,000 electric primary payment accounts, 4,600 gas crisis payment accounts and 200 electric crisis payment accounts together with an anticipated number of crisis payments made in 2012 for the 2012-2013 heating season, OER expected to be able to award approximately \$213 to each account from the LIHEAP Enhancement Fund. This assumption was based on being able to calculate the credit on the total expected revenues from the LIHEAP Enhancement Charge.⁸

III. National Grid's Filing

In response to data requests propounded by the Commission, Narragansett Electric Company d/b/a National Grid ("National Grid") estimated that the proposed LIHEAP surcharge would result in annual charges to customers of \$7,366,080. However, after applying the standard uncollectible percentages assumed in all of National Grid's rates, National Grid projected revenue from the LIHEAP surcharge of \$7,258,938.⁹

On November 23, 2011, National Grid filed Comments regarding the LIHEAP Enhancement Plan and proposed LIHEAP Enhancement Charge. National Grid agreed that the establishment of a single fund to credit both gas and electric accounts was consistent with the

⁷ R.I. Gen. Laws § 39-1-27.12c states, in relevant part, "The electric or gas distribution company's added administrative expenses to process the credit assignments provided to it by the office of energy resources will be recoverable either from the LIHEAP Enhancement Charge or through a separate charge approved by the Public Utilities Commission."

⁸ Commission Exhibit 3 (OER's Response to COM 1-6).

⁹ Commission Exhibit 4 (National Grid's Response to COM 1-3).

intent of the statute but would require some investigation of intercompany issues in order to accurately and properly account and track the funds.¹⁰ With regard to administrative expenses, National Grid stated that “[b]ased on a review of the OER’s proposal, the Company would anticipate that aside from the initial system-build costs the incremental cost of ongoing administration of the payment of credits...would be for a fraction of a full time employee to oversee and report on the fund.”¹¹ National Grid also indicated that the initial costs would be no more than \$20,000 on the electric billing system and \$10,000 on the gas billing system. However, National Grid did express concern that there would not be enough lead time for its vendor to implement the change on the gas bills due to an overall billing system change scheduled for January 23, 2012.¹² National Grid recommended the LIHEAP Enhancement Charge be listed as a separate charge on customers’ bills.¹³

Addressing the amount available to credit to customer accounts, National Grid agreed that the full annual projected revenue could be used to credit accounts, but stated that “the cumulative annual amount of credit applied to customer bills should be limited to an amount no greater than the aggregate projected Enhancement Plan Charge billed in any given calendar year.” Therefore, once credits have been applied in an amount that equals the projected annual revenues, the credits would cease until the following year. In addition, National Grid stated that there should be a reconciliation of the amount billed with the amount credited when calculating the following year’s LIHEAP Enhancement Charge. Furthermore, in the event the billings

¹⁰ National Grid Exhibit 1 at 1.

¹¹ National Grid Exhibit 1 at 2.

¹² *Id.*

¹³ *Id.* at 3.

exceeded the statutory cap of \$7.5 million, National Grid suggested that the following year's charge would be reduced by any excess billings in the prior year.¹⁴

IV. Division's Filing

On November 23, 2011, the Division of Public Utilities and Carriers ("Division") submitted its comments regarding OER's filing. The Division recommended itemizing the LIHEAP Enhancement Charge as a separate line item on customers' bills, citing R.I. Gen. Laws § 39-3-37.3 as authority therefor. With regard to the administrative expenses, the Division viewed "any new work effort of management and clerical-related functions associated with the [LIHEAP Enhancement] Charge like that of any other low-income funding program for energy assistance..." and thus did not believe the administrative expenses should reduce the value of the new legislatively-created charge. Rather, the Division suggested the Company absorb the expenses into general overhead until such time as it files its next general rate case when such expenses will be included in the Company's rate year.¹⁵

V. National Grid's Tariff Filing

On November 29, 2011, National Grid filed its proposed tariffs designed to implement the LIHEAP Enhancement Charge. The wording of each was nearly identical. The Electric Tariff was designated R.I.P.U.C. 2079 and designated "The Narragansett Electric Company LIHEAP Enhancement Plan Provision." The Gas Tariff was inserted into RIPUC NG-GAS No. 101B Section 7, Miscellaneous Services, Schedule C, Sheet 1 and designated "Low Income Home Energy Assistance Program Enhancement Plan Charge."

¹⁴ *Id.* at 2-3.

¹⁵ Division Exhibit 1.

VI. Hearings

The Commission conducted two public hearings at its Offices at 89 Jefferson Boulevard, Warwick, Rhode Island, the first on November 17, 2011 in the evening for the sole purpose of soliciting public comments. The second hearing held on November 30, 2011 was for the purpose of taking and considering the evidence in the record. Public Comment was also taken at that hearing. In total, at both hearings, five members of the public provided comment, two in favor, two against, and one with questions. One of the speakers raised a concern that the funds would be collected from both gas and electric customers but would be held by National Grid in a single account. Her concern was that electric customers who might be eligible for a supplemental LIHEAP grant may face a shortage of money if it is prioritized to gas accounts. She was also concerned with any future allocation if either the gas or electric company was sold.¹⁶

On November 30, 2011, the following appearances were entered:

FOR OER:	Frederick W. Stolle, Esq.
FOR NATIONAL GRID:	Thomas R. Teehan, Esq.
FOR DIVISION:	Leo J. Wold, Esq. Assistant Attorney General
FOR COMMISSION:	Cynthia G. Wilson-Frias Senior Legal Counsel

OER presented Dr. Kenneth Payne, Administrator of the Office of Energy Resources in support of its filing. Dr. Payne explained that OER was recommending the revenues received from the LIHEAP Enhancement Charge be placed into a single account because approximately sixty (60) percent of the total LIHEAP households are natural gas users but the amount that will be generated from gas customers is significantly smaller than that which would be generated from electric customers while the demand for the funds is greater on the gas side. He explained

¹⁶ Tr. 11/30/11 at 7-11.

that the LIHEAP Enhancement credit be applied to LIHEAP accounts at the same time the LIHEAP accounts are credited with their LIHEAP payments from the CAP agencies.¹⁷ The credit will be a flat amount applied to all LIHEAP accounts rather than an individualized amount.¹⁸ He estimated a credit of less than \$100 per account would result from the proposed LIHEAP Enhancement Charge Fund.¹⁹ Dr. Payne explained that of the total \$7.3 million expected to be collected through the LIHEAP Enhancement Charge, only a portion of it would be utilized during the 2011/2012 heating season in order to ensure availability of funds for the 2012/2013 heating season. Based on the timing of various appropriations from the federal government, Dr. Payne believed that OER would be able to identify the number of LIHEAP customers served during the 2011/2012 heating season and the amount of the credit. He stated that it would be very easy for OER to provide the Commission with an informational letter advising the Commission of the number of customers served, the amount of the LIHEAP Enhancement credit, and when it will be applied to customers' accounts.²⁰

Addressing the development of the proposed LIHEAP Enhancement Charge, Dr. Payne explained that OER had looked at various calculations and potential charges but decided on the statutory maximum because "the amount of funds that would be available are sufficiently modest, and the need is sufficiently large, thus something at the higher end seemed very prudent."²¹ He noted that the difference between a rate designed to collect \$7.3 million versus a rate designed to collect \$6.5 million was approximately \$0.10 per month which seemed insignificant to customers.²²

¹⁷ Tr. 11/30/11 at 13-15.

¹⁸ *Id.* at 15.

¹⁹ *Id.*

²⁰ *Id.* at 36-39.

²¹ *Id.* at 19.

²² *Id.* at 20.

With regard to program design, Dr. Payne explained that there is no clear bridge in the Henry Shelton Act between the LIHEAP Enhancement provisions and the arrearage forgiveness plan. Therefore, at the time of the hearing, there was no way for a customer to be certified as LIHEAP eligible during the non-winter months despite the fact that entry into the arrearage forgiveness plan is available to LIHEAP-eligible customers all year. Furthermore, at the time of the hearing, there was no way to credit those entrants with LIHEAP funds or LIHEAP Enhancement credits outside of the winter period.²³ However, Dr. Payne clarified that he would be working with the CAP agencies to address these types of issues.²⁴ When asked, Dr. Payne acknowledged that he could envision a scenario in which current year available funds were exhausted. In such case, he conceded that it would be “unlikely, but not impossible” that funds would be used from the following year to meet current year needs. He further explained that if future funds were used to satisfy current year obligations, the available balance in the future year would be reduced by the amount borrowed to satisfy current year obligations.²⁵ When asked his interpretation of the tariff language, Dr. Payne indicated that if there was a need to utilize future year funds to satisfy current year obligations, that action would require Commission approval.²⁶

National Grid presented Jeanne Lloyd, Manager of New England Electric Rates in the Regulation and Pricing Department at National Grid, Adam Sweeney, Senior Analyst for Low-Income Programs, and John F. Nestor, III, Pricing Specialist for gas operations in support of the tariff filings to implement the LIHEAP Enhancement Charge. Mr. Nestor explained that because of a transition to a new billing system set to occur in mid-January, some gas customers would not see the LIHEAP Enhancement Charge on their bills in January, but would be billed double in

²³ *Id.* at 23-25.

²⁴ *Id.* at 57-58.

²⁵ *Id.* at 45-47.

²⁶ *Id.* at 50-54.

February to make up for the billing lag. The witnesses agreed that it would be possible to include an explanatory message on customers' bills related to the LIHEAP Enhancement Charge. Discussing the administrative costs, Ms. Lloyd explained that because the Company expects the up-front administrative costs to be fairly minimal, "at this point we don't expect to request recovery of the administrative costs...."²⁷

Addressing the amount available for LIHEAP Enhancement credits based on the proposed tariff language, Ms. Lloyd stated that "once we reach the projected funding level, the payments or the credits to customers will cease."²⁸ In other words, once the projected \$7,366,080 is applied to customers' accounts, no more credits will be applied during that year. In the event National Grid's customer count is different from that upon which the rate was calculated and the actual billings are less or more than the projected amounts, a reconciliation will occur and be applied toward the amount available to be credited during the following year. For example, if in calendar year 2012, the amount billed under the charge is \$7,266,080 and \$7,366,080 has been applied as LIHEAP Enhancement credits, the LIHEAP Enhancement Charge may be the same in 2013, but the amount available for credits will automatically be reduced by \$100,000 in order to recoup the shortfall. Conversely, in the event the amount billed in 2012 exceeds \$7.3 million, there will be additional funds available in 2013, assuming the level of credits did not exceed the amount billed.²⁹ However, Ms. Lloyd stated that the Company would not bill more than \$7.5 million in a year.³⁰

²⁷ *Id.* at 80.
²⁸ *Id.* at 82.
²⁹ *Id.* at 80-87.
³⁰ *Id.* at 97.

Ms. Lloyd stated that this account will not accrue interest, either in the Company's or the Customers' favor.³¹ Additionally, Ms. Lloyd also explained that the LIHEAP Enhancement Charge should not contribute to the Company's uncollectibles in a discernible way because the amount of the charge that is uncollectible will probably be offset by the additional amount considered collected through the application of the credit on accounts that are more likely to have uncollectible amounts.³²

Finally, Ms. Lloyd testified that the Company would expect to file a reconciliation of the LIHEAP Enhancement account annually when it is time to review the proposed rate for the following year. She noted that because the new charge will be in place in January and December billings will not be available until January, the reconciliation will have a level of uncertainty. For example, the 2012 figures will not be reconciled until the 2013 filing. Additionally, Mr. Nestor explained that National Grid had not worked out all of the accounting issues that arise through the collection of funds from two sources being held in one fund and applied to the two sources in a mismatched way.³³ He agreed that the Company could provide the Commission with the accounting entries that will be made for these transactions.³⁴

VII. Commission Findings

At the conclusion of the hearing, the Commission considered the evidence and unanimously approved OER's proposed LIHEAP Enhancement Charge and National Grid's proposed Tariffs designed to implement the LIHEAP Enhancement Charge. National Grid shall include an explanatory statement on customers' bills regarding the LIHEAP Enhancement Charge. OER shall file with the Commission the LIHEAP Enhancement Credit amount at the

³¹ *Id.* at 87.

³² *Id.* at 90.

³³ *Id.* at 98-99.

³⁴ *Id.* at 100.

time it is determined. National Grid shall provide the Commission with an explanation of the accounting entries discussed at the hearing as soon as they are known. Finally, National Grid shall file a reconciliation of the LIHEAP Enhancement Fund within two weeks of OER's filing to recommend the 2013 LIHEAP Enhancement Charge.

Accordingly, it is hereby

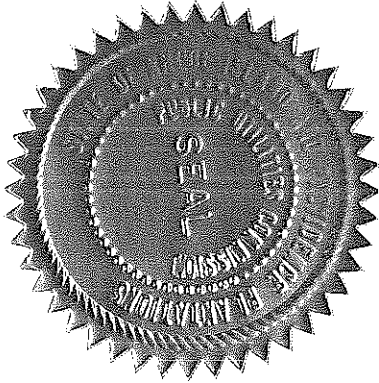
(20699) ORDERED:

1. The Office of Energy Resources proposal The OER proposed that: The LIHEAP Enhancement Charge shall be eighty-three and thirty-three one hundredths cents (\$0.8333) per month for each customer for the calendar year 2012, with the term 'customer' defined as any person taking service from a[n] electric or gas distribution company at a single point of electricity or gas delivery or electric or gas meter, with the maximum total annual LIHEAP Enhancement Charge to any 'customer' capped at ten dollars (\$10) is hereby approved on bills rendered on and after January 1, 2012.
2. The Narragansett Electric Company d/b/a National Grid Tariff R.I.P.U.C. No. 2079 is hereby approved on bills rendered on and after January 1, 2012.
3. The Narragansett Electric Company d/b/a National Grid Tariff RIPUC NG-GAS No. 101B is hereby approved on bills rendered on and after January 1, 2012.
4. The Narragansett Electric Company d/b/a National Grid shall include an explanatory statement on customers' bills regarding the LIHEAP Enhancement Charge.
5. The Office of Energy Resources shall file with the Commission the LIHEAP Enhancement Credit amount at the time it is determined.

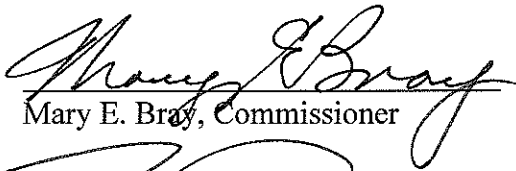
6. The Narragansett Electric Company d/b/a National Grid shall provide the Commission with an explanation of the accounting entries discussed at the hearing as soon as they are known.
7. The Narragansett Electric Company d/b/a National Grid shall file a reconciliation of the LIHEAP Enhancement Fund within two weeks of OER's filing to recommend the 2013 LIHEAP Enhancement Charge.
8. Narragansett Electric Company d/b/a National Grid shall comply with all other instructions contained in this Order.

EFFECTIVE AT WARWICK, RHODE ISLAND ON JANUARY 1, 2012 PURSUANT
TO A BENCH DECISION ON NOVEMBER 30, 2012. WRITTEN ORDER ISSUED APRIL
13, 2012.

PUBLIC UTILITIES COMMISSION




Elia Germani, Chairman


Mary E. Bray, Commissioner


Paul J. Roberti, Commissioner

NOTICE OF RIGHT OF APPEAL PURSUANT TO R.I.G.L. SECTION 39-5-1, ANY PERSON AGGRIEVED BY A DECISION OR ORDER OF THE COMMISSION MAY, WITHIN SEVEN DAYS (7) 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.