STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: THE NARRAGANSETT ELECTRIC COMPANY d/b/a NATIONAL GRID FY 2015 ELECTRIC INFRASTRUCTURE, SAFETY, AND RELIABILITY PLAN ANNUAL REPORT AND RECONCILIATION	: : : :	DOCKET NO. 4473

REPORT AND ORDER

Pursuant to R.I. Gen. Laws § 39-1-27.1, on March 27, 2014, the Public Utilities Commission (PUC) approved The Narragansett Electric Company d/b/a National Grid's (National Grid or Company) FY 2015 Electric Infrastructure, Safety, and Reliability Plan (2015 Electric ISR Plan) and associated rate factor.[1] The 2015 Electric ISR Plan included a spending plan and proposed an annual reconciliation mechanism to allow for recovery related to capital investments and other spending undertaken pursuant to the approved budget. Discretionary capital investment must be reconciled to the lesser of the actual capital investment placed-in-service and the level of approved spending on a cumulative basis. Non-discretionary capital investment must be reconciled to the actual capital investment placed in service.[2]

By August 1 of each year, the Company proposes Capital Expenditure (CapEx) Reconciling Factors and an Operation and Maintenance (O&M) Reconciling Factor to become effective on October 1 for the following twelve-month period.[3] The CapEx reconciliation compares the actual cumulative revenue requirement to actual billed revenue generated from the

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[1] Order No. 21559 (issued Aug. 12, 2014); http://www.ripuc.org/eventsactions/docket/4473-NGrid-Ord21559_8-12-14.pdf.
[2] Prefiled Test. of James H. Patterson, Jr., 3, n.1 (citations omitted); http://www.ripuc.org/eventsactions/docket/4473-NGrid-Elec-ISR-2015-Reconciliation(8-3-15).pdf.
[3] On September 22, 2015, the PUC suspended the effective date of the rate change in order to conduct further investigation on a proposed adjustment related to prior period net operating losses. As this issue overlapped with the Company's FY 2015 Gas ISR reconciliation, the hearing for both matters were consolidated. The recovery period for the Electric ISR reconciling factors was reduced to 11 months commencing November 1, 2015 through September 30, 2015. Open Meeting Minutes Sept. 22, 2015; http://www.ripuc.org/eventsactions/minutes/092215.pdf.

CapEx Factors. Any over- or under-recovery is refunded to or collected from customers through the CapEx Reconciling Factors. The O&M reconciling factor compares the actual infrastructure and maintenance (I&M) and vegetation management O&M expense to actual billed revenue generated from the O&M factors. Any over- or under-collection of actual expense is refunded to or collected from customers through a uniform per kWh charge applicable to all rate classes.[4]

On August 3, 2015, National Grid filed its Annual Report and Reconciliation (2015 Reconciliation Filing). National Grid submitted the prefiled testimony of James H. Patterson, Jr., Director, Network Strategy, New England Electric, to provide an overview of the filing and to provide detail on the status of projects and spending.[5] In particular, Mr. Patterson indicated that National Grid had placed approximately $7.7 million more than forecasted of plant-in-service, resulting primarily from $11.0 million above forecast in the discretionary category. This was offset by approximately $3.2 million below forecast in the non-discretionary category. As a result, National Grid placed $76.7 million of plant-in-service in FY 2015.[6]

Capital Spending was $7.2 million above budget, resulting from approximately $10.7 million in discretionary spending variance, $5.5 million of it resulting from over-budget spending in the Asset Condition category.[7] According to Mr. Patterson, the three contributing factors within the Asset Condition category were advancement of relay replacements, the prior use of preliminary budget estimates, and productivity losses in one project that resulted in construction delays into FY 2015.[8] An additional $900,000 was the result of a reclassification of expenses from one category to another and additional purchases in the Non-Infrastructure category.[9] Finally, the

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[4] Order No. 21559 at 9.
[5] Prefiled Test. and Attachment of Patterson, 3.
[6] *Id*. at Prefiled Test., 4.
[7] *Id*. at 4.
[8] *Id*. at 5.
[9] *Id*. at 5-6.

remaining over-budget variance of $4.2 million in the System Capacity and Performance category resulted from conceptual grade estimates being used for the budget, unforeseen costs in the Volt/Var program, and additional funds used on a load relief project to address summer capacity constraints.[10] The over-spending was offset by under-budget variances in the non-discretionary Damage/Failure category, primarily the result of underspending in the Major Storms – Distribution subcategory. The remaining Damage/Failure category was over budget as a result of equipment failures to various substations.[11]

Next, Mr. Patterson explained that Vegetation Management spending was slightly over budget while Infrastructure and Maintenance spending was under budget.[12] Underspending in Hazard Tree, Sub-T, Police Detail and Core Crew categories was offset by spending over budget on Cycle Pruning due to bids coming in significantly higher than in prior years. As far as achieving Vegetation Management goals, the Company was able to achieve 100% of its Distribution Mileage Trimming targets. National Grid remains in confidential discussions with Verizon to resolve vegetation management spending issues.[13] Inspection and Maintenance variances were primarily the result of fewer operations and maintenance repairs required than had been anticipated. The Company did meet 100% of its annual structure inspection goal.[14]

Finally, Mr. Patterson stated that the Company met both reliability performance metrics in Calendar Year 2014 which had no major event days. He indicated that the Company's performance has shown an overall improving trend over the past several years.[15]

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[10] *Id*. at 6.
[11] *Id*. at Attachment JHP-1, 6.
[12] *Id*. at 6.
[13] *Id*. at 13.
[14] *Id*. at 14.
[15] Prefiled Test. of Patterson, 8.

Amy S. Tabor, Senior Analyst of New England Revenue Requirements, submitted prefiled testimony indicating the actual FY 2015 revenue requirement related to O&M expenses was $9,888,482. This included roughly $8.0 million for Vegetation Management activities as well as $2.0 million for Inspection and Maintenance expenses. These were offset by lower than expected contact voltage testing costs.[16] Ms. Tabor also discussed the revenue requirement of $5,255,358 associated with National Grid's FY 2015 capital investment. The total Fiscal Year revenue requirement was $15,143,840.[17]

Included in the $16.1 million revenue requirement, were additional adjustments the Company sought as a result of an oversight in the rates department wherein certain net operating losses (NOLs) were not properly recognized by the Company in setting the rates in prior ISR filings. This issue was first raised to the PUC in early 2015 in Docket No. 4539, the review of National Grid's FY 2016 Electric ISR Plan. In summary, according to Ms. Tabor, although on its tax returns, the Company recognized that it could not utilize all allowed accelerated tax deductions, the ISR filings for FY 2012 through FY 2014 credited customers with the full effect of the accelerated tax deductions, effectively reducing the revenue requirement and rates to all customers below what should have been calculated.[18] Therefore, National Grid sought a $2.2 million tax adjustment to the revenue requirement comprised of a $1.4 million true-up for the period FY 2012 through FY 2014 and the remaining $800,000 for FY 2015. Once the Company is able to recognize the tax deductions, those benefits will again flow to customers through the revenue requirement and associated rates.[19]

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[16] Prefiled Test. of Amy S. Tabor, Schedule AST-1, Page 1 of 16.
[17] Schedule AST-2, Revised http://www.ripuc.org/eventsactions/docket/4473-NGrid-Elec-ISR-2015-Reconciliation-Rev(10-7-15).pdf.
[18] Tabor Test. at 4-5.
[19] *Id*. at 5-12. *See also* Tr. Oct. 26, 2015 at 32-33 (Mr. Laflamme explaining that the tax returns were correct).

On September 14, 2015, the Division of Public Utilities and Carriers (Division) filed a memorandum from its consultant, David Effron. Mr. Effron summarized the NOL issue and noted that the one-time adjustment does not appear to fall within the terms of the applicable tariff, but stated that if "Cumulative Revenue Requirement" "is interpreted to mean the cumulative revenue requirement since the inception of the ISR reconciliation mechanism," the PUC could approve the adjustment.[20] However, Mr. Effron recommended recovery of the one-time adjustment be spread over three years to match the period of the understated revenue requirement.[21]

On October 26, 2015 the PUC held a public hearing on the NOL issue for both electric and gas ISR reconciliation filings, National Grid presented witnesses and argument. The PUC granted the Company's requests for protective treatment as set forth in the record.[22] Michael LaFlamme, Vice President of Regulation and Pricing for the New England jurisdictions of National Grid, and William Richer testified regarding the Company's NOLs in both the gas and electric ISR reconciliations. Mr. LaFlamme explained that the cumulative revenue requirement is the total of the annual revenue requirements since the inception of the ISR while the annual revenue requirement is the amount of revenue required to support the assets or investments in assets that the Company has made to its distribution system along with periodic expenses.[23] He testified that the one-time $1.4 million adjustment that the Company was seeking represented the revenue requirement not recovered because of the Company's failure to realize NOLs in FY 2012, FY 2013, and FY 2014. He further explained that while the Company files its reconciliation on August 1, it does not file its tax return until December 15 of the same year. The timing difference, he explained, prevented the Company from reconciling its FY 2014 NOL until its FY 2015

[20] Prefiled Test. of Effron, 5-6.
[21] *Id*. at 6.
[22] Hr'g Tr. 4-5.
[23] *Id.* at 13-16.

reconciliation.[24] Although unable to cite specific instances of where the Company had reconciled amounts to the benefit of customers for prior periods, Mr. LaFlamme was able to point to an instance where $140,000 that had been wrongfully included in ratebase in the gas ISR in prior years is being returned to customers through the FY 2015 reconciliation.[25]

Mr. LaFlamme reiterated, as he had in his testimony in Docket No. 4474, that the NOL issue is very unusual.[26] However, when pressed, he acknowledged that it is becoming less unusual because of the capital repairs deduction.[27] He stressed that the Company has a pattern of providing benefits back to ratepayers.[28] He explained that the error in not realizing the NOLs occurred because although the deferred tax credit was properly recorded on the Company's balance sheet, the NOL asset was not included in the data to generate ratebase.[29] He assured the Commission that the Company has implemented procedures to ensure this type of error does not occur in the future.[30]

Mr. Richer advised that the individuals responsible for revenue requirement calculations were not aware of the NOL position until it was revealed during discussions with the Company's tax department.[31] Mr. LaFlamme represented that the Company was amenable to the Division's recommendation that recovery of the one-time adjustment be over a three-year period and that carrying costs be waived. He identified the carrying costs as approximately $150,000.[32]

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[24] *Id.*. at 17-20.
[25] *Id.* at 26-27.
[26] *Id.* at 28, 38.
[27] *Id.* at 38-39.
[28] *Id.* at 31-32.
[29] *Id.* 34-35.
[30] *Id.* at 36.
[31] *Id.* at 36-28.
[32] *Id.* at 44-46.

Mr. Effron testified stated that it was the Division's position that a three-year recovery for the one-time adjustments was reasonable.[33] Although he had previously responded to a data request indicating that a mechanism could be constructed whereby the Company would be allowed to utilized the NOLs in the future without providing the corresponding benefit to ratepayers, he was hesitant and unable to define with any particularity as to exactly how that mechanism would be structured and the effect of the same.[34] He was equally evasive when questioned about whether his recommendation to allow recovery of the one-time adjustment over a period of three years was in the best interest of ratepayers offering only that it was the most reasonable and balanced solution.[35] He justified his recommendation supporting recovery of the one-time adjustment noting that a mistake of this magnitude adversely affecting customers would have been remedied. He supported his recommendation for the three-year recovery period of the one-time adjustment by noting that the cumulative amount of the adjustment occurred over a three-year period so it only seemed reasonable that recovery occur over that same time period.[36] When questioned about how far back the reconciling period should extend, he offered that should be at the time base rates are set.[37]

At an Open Meeting held on October 30, 2015, the PUC considered the filings made by National Grid and the Division. After considerable discussion regarding recovery of the approximately $2.2 million ISR reconciliation related to the NOLs for FY 2012-2015, the Commission voted two to one to allow recovery as recommended by the Division.[38] The Division's recommendation was to allow for immediate recovery of the FY 2015 amount of

[33] *Id.* at 68.
[34] *Id.* at 69-75.
[35] *Id.* at 75-76.
[36] *Id.* at 77-78.
[37] *Id.* at 79.
[38] http://www.ripuc.org/eventsactions/minutes/103015.pdf.

$760,000 million and to spread recovery of the FY 2012 through FY 2014 one-time adjustment of approximately $1.4 million over a period of three years. The Company agreed not to seek carrying costs from ratepayers during this period which the Commission accepted.

The Chairperson disagreed with the majority and instead proposed recovery for only FY 2015 and FY 2014 immediately. She stressed that she was not opposed to the Company recovering the total amount sought, but was opposed to how that recovery would occur. She proposed recovery for FY 2012 and FY 2013 at a time when the Company was able to realize the benefits of the NOLs, noting that the evidence before the Commission, as represented by the Company, was that NOLs were an unusual occurrence and if true, the Company would be able to recover of the FY 2012 and FY 2013 amounts soon. She noted that ratepayers had no control over the Company's mistake in not realizing the NOLs. The majority countered her arguments by referring to the four straight years of NOLs experienced by the Company and chose to follow the Division's recommendation.

The PUC approved the FY 2015 Electric ISR CapEx and O&M Reconciliation factors as amended by the PUC's decision to allow recovery of the $1.4 million over three years rather than one.

Accordingly, it is hereby

(22356) ORDERED:

1. The Cap Ex reconciliation factors are approved as follows for effect on November 1, 2015 through September 30, 2016:

   A-16/A-60……..…………..$0.00067
   C-06……………………….$0.00063
   G-02……………..…………$0.00052
   B-32/G-32…………………$0.00021
   B-62/G-62…………………$0.00023
   S-05/S-06/S-10/S-14………$0.00320
   X-01……………………….$0.00054

2. The uniform per kilowatt-hour O&M reconciliation credit factor of $0.00006 is approved for effect on November 1, 2015 through September 30, 2016.

EFFECTIVE AT WARWICK, RHODE ISLAND ON NOVEMBER 1, 2015 PURSUANT TO AN OPEN MEETING DECISION ON OCTOBER 30, 2015. WRITTEN ORDER ISSUED MARCH 11, 2016.

PUBLIC UTILITIES COMMISSION

Margaret E. Curran

*Margaret E. Curran, Chairperson

**Paul J. Roberti, Commissioner

Herbert F. DeSimone

Herbert F. DeSimone, Jr., Commissioner

*As set forth in the findings, Chairperson Curran dissented to a portion of the majority decision.

**Commissioner Roberti concurs with the decision but is unavailable for signature.

Notice of Right of Appeal: Pursuant to R.I. Gen. Laws § 39-5-1, any person aggrieved by a decision or order of the PUC may, within 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.