

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

RE: ENERGNORTH NATURAL GAS, INC. D/B/A NATIONAL GRID NH

DOCKET NO. DG 10-017

**NATIONAL GRID NH'S RESPONSE TO
OCA'S AND STAFF'S POSITIONS ON RATE CASE EXPENSE**

A. Introduction

In compliance with the Settlement Agreement dated January 10, 2011 (the "Settlement Agreement") approved by the Public Utilities Commission (the "Commission") in its Order No. 25,202, on May 12, 2011, EnergyNorth Natural Gas, Inc. d/b/a National Grid ("National Grid NH" or the "Company") provided the Commission staff ("Staff") and the Office of Consumer Advocate ("OCA") with detailed supporting information regarding the Company's calculation of its rate case expense in this case. On July 22, 2011, the Company submitted updated information demonstrating that its rate case expense totaled \$1,523,903.

Subsequently, the Commission's audit staff conducted a review of the information provided by the Company and propounded six audit data requests regarding the expenses incurred by the Company. Based on the information provided by the Company, Staff propounded more than sixty additional data requests to the Company outside the audit process, and, on July 28, 2011, a technical session was convened to conduct further discovery regarding issues relating to rate case expense. On August 8, 2011, the Commission's audit staff issued a final audit report in which it found that the information provided by the Company was materially accurate, and recommended minor adjustments that reduced the Company's rate case expense to \$1,502,285.

Based on the foregoing, on August 26, 2011, in accordance with the Settlement Agreement, Staff and the OCA both submitted their recommendations regarding the Company's rate case expense to the Commission. Staff's recommendation was that the Company should be authorized to recover \$1,112,811 of the \$1,523,903 incurred by the Company. In addition to setting forth the reasons for its position, the Staff's recommendation included the supporting information provided by the Company detailing the expenses incurred. The OCA, on the other hand, took the position that the Company should be authorized to recover only \$365,239.39, seeking a disallowance of approximately seventy-five percent of the total rate case expense incurred by the Company.

National Grid NH believes that the entirety of its rate case expense was reasonable given the number and complexity of the issues involved in this case, including the fact that some of the more significant issues were matters of first impression and/or had significant precedential import, and the expansive nature of the discovery requests propounded by Staff and the parties. The Company is nevertheless prepared to accept Staff's recommendation in the interest of concluding what has already been a lengthy case. For the reasons set forth below, however, the Company urges the Commission to reject the disallowances recommended by the OCA because (1) they are based on flawed reasoning and (2) the method applied to arrive at the amounts of such disallowances is arbitrary in most cases and out of proportion to the bill the OCA claims they are designed to address.

B. Discussion

I. National Grid NH's Rate Case Expenses Were Prudently Incurred, Are Reasonable, and Satisfy RSA 365:38-a and RSA 378:7.

It is well settled law that a utility must be allowed to recoup reasonable rate case expenses to avoid rendering the resulting rates unconstitutionally confiscatory. *See Driscoll v.*

Edison Co., 307 U.S. 104, 120-22 (1939); *see generally State v. Hampton Water Works Co.*, 91 N.H. 278, 296-97 (1941). “Prudently incurred rate case expenses are legitimate costs of service of a utility and are properly recovered through rates.” *Hampstead Area Water Company, Inc.*, DW 08-065, Order No. 25,025 (October 9, 2009). Similarly, RSA 365:38-a provides that “[t]he commission may allow recovery of costs associated with utility proceedings before the commission, provided that recovery of costs for utilities and other parties shall be just and reasonable and in the public interest.” The Commission evaluates requests for recovery of rate case expenses from customers according to the same “just and reasonable” standard applicable to all rates charged by public utilities pursuant to RSA 378:7. *Kearsarge Telephone Company*, DT 01-221, Order No. 24,372 (September 17, 2004). “The touchstones are the magnitude of the expenses and assurance that they do not cover expenses that are attributable to routine operating expenses.” *Id.* Whether the magnitude of rate case expenses incurred in a particular proceeding are appropriate may depend on the length of the case and whether it was fully contested. *Id.*

While National Grid NH strongly believes that the entirety of its rate case expenses in this case were prudently incurred, Staff has recommended recovery of \$1,112,811 after a detailed review of the supporting documentation and discovery responses submitted by the Company. The rate case expenses in this proceeding are comprised of legal, consulting, and administrative expenses that relate only to this proceeding and are direct expenses that are not otherwise recovered by the Company through its existing rates. These expenses do not include any compensation for work performed by employees of the Company—only for outside professional services and reimbursement for expenses directly related to the rate case. The legal and consulting services for which the Company seeks recovery were necessary to address a number of legitimate, complex issues raised by this case, including issues concerning cost of equity, rate

design, bad debt, revenue decoupling, and the Commission's methodology for arriving at a test year for reference in determining whether authorized rates are sufficient to yield a reasonable return.

The OCA opposes the Company's rate case expense request on the basis that the amount incurred appears extraordinary. To the contrary, it is the number and complexity of the issues involved in this case that has been extraordinary. In fact, at the very core of the Company's case was its view that its ability to operate successfully was at stake unless it could obtain substantial rate relief and bring about certain modifications to a number of long standing Commission ratemaking practices. To present that case, the Company called on highly experienced, well-regarded national experts to first advise the Company in determining what proposals to put forward and, in the same vein, how to respond to existing Commission regulatory policies and, in some cases, strongly held views of Staff on issues which the Commission had not previously ruled on in a litigated case. The Company's consultants then prepared their own testimony, responded to the large volume of discovery requests propounded by Staff, the OCA, and the other parties, prepared rebuttal testimony and, in some cases, assisted the Company during the settlement discussions. These consultants played a central role with respect to the following major issues in the case:

Paul Normand—Management Applications Consulting, Inc.:

- Development of accounting cost of service study needed to allocate costs among the functional activities of the utility for delivery, gas supply, direct gas costs, and indirect gas costs;
- Development of marginal cost of service study needed to develop rate design;
- Development of rate design for both proposed rates and settlement rates based on information developed in marginal cost study and as modified through settlement process; and
- Determination of indirect gas costs to be included in the Company's cost of gas adjustment clause.

Susan Tierney, PhD—Analysis Group, Inc.

- Identified and discussed the impact of challenges posed by changes in the gas distribution business;
- Discussed the interaction of traditional ratemaking practices in New Hampshire with developments in the regulated gas industry and problems those ratemaking practices pose for the Company's ability to earn its authorized rate of return;
- Reviewed Company's ratemaking proposal and how it addressed the identified industry and regulatory challenges; and
- Discussed the need for revenue decoupling and developed and described the mechanics of the Company's proposal for decoupling.

Robert Hevert—Concentric Energy Advisors, Inc.

- Provided extensive analysis of the existing regulatory framework and economic and market bases for determining the cost of equity;
- Performed extensive quantitative analysis as the basis for developing the proposed cost of equity on which the Company's recommendation was based; and
- Addressed other collateral cost of capital issues.

Mark Hirschey—Oliver Wyman, Inc.

- Conducted an independent assessment of National Grid NH's collections practices and analyzed results, including benchmarking the Company's collections performance against other utilities;
- Identified and analyzed key drivers of bad debt performance;
- Responded to the findings and recommendations of Staff's bad debt consultant, including analysis of metrics relied on; and
- Quantified the expected impact of new collections-related initiatives by National Grid NH on bad debt level.

The OCA's position completely ignores the fact that, for a utility, unlike for the OCA, the work on a rate case begins several months before the case is filed, when the Company and its witnesses begin with a blank slate. During the months preceding the filing, the Company and its witnesses must gather, review, and analyze vast amounts of data, develop the various proposals to be presented with the case, and prepare the narrative testimony and detailed supporting materials that are needed to meet the utility's burden of proof. Only after the Company and its consultants have completed that significant undertaking does the OCA see the case, but plainly that effort by the Company comes at no small effort or expense. Once the case has been filed,

Staff, the OCA, and other parties (in this case Pamela Locke, as a representative of low income customers, and the Conservation Law Foundation) begin their role, which in this case involved propounding over 900 data requests (not including the many hundreds of subparts), holding technical sessions, and submitting testimony. As the Commission is aware, each of these steps requires significant efforts by the Company to respond and ensure it both meets its legal obligation to respond fully, truthfully, and accurately as well as to meet its burden of proof with regard to the various elements of its case—no small undertaking.

This case was particularly unusual in that the directors of the Commission's Gas, Electric, and Safety Divisions all submitted testimony emphatically opposing a number of the Company's requests, and the OCA and Ms. Locke each submitted testimony from their own nationally known consultants doing the same. In this particular case, until almost the eve of the hearings, the case appeared to be headed for litigation on almost all of the major issues, and the settlement process broke down, in part, after extensive efforts to reach agreement among all the parties. *See EnergyNorth Natural Gas, Inc. d/b/a National Grid NH*, DG 10-017, Order No. 25,202 (March 10, 2011) (Below Dissent); National Grid NH Letter to Commission Requesting Extension of Time to File Settlement Agreement (January 4, 2011). The OCA mentions none of this in its recommendation, and appears to give it no weight whatsoever—instead, creating the appearance that this case was just like any other. Under these circumstances, none of which the OCA addresses, the Company's rate case expenses were more than reasonable, and certainly after taking into consideration the very substantial reduction being recommended by Staff, they should be approved by the Commission.

A. OCA's Comparison of the Instant Rate Case Expense

The OCA bases its argument in part on a comparison of the Company's rate case expense against the amount of the rate increase ultimately agreed to by the Company in the Settlement Agreement as well as the amount of the OCA's operating budget. Such comparisons have no probative value. First, any comparison to the amount of the rate increase ultimately agreed to by the Company ignores the fact that the most complex issues presented by the Company—the very issues requiring the vast majority of the rate case expense incurred by the Company—bore little or no relation to the amount of the increase being requested. Rather, they related to issues such as rate design, the determination of marginal costs, the treatment of bad debt on a prospective basis, and regulatory policies, processes and mechanisms. Second, the OCA's comparison of rate case expense to its own budget is irrelevant because (1) the OCA's budget is the result of many competing political and fiscal concerns that have nothing to do with the issues in a rate case or the process by which the level of utility rates is determined and (2) as explained above, it is the Company, not the OCA, that must develop the entire rate case proposal and bears the burden of proof on all of the elements of that case, which includes gathering the information, preparing the supporting documentation, and responding to vast numbers of detailed questions regarding that information from all parties, not just the OCA. There is no comparison between the cost of such an undertaking as opposed to the cost of responding on behalf of one class of customers. Equally important, the OCA's argument completely ignores the fact that the OCA itself regularly obtains additional funds (including in this case) to engage outside consultants because of the insufficiency of its budget.

Finally, the OCA's comparison of the level of rate case expense to the expense incurred by Unitil in its rate case should similarly be disregarded. The OCA's argument merely states the

dollar amount for Unutil's case, without providing any meaningful demonstration that the nature of the two rate cases is similar and should have resulted in similar rate case expenses. It would be inappropriate to draw comparisons to the circumstances in another case where no information regarding that case is in the record in this case, and the Company does not have access to the parties to that case for purposes of discovery to determine what considerations led to the expenses that were incurred. In fact, for the reasons set forth above, the Company believes that the issues in this case and the difficulty of presenting it as well as the opposition posed by Staff and the OCA were not comparable to the situation in Unutil's case.

B. Rate Case Timing

The OCA also argues that the Company's rate case filing was unreasonable because the Company obtained a rate increase shortly before the instant rate case filing, an argument that is contrary to fundamental principles of ratemaking. The Commission approved a rate increase for the Company in this case, indicating that the rates previously in effect were no longer just and reasonable. Given the fact that the Commission's ratemaking process relies primarily on an historic test year, it is not surprising that during periods of ongoing capital expenditures, little or no growth in consumption, and rising expenses, rates that are based on historic costs would quickly become inadequate. In fact, that very issue was a significant topic of the testimony of one of the Company's consultants, Dr. Susan Tierney. In her testimony, Dr. Tierney specifically identified the cost of rate cases as one ill that results from extensive reliance on historical data to create a test year on which rates are determined. Ex. 7 at 18-20.

It is also worth noting that, although the OCA was not a party to the Settlement Agreement approved by the Commission in this case, neither did it oppose the increase provided for by that agreement. The OCA should not now be allowed to use the timing of the case as a

basis for adjusting the requested rate case expense. Penalizing the Company for obtaining new rates that are just and reasonable would be confiscatory, a violation of fundamental concepts of substantive due process, and manifestly unreasonable.

C. Competitive Bidding

The Company's decision not to competitively bid for the services of its outside consultants should not be a basis for adjusting the requested rate case expense or for denying interest on the expenses because the Company had legitimate business reasons for selecting the consultants used in this case. Although the Company has and implements an internal policy of encouraging competitive bidding for outside consultants, as indicated in the Company's responses to Data Requests Staff 1-2 (provided as Attachment A in OCA's recommendation) and Staff 5-20 attached hereto, the Company's policies also allow the use of sole source procurement in cases where the Company determines that specific work needs to be performed by a specific supplier because of that supplier's experience, capability, qualifications or other attributes or that continued use of the consultant's specialized service would be beneficial. In the present case, the Company exercised its business judgment and appropriate discretion to engage the outside consultants and legal counsel it engaged through sole source contracts based on their extensive knowledge of the Company, their established relationship with the Company through the Company's prior DG 08-009 rate case or other matters, and/or their knowledge of the processes at this Commission. *See* NG Responses to Data Requests Staff 1-2 and 6-11 (attached hereto); Attachment Staff 1-2(a) at pp. 86-87 (attached hereto); Attachment Staff 1-2(b) at pp. 106-07 (attached hereto); Attachment Staff 1-2(c) at pp. 112-13 (attached hereto); Attachment Staff 1-2(d) at pp. 180-81; Attachment Staff 1-2(e) at pp.137-38 (provided as Attachment D in OCA's recommendation). Moreover, in some cases, the Company's affiliates had only recently utilized

the same witnesses on the same or similar issues, and it made no sense to blindly put the services out to bid again. *See* NG Response to Data Request Staff 5-7. As such, there was a justified business purpose in selecting these service providers. In addition, the process used by the Company to sole source does not mean the consultant or supplier's fee is not negotiated; in most cases, the consultant is not even aware that it has been sole sourced, and bids its rates. Accordingly, the Company negotiated discounts on the rates for two of its consultants in this case. *See* NG Responses to Data Requests Staff 5-15, 6-4, 6-9 and 6-11. Nonetheless, as stated previously, in the spirit of compromise and a desire to conclude this case, the Company is willing to accept Staff's recommendation on this issue, wherein Staff carefully considered and made an adjustment to reflect the fact that the Company did not undertake a competitive bidding process for these outside service providers. The OCA, on the other hand, simply recommends that the Commission arbitrarily cut these amounts in half. There is no basis for such a result, and given that it is designed to address the same issue that Staff has already addressed after more careful consideration, the OCA's position should be rejected and Staff's recommendation should be adopted.

II. Staff's Proposed Adjustments Appropriately Address the OCA's Concerns Regarding National Grid NH's Outside Legal Counsel and Expert Witness Rate Case Expenses and, Thus, the OCA's Proposed Reductions Should Be Denied.

A. *Outside Legal Service*

The OCA's request that the Commission deny all of the Company's rate case expenses related to its outside legal counsel incurred prior to July 20, 2010, in the amount of \$320,610.53, based on the lack of a separate letter agreement with its outside counsel until such date, should also be rejected. The OCA's argument ignores the fact that the Company had an overall detailed retainer agreement in place with its outside counsel, had obtained an estimate for the case, and

had authorized its outside counsel to proceed with work. *See* Attachments Staff 1-2(f) and 2-84 (provided as Attachments B and C in OCA's recommendation). Formalizing that arrangement with a separate engagement letter at a later point in time does not negate the fact that the Company required legal services from counsel knowledgeable regarding the Company's circumstances and the history of the issues in the case, New Hampshire law, and regulatory practice before the Commission. *See* NG Response to Data Requests Staff 1-2. Further, the OCA's argument that the Company failed to comply with its own procurement policies is unfounded because, in accordance with its policies, the Company had entered into a retainer agreement with its outside counsel as well as a separate engagement letter, albeit the latter was several months after the case was filed. Nonetheless, again, in the spirit of compromise, the Company requests the Commission adopt Staff's recommendation, which more appropriately addresses the OCA's and Staff's concern regarding the Company's delay in formalizing its engagement of outside legal counsel on this specific matter by entering into a separate engagement letter, and reject the reduction proposed by the OCA.

B. Expert Services

The OCA's request that the Commission deny fifty percent of the expenses associated with the Company's outside consultant on the decoupling proposal (\$118,970.75) and *all* expenses associated with the Company's outside consultant on the bad debt issue (\$156,832.14) should be rejected because such reductions are arbitrary and have no basis in fact or law. The OCA argues that the Commission should reduce half of the Company's rate case expenses related to the services of Analysis Group, because, it claims, \$237,941.50 is an unreasonable expense for one consultant. The OCA reaches this conclusion apparently on the mistaken belief that Dr. Tierney (the principal from Analysis Group who advised the Company and provided

testimony in support of its proposals) was hired to provide assistance on the issue of revenue decoupling alone. Even a cursory examination of her testimony shows, however, that her role was far more extensive. Dr. Tierney was a critical witness for the Company whose testimony provided the central points on behalf of almost every major policy issue in the case—the use of an historic test year, the problem posed by flat or declining consumption, the challenges posed by the need to replace the Company’s aging infrastructure, and revenue decoupling. As noted above, the OCA also ignores the fact that the Company reasonably expected (as was ultimately proven correct) that Staff would be adamantly opposed to many of the Company’s proposals and, therefore, needed an expert witness of Dr. Tierney’s stature to assist the Company in meeting its burden of proof and to provide testimony that was based on thorough research and analysis to meet any challenges from the other parties.

The OCA’s allegations regarding the reasoning behind the Company’s withdrawal of its decoupling proposal and decision not to litigate the issue should not be given any weight in the Commission’s consideration of this rate case expense matter. The Company withdrew the decoupling proposal as part of the comprehensive settlement it reached with Staff and Ms. Locke. While the Company explained that it was able to accept this result in part because National Grid USA had agreed to a sale of the Company, it would be highly improper to attempt to deconstruct the basis for the settlement, including the withdrawal of the decoupling proposal, and the reasons that each element was included (or excluded). Moreover, denying any amount of rate case expense—no matter how small or large—would set a dangerous precedent because it would send the message that if a party compromises in order to resolve a rate case on a non-litigated basis, it will pay a price by risking having the rate case expense associated with that issue denied. Such a result is in direct contradiction to the Commission’s policy of favoring

settlements. *See* RSA. 541-A:38; *Public Service Company of New Hampshire*, 89 NH PUC 226, 229 (April 16, 2004).

Further, contrary to the OCA's argument that the Company failed to meet its burden in requesting the rate case expenses related to its outside consultant Oliver Wyman on the bad debt issues, the Company provided a detailed summary of the consultant's scope of services rendered in this case in its response to Data Request Staff 5-21 attached hereto and the hourly rate, total hours and total professional fees of Oliver Wyman applicable to this rate case in its response to Data Request Staff 6-20 attached hereto. Thus, the Company provided sufficient documentation and information regarding these expenses to allow Staff to verify the Oliver Wyman rate case expenses and assess the reasonableness of such expenses. Moreover, the issue on which Oliver Wyman provided services was an issue on which the settlement approved by the Commission resulted in a substantial change from the outcome on the same issue in the Company's prior rate case. The testimony from Mr. Hirschey of Oliver Wyman provided the very core of the Company's case on this issue, and yet the OCA assigns zero value to this work. As with other issues, Staff has addressed the concerns raised by OCA in a far more considered and less arbitrary manner.

III. The OCA's Arguments Regarding Adjudicative Filing Requirements and Proposed Requirements for Future Rate Case Expense Filings Should Be Rejected.

The OCA's argument that the Company's rate case expense request did not comply with Commission rules should be rejected because the rate case expense submission, review and approval process was approved by the Commission in its Order No. 25,202 and followed by the Company and Staff. Further, the process adopted by the parties to the Settlement Agreement in this case conformed with prior practice accepted by the Commission in numerous other cases in

which the OCA has actively participated -- many of which involved settlement agreements that the OCA supported and which provided for rate case expense review and approval processes that were substantially similar to the process approved in this case. That procedure is in all respects consistent with due process and statutory requirements and the administrative rules of the Commission. In particular, the OCA overlooks the fact that no request for rate case expense was formally made until Staff had reviewed the Company's documentation regarding the expense incurred. At that point, Staff submitted its recommendation to the Commission, provided all of the supporting material, and served copies on all parties to the case. It is based on that submission that the Commission is being asked to rule. The OCA was provided with all of the information referenced and relied on by Staff in advance of that submission, and, in fact, it is that very information that has provided the basis for the OCA's own recommendation.

The OCA proposes that the Commission impose new requirements on the Company for all of its future rate cases, namely, certain procurement requirements for outside consultants and separate filing requirements for its rate case expenses. These requirements have general applicability for all utilities, and the Commission should not impose such burdensome requirements on the Company alone nor should it do so without careful consideration of all of the costs and issues that come with such a process. For example, experience in other jurisdictions shows that the additional requirements of a separate filing and competitive bidding are highly likely to add to the burden on the utilities of preparing for a rate case filing before the Commission and will inevitably lead to additional discovery and litigation before the Commission and added costs to customers. Further, if a competitive bidding requirement is imposed, it is nearly certain to bring additional discovery regarding the RFP issued by the utility, the responses received from bidders (which are likely to require protective treatment, extensive

redacting, and other time, attention and expense to address other procedural requirements), questions regarding why certain bidders were not selected and the nature of any negotiations with the bidders. All of that will add to the cost and length of the case and the rate case expense review process without any discernable benefit to customers. If the Commission ultimately determines that a different process for reviewing rate case expense should be considered, the proper mechanism for addressing the matter would be by a rulemaking process that would create rules that apply to all utilities on a prospective basis.

Conclusion

Staff has recommended that the Company should be allowed to recover \$1,112,811 in rate case expense. These expenses were prudently incurred and are reasonable, just and in the public interest in accordance with RSA 365:38-a and RSA 378:7. Although the Company firmly believes that the full amount of the rate case expense it incurred was prudently incurred and should be authorized for recovery, it is prepared to support the dollar amount recommended by Staff without endorsing the basis for that amount. The OCA's recommendation, on the other hand, reflects a far more draconian and even arbitrary means of addressing some of the same issues raised by Staff, and therefore that recommendation should be rejected.

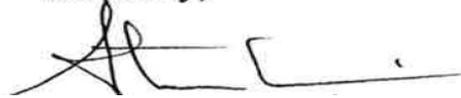
WHEREFORE, National Grid NH respectfully requests that the Commission authorize it to recover \$1,112,811 in rate case expense, with recovery to commence as of November 1, 2011 through the Peak Period Local Distribution Adjustment Factor.

Respectfully submitted,

EnergyNorth Natural Gas, Inc.
d/b/a National Grid NH

By Its Attorneys,

MCLANE, GRAF, RAULERSON &
MIDDLETON, P.A.



Dated: September 8, 2011

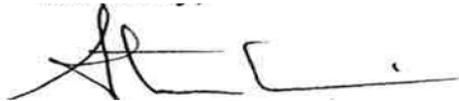
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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Response has been forwarded to the parties on the service list this 8th day of September 2011 by electronic mail.



Steven V. Camerino

ENERGYNORTH NATURAL GAS, INC.
d/b/a NATIONAL GRID NH
DG 10-017

National Grid NH's Responses to
Staff's Data Requests – Set #5

Date Received: June 10, 2011
Request No.: Staff 5-20

Date of Response: June 28, 2011
Witness: Frank Lombardo

REQUEST: Reference p. 5 of Schedule D of Rate Case Expense filing: Explain the meaning of “PO/Contract Price Fixed.” Also, explain the differences between a “competitive,” “negotiated” and “sole source award” rationale. Also, state the amount of the “fixed pricing for filing testimony” and the rate for “variable pricing for post-filing work.”

RESPONSE: “PO/Contract Price Fixed” means that the price quoted by the consultant is fixed for the contract period (i.e. no increases are permitted), and the price quoted encompassed all costs associated with that project.

The Award Rationale contains the areas pertaining to the bidding process.

- “Competitive” means that the particular project was competitively bid by National Grid’s Procurement Department and the winning bidder selected by the line of business and Procurement Department based on evaluating and scoring their technical and commercial responses to the Request for Proposal (“RFP”). The competitive bid process is part of the Procurement Department’s policy to seek competitive bids for services over \$20,000.
- “Negotiated” means bids received from suppliers were subsequently negotiated by the Procurement Department. The award was made based on the supplier meeting all technical and commercial requirements for the RFP.
- “Sole source award” refers to an award made to a specific supplier without going through a competitive bid process. In some instances, the Company may determine that specific work needs to be performed by a specific supplier because of that supplier’s experience, capability, qualifications or other attributes.

National Grid often employs consultants to assist in the filing of testimony and post-filing work. In this case, the pricing quoted and amount charged by Concentric was a fixed cost based on the negotiated rates and hours projected for the project. No amounts have been billed for any post-filing work.

ENERGYNORTH NATURAL GAS, INC.
d/b/a NATIONAL GRID NH
DG 10-017

National Grid NH's Responses to
Staff's Data Requests – Set #6

Date Received: July 8, 2011
Request No.: Staff 6-11

Date of Response: July 22, 2011
Witness: Jennifer Feinstein

REQUEST: Reference Company response to Staff 5-10, Attachment Staff 5-10(a) and Staff 5-20: Explain the differences between a negotiated procurement of services and a single/sole source procurement. When a negotiated procurement is made, are the rates charged always bargained by the Company and the service provider? With a single/sole source procurement, are the rates charged ever bargained by the Company and the service provider?

RESPONSE: A negotiated procurement of services means that National Grid Procurement “bargains” or negotiates with the supplier to reduce price and other contract terms. Negotiated procurement is conducted within the competitive bid process. Additionally, the majority of single / sole source engagements are reviewed by Procurement personnel who negotiate rates and contract terms with the suppliers.

JOB AWARD RECORD

PROCUREMENT AGENT: Don Pacheco **DATE:** November 12, 2009

BUSINESS NEED: NH General Rate Case Study

BID STRATEGY: Sole Source

WORK LOCATION: n/a

REQUESTING DEPARTMENT: Credit Collections

REQUESTOR: Natalie Ponder – Lead Analyst

CONTRACT AWARDED TO: Oliver Wyman

DOA RECEIVED: Yes - \$74,000 from Sandra Johnson – Director Credit Collections

REQUISITION NO.: **PURCHASE ORDER NO.:**

PO / CONTRACT PRICE: See Table 1

LENGTH OF CONTRACT: One year November 12, 2009 through December 30, 2010

AWARD RATIONALE: COMPETITIVE (See Table 1)
NEGOTIATED
X SOLE SOURCE (explain below)

COST SAVINGS / INCREASES:

The 2009 RFP and resulting contract for Consulting Services included fixed pricing for filing testimony and variable pricing for post-filing work.

DESCRIPTION OF AWARD:

National Grid's Credit & Collections group is responsible for all gas rate filings. In order to develop appropriate rates, National Grid often employs outside consultants to assist in the filing of testimony, and post-filing work associated with General Rate Case Study

National Grid Regulation and Pricing work with qualified consultants who develop allocated cost of service and margin cost of service models. With the aid of these models and the results of the revenue requirement study, rates are designed. Related information is filed in testimony. The consultant works on the filing, responds to related interrogatories, supports the company in developing related strategy, files rebuttal testimony, supports cross-examination and briefs and testifies at hearings. The use of a consultant helps manage peak workload related to rate cases and draws on the consultant's expertise in related areas and their cross-examination experience.

Natalie Ponder –Lead Analyst generated a Sole Source request for Oliver Wyman. Project Management felt that Oliver Wyman showed in their proposal that they understood the scope and breadth of the project, the nuances of the rates, the challenges of collecting the necessary data and in designing rates. From the description of the work provided by Oliver Wyman in their proposal, as well as their responses to additional clarifying questions, Oliver Wyman showed that they have the knowledge, experience, and leadership to deal with a large project such as this one.

SUMMARY

Oliver Wyman was selected through sole source due to their extensive knowledge of National Grid's collection function pre- and post- merger with KeySpan, expertise in rebutting faulty analysis, proposed cost, experience, leadership and ability to provide testimony if called upon. The aforementioned qualities made Oliver Wyman our top choice.

Contract was awarded to Oliver Wyman for up to \$74,000. Delegation of Authority in the amount of \$74,000 was provided by Sandra Johnson – Director Credit Collections

ATTACHED DOCUMENTS

- Sole Source
- DOA

JOB AWARD RECORD

PROCUREMENT AGENT: Don Pacheco **DATE:** January 25, 2010

BUSINESS NEED: EnergyNorth Rate Case 2010 – Cost of Equity Testimony

BID STRATEGY: This is a sole source supplier experienced in Cost of Equity

WORK LOCATION: n/a

REQUESTING DEPARTMENT: **ED&G Regulation and Pricing – Gas Distribution**

REQUESTOR: Gary Ahern

CONTRACT AWARDED TO: Concentric Energy Advisors, Inc.

DOA RECEIVED: Yes - \$100,000 (2010 fiscal year) from Gary Ahern, VP Gas Rates and Pricing

REQUISITION NO.: 270160 **PURCHASE ORDER NO.:** 589464

PO / CONTRACT PRICE: See Table 1

LENGTH OF CONTRACT: One and one-quarter years: January 25, 2010 through December 31, 2010

AWARD RATIONALE: COMPETITIVE (See Table 1)
NEGOTIATED
X SOLE SOURCE (explain below)

COST SAVINGS / INCREASES:

The resulting contract for Consulting Services included fixed pricing for filing testimony and variable pricing for post-filing work.

DESCRIPTION OF AWARD:

National Grid's Regulation and Pricing Department – ED&G-Regulation and Pricing – Gas Distribution group is responsible for all gas rate filings. In order to develop appropriate rates, National Grid often employs outside consultants to assist in the filing of testimony, and post-filing work associated with Cost of Equity.

National Grid Regulation and Revenue requirements work with qualified consultants who develop Cost of Equity testimony. With the aid of these models and the results of the revenue requirement study, rate testimony and exhibits are developed. Related information is filed in testimony. The consultant works on the filing, responds to related interrogatories, supports the company in developing related strategy, files rebuttal testimony, supports cross-examination and briefs and testifies at hearings. The use of an expert consultant on cost of equity helps the Company explain the need for a specified return and the impact it creates to the company utilizing various financial approaches and comparing to other companies of similar risk in the industry. The consultant's draws on his expertise on this topic and their knowledge of testifying in New England and their experiences across the country.

We have elected to go with Concentric Energy Advisors, Inc. as they have performed numerous Cost of Equity testimonies for New England gas and electric utilities in the North east and across the country and based of their knowledge and expertise as well as past experience working with them in Rhode Island.

The National Grid evaluation team felt that Concentric Energy Advisors, Inc. understands the scope and breadth of the project, the nuances of the rates, the challenges of collecting the necessary data and in designing rates.

SUMMARY

A Purchase order will be issued to Concentric Energy Advisors, Inc for \$100,000. Delegation of Authority in the amount of \$100,000 was provided by Gary Ahern, VP Gas Rates and Pricing.

ATTACHED DOCUMENTS

- DOA
- Sole Source Document

The National Grid evaluation team felt that MAC understands the scope and breadth of the project, the nuances of the rates, the challenges of collecting the necessary data and in designing rates.

SUMMARY

A Purchase order will be issued to Management Applications Consulting for \$240,000. Delegation of Authority in the amount of \$240,000 was provided by Gary Ahern, VP Gas Rates and Pricing.

ATTACHED DOCUMENTS

- DOA
- Sole Source Document

Contract was awarded to Analysis group for up to \$180,000. Delegation of Authority in the amount of \$180k was provided by Gary Ahern, VP Gas Rates and Pricing.

ATTACHED DOCUMENTS

- Sole Source
- DOA

ENERGYNORTH NATURAL GAS, INC.
d/b/a NATIONAL GRID NH
DG 10-017

National Grid NH's Responses to
Staff's Data Requests – Set #5

Date Received: June 10, 2011
Request No.: Staff 5-7

Date of Response: June 28, 2011
Witness: Jennifer Feinstein

REQUEST: Reference Page 3 of Schedule B of Rate Case Expense filing and page 180 of 184 of Staff 1-2(d). The sole source authorization states: “National Grid has worked with the Analysis Group in the filing of testimony and related work in the Massachusetts and Rhode Island electric cases. . . . [h]iring the Analysis Group for Energy North would be a continuation of the specialized services they offer, and would enable the Company to take advantage of the synergies of having the group involved in other testimony. This will ensure a consistent message in all jurisdictions.”

- a. In that the Company sought a consistent message, if not provided in response to Staff 5-2, please provide copies of the testimony and related work filed by the Analysis Group in Massachusetts and Rhode Island as referenced in the authorization.
- b. If not provided in response to Staff 5-3, please provide the cost of the testimony and related work of the Analysis Group in Massachusetts and Rhode Island.
- c. Please explain how the Company took advantage of the synergies of having the Analysis Group involved in testimony in other jurisdictions. In response to this request, include any cost studies or analyses, billing discounts, alternative fee arrangements or any other evidence that synergies were analyzed or achieved.

RESPONSE: a. Please see response to Staff 5-2.

b. Please see response to Staff 5-3.

c. The Analysis Group was the RDM consultant for National Grid's 2009 Massachusetts electric rate case. The rates the firm charged National Grid in the Massachusetts electric rate case was its 2008 billing rates discounted by five percent. The Analysis Group charged National Grid these same rates for the firm's work on the EnergyNorth rate case, including the five-percent discount. The Analysis Group charged National Grid these rates for the EnergyNorth rate case even though the work on EnergyNorth began in 2009 and continued through 2010.

ENERGYNORTH NATURAL GAS, INC.
d/b/a NATIONAL GRID NH
DG 10-017

National Grid NH's Responses to
Staff's Data Requests – Set #5

Date Received: June 10, 2011
Request No.: Staff 5-15

Date of Response: June 28, 2011
Witness: Frank Lombardo

REQUEST: Reference page 15 and page 72 of Staff 1-2(b). Concentric proposed to prepare initial testimony for a cost not to exceed \$47,500 plus direct expenses which would cover the work through the filing of original testimony. In Schedule D to the rate case expense filing, invoices for work leading up to the filing of initial testimony total nearly \$90,000.

- a. Please explain why the cost of the work through the filing of initial testimony was nearly double the proposed “not to exceed” price.
- b. Please explain what steps the Company took to address or control billing substantially in excess of the proposed amount or explain why the Company did not take such steps.
- c. Please explain why Concentric’s invoices date work as of October 2009, when the Company’s request for a bid was not issued until December 2009 and a contract was not awarded until January 2010.

RESPONSE:

- a. The scope of the work that the consultant was asked to perform expanded between initial discussions and filing the original testimony. Pursuant to this expanded scope of work, Concentric worked on coming up with alternative ROE filing proposals for the Company’s consideration, such as a cost of capital mechanism filed in California.
- b. The Company took steps to control billing in excess of the proposed amount and tried to keep the total cost under budget. During this process, the Company also negotiated and received a goodwill adjustment of approximately \$35,000 over the course of the rate case.
- c. The Company held discussions with Concentric as early as summer 2009 regarding the EnergyNorth rate case testimony. As part of those discussions, Concentric was retained regarding the strategy and implementation of the ROE work. Some of that work took place before December 2009, as reflected in the invoices.

ENERGYNORTH NATURAL GAS, INC.
d/b/a NATIONAL GRID NH
DG 10-017

National Grid NH's Responses to
Staff's Data Requests – Set #6

Date Received: July 8, 2011
Request No.: Staff 6-4

Date of Response: July 22, 2011
Witness: Frank Lombardo

REQUEST: Reference Company response to Staff 5-2: For each of the consultants and attorneys listed in each of these rate cases, were the consultants and attorneys hired on a competitive bid, negotiated or sole source basis?

RESPONSE: Please see attached Attachment Staff 6-4 for the procurement process of the consultants for each of the rate cases listed in Staff 5-2. Please note that in all instances—competitive bid, negotiated or sole source—it is the Company's general practice to negotiate contract pricing.

NATIONAL GRID NH - DG 10-017
Rate Case Expense
Massachusetts Electric Company and Nantucket Electric Company
DPU 09-39

<u>Vendor</u>	<u>Process</u>
<u>P. Moul & Associates</u>	Competitive Bid
Return on Equity	
<u>JM Cannell, Inc.</u>	Competitive Bid
Return on Equity	
<u>Concentric Energy Advisors, Inc.</u>	Competitive Bid
Return on Equity	
<u>Foster Associates, Inc.</u>	Competitive Bid
Depreciation Study	
<u>Analysis Group</u>	Competitive Bid
Revenue Decoupling	
<u>Black & Veatch</u>	Competitive Bid
Project Management	
Revenue Requirement	
Allocated Cost of Service and Rate Design	
Marginal Distribution Cost Study	
<u>McLane Graf Raulerson & Middleton</u>	Competitive Bid
Legal Services	
<u>Hewitt Associates</u>	Competitive Bid
Actuarial Services	
<u>WarRoom Document Solutions, Inc.</u>	Competitive Bid
Printing Services	
<u>Infinite Imaging</u>	Competitive Bid
Printing Services	

NATIONAL GRID NH - DG 10-017
Rate Case Expense
The Narragansett Electric Company
RIPUC 4065

<u>Vendor</u>	<u>Process</u>
<u>P. Moul & Associates</u>	Sole Source
Return on Equity	
<u>JM Cannell, Inc.</u>	Sole Source
Return on Equity	
<u>Foster Associates, Inc.</u>	Sole Source
Depreciation Study	
<u>Analysis Group</u>	Sole Source
Revenue Decoupling	
<u>Black & Veatch</u>	Sole Source
Project Management	
Revenue Requirement	
Allocated Cost of Service and Rate Design	
<u>Keegan & Werlin LLP</u>	Sole Source
Legal Services	
<u>RI Commission & RI Division</u>	Sole Source
Agency Consultant Costs	
<u>Hewitt Associates</u>	Sole Source
Actuarial Services	
<u>WarRoom Document Solutions, Inc.</u>	Sole Source
Printing Services	
<u>A-1 Court Reporters, Inc</u>	Sole Source
Printing Services	

NATIONAL GRID NH - DG 10-017
Rate Case Expense
Boston Gas Company and Colonial Gas Company
D.P.U. 10-55

<u>Vendor</u>	<u>Process</u>
<u>Management Application Consulting, Inc.</u>	Competitive Bid
Depreciation Study	
Lead Lag Study	
<u>Analysis Group, Inc.</u>	Competitive Bid
Revenue Decoupling	
<u>Concentric Energy Advisors, Inc.</u>	Competitive Bid
Allocated Cost of Service and Marginal Distribution Study	
Revenue Requirement	
<u>P. Moul & Associates</u>	Competitive Bid
Return on Equity	
<u>Keegan Werlin, LLP</u>	Competitive Bid
Outside legal counsel	
<u>ProUnlimited</u>	Competitive Bid
Temporary employees	

Total

NATIONAL GRID NH- DG 10-017
Rate Case Expense
Niagara Mohawk Power Corporation
Case 08-G-0609

<u>Vendor</u>	<u>Process</u>
<u>Foster Associates</u>	
Depreciation Study	Sole source
<u>Roger A Morin MD</u>	
Return on Equity and Capital Structure	Sole Source
<u>Black & Veatch Corporation/ New York</u>	
Marginal / ACOS / Rate Design	Competitive / Sole Source
<u>Cullen & Dykman</u>	
Legal Support	Sole Source
<u>Alston & Bird</u>	
Legal Support	Sole Source
<u>Towers Perrin</u>	
HR Study	Sole Source
<u>Other Contractors (Printing, Advertising, Newspaper, etc.)</u>	
Hewitt Associates	Sole Source
Pro Unlimited Inc	Competitive Bid
Robert Half Management Resources	Sole Source
Professionals Inc	Sole Source
Acme Printing Company LLC	Sole Source
Dell Computer Corporation	Competitive Bid
Eric Mower and Associates Inc	Sole Source
Hudson Catskill Newspapers	Sole Source
Jeanne O'Connell RPR	Sole Source
The Leader-Herald	Sole Source
The Observer-Dispatch	Sole Source
The Palladium Times	Sole Source
The Post Standard	Sole Source
The Post Star	Sole Source
The Record	Sole Source
The Recorder	Sole Source

NATIONAL GRID NH- DG 10-017
Rate Case Expense
Niagara Mohawk Power Corporation
Case 10-E-0050

<u>Vendor</u>	<u>Process</u>
<u>Foster Associates</u>	
Depreciation Study	Sole Source
<u>Analysis Group</u>	
Revenue Decoupling	Sole Source
<u>Roger A Morin MD</u>	
Return on Equity and Capital Structure	Sole Source
<u>Black & Veatch Corporation/ New York</u>	
ACOS/Revenue Allocation/Rate Design	Sole Source
<u>Hiscock & Barclay</u>	
Legal Support/Administrative Support	Sole Source
<u>Cullen & Dykman</u>	
Legal Support	Sole Source
<u>Alston & Bird</u>	
Legal Support	Sole Source
<u>Towers Perrin</u>	
HR Study	Sole Source
<u>Other Contractors (Printing, Advertising, Newspaper, etc.)</u>	
Hewitt Associates	Sole Source
Pro Unlimited Inc	Competitive Bid
PricewaterhouseCoopers LLP	Sole Source
Batavia Daily News	Sole Source
Constructive Copy LLC	Sole Source
Cortland Standard Printing Company Inc	Sole Source
Democrat & Chronicle	Sole Source
Eagle Newspapers	Sole Source
Greater Niagara Newspapers	Sole Source
Hudson Catskill Newspapers	Sole Source
Intercall Inc	Competitive Bid
Observer Inc	Sole Source
Olean Times Herald	Sole Source
Phase Two Design	Sole Source
Rome Sentinel Company	Sole Source
The Buffalo News	Sole Source
The Gazette Newspapers	Sole Source
The Leader-Herald	Sole Source
The Observer-Dispatch	Sole Source
The Post Standard	Sole Source
The Post Star	Sole Source
The Record	Sole Source
The Recorder	Sole Source
The Westin Boston Waterfront	Sole Source
Warroom Document Solutions Inc	Sole Source
Watertown Daily Times	Sole Source

ENERGYNORTH NATURAL GAS, INC.
d/b/a NATIONAL GRID NH
DG 10-017

National Grid NH's Responses to
Staff's Data Requests – Set #6

Date Received: July 8, 2011
Request No.: Staff 6-9

Date of Response: July 22, 2011
Witness: Jennifer Feinstein

REQUEST: Reference Company response to Staff 5-7(c): Did the Company negotiate the 5% discount for Analysis Group's work or did Analysis Group offer the discount without negotiation?

RESPONSE: The Analysis Group offered the discounted rates to National Grid for its 2009 Massachusetts electric rate case and the Company was able to successfully negotiate with the Analysis Group for these same rates to be charged for services provided to the Company in the EnergyNorth rate case.

ENERGYNORTH NATURAL GAS, INC.
d/b/a NATIONAL GRID NH
DG 10-017

National Grid NH's Responses to
Staff's Data Requests – Set #5

Date Received: June 10, 2011
Request No.: Staff 5-21

Date of Response: June 28, 2011
Witness: Kathryn A. Granger

REQUEST: Reference pages 87 and 89 of Staff 1-2(a). The contract and authority amount changed from \$74,000 to \$150,000 based on a scope expansion. Please explain the expansion of scope that required the change in the contract amount.

RESPONSE:

As indicated on page 88 of Staff 1-2(a)(CONFIDENTIAL), the initial charge of Oliver-Wyman was to perform an independent assessment of Monticello's report and analysis submitted in the previous rate case (DG 08-009) and to provide a written report to be included in the current rate case filing detailing his analysis.

The role expanded to include Mark Hirschey of Oliver-Wyman as a Company witness. Also, Oliver-Wyman performed comprehensive analyses and duties that included:

- Evaluating Company policies and practices related to the collections process
- Analyzing customer behavior related to the collection's processes
- Analyzing and contrasting customer demographics of NGNH service territory vs. that of Northern Utilities
- Evaluating the initiatives that NGNH was planning to implement or had implemented
- Assessing the potential value vs. the potential cost of those initiatives along with their impact on collections
- Developing testimony to support the conclusions of their analyses
- Answering Information Requests associated with the rate case
- Providing rebuttal testimony related to the rate case.

ENERGYNORTH NATURAL GAS, INC.
d/b/a NATIONAL GRID NH
DG 10-017

National Grid NH's Responses to
Staff's Data Requests – Set #6

Date Received: July 8, 2011
Request No.: Staff 6-20

Date of Response: July 22, 2011
Witness: Kate Granger

REQUEST: What was the hourly rate paid to Oliver Wyman?

RESPONSE: Please refer to Attachment Staff 6-20.

REDACTED

Billing rates for Energy North Rate case

Confidential billing rates

The following billing rates were used in the Energy North rate case
They are provided on a confidential basis as they are competitively sensitive

Level	Hourly rate	Total Hours	Total professional fees
Manager	\$ [REDACTED]	[REDACTED]	28,800
Consultant	\$ [REDACTED]	[REDACTED]	15,500
Analyst	\$ [REDACTED]	[REDACTED]	8,700
Junior Analyst	\$ [REDACTED]	[REDACTED]	84,388
		Total	137,388

Confidential