nationalgrid

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Via Hand Delivery and Electronic Mail

January 23, 2018

Mark D. Marini, Secretary
Department of Public Utilities
One South Station, 5th Floor
Boston, Massachusetts 02110

Re: D.P.U. 17-GC-22; Boston Gas Company d/b/a National Grid

Dear Secretary Marini:

On behalf of Boston Gas Company d/b/a National Grid ("National Grid" or the "Company"), enclosed please find the Company's Initial Brief for filing in the above-captioned docket, along with a certificate of service.

Please contact me with any questions. Thank you for your time and attention to this matter.

Very truly yours,

Andrea G. Keeffe

Andrea G. Keeffe

Enclosures
cc: Daniel Licata, Hearing Officer (2 copies)
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THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES

Boston Gas Company d/b/a National Grid	)	**D.P.U. 17-GC-22**

INITIAL BRIEF OF NATIONAL GRID

I. Introduction

Boston Gas Company d/b/a National Grid ("National Grid" or the Company") respectfully submits the following initial brief for the Department of Public Utilities' ("Department's") consideration in the above-captioned docket. On October 20, 2017, National Grid filed with the Department a petition seeking approval of a 365-Day Firm Transportation Service Agreement ("Agreement") between the Company and One Dalton Owner LLC ("One Dalton" or "Customer"), pursuant to G.L. c. 164, §§17A, 94, and 220 C.M.R. § 5.03. The Department should approve the Agreement as filed because the contract meets the Department's requirements for off-tariff agreements and is consistent with the principles of cost-causation and accessibility of gas service for new customers.

II. Background

One Dalton is located in the Back Bay area of Boston where it is constructing a new building for hotel and residential uses, and has requested gas service from National Grid. As the Company's current gas infrastructure in the Back Bay is insufficient to serve the needs of the Customer, National Grid will need to install an approximately 4,100 foot gas main extension from its intermediate-pressure system to bring service to the Customer. Due to the extensive scope of the project, One Dalton is required to pay a multi-million dollar capital contribution, also known as a contribution in aid of construction ("CIAC"), to support a portion of the total cost of the project. Since a capital contribution of this magnitude is unusual and would be a financial burden on One Dalton, the parties have negotiated an off-tariff agreement that allows the Customer to pay a portion of the capital contribution over time as part of the gas distribution rate, as reflected in the Distribution Reservation Charge, and subject to interest on the unpaid principal balance. Co. Initial Filing, Agreement (Redacted), § 7.1. The Agreement also obligates the Customer to a rate structure for distribution service over the twenty-year term that guarantees National Grid a revenue stream that would be unavailable under a tariff rate. Id. at § 7.2(b). The Agreement also allows One Dalton to participate in the Company's energy efficiency programs, as the Department has approved for other off-tariff customers. Id. at § 8; see Boston Gas Company d/b/a National Grid, D.P.U. 16-GC-16 (2016). The Agreement was effective as of December 1, 2017, subject to the Department's review, investigation, and approval. Id. at §§ 1.14, 15.2. Gas distribution service to the Customer will begin around October 2018, after construction of the gas facilities to reach the Customer is complete and will continue for twenty years after the in-service date. Id. at §§ 4.4, 6.1.

Since the Agreement entails an off-tariff distribution rate, the Company submitted it for the Department's review and approval pursuant to G.L. c. 164, §§ 17A, 94, and 220 C.M.R. 5.03. In support of the Agreement, the Company filed: (1) a cover letter explaining the justification for the Agreement and its provisions; (2) the Agreement; (3) a marginal cost analysis marked as Attachment 1; (4) a comparison of the proposed contract rate to the Company's filed rate marked as Attachment 2; and (5) Excel versions of the Attachments. The Company also requested a limited three-day waiver of the Department's filing requirement for filing agreements at least 45 days before the effective date. See Co. Initial Filing, Cover Letter at 2.

The Department held a public hearing on December 15, 2017, at which six members of the public spoke, and eleven sets of written comments were filed.[1] The Office of the Attorney General ("AGO") intervened in the proceeding as a matter of right and the Department of Energy Resources ("DOER") was granted full party status. Tr. at 7-8. Over the course of the proceeding, the Company responded to 53 information requests propounded by the AGO. The Company is filing its initial brief in accordance with the procedural schedule set by the Hearing Officer on December 26, 2017.

III. Standard of Review

A company must file an off-tariff agreement with the Department for approval pursuant to G.L. c. 164, § 94 and such agreements shall not become effective until thirty days after filing. G.L. c. 164, § 94 states that "[t]he [D]epartment may investigate the proprietary of any such contract, both before and after such contract has become effective, and may, after notice and a public hearing, make such order relative to the rates, prices, charges and practices covered by such contract as the public interest requires." In reviewing an off-tariff agreement, the Department determines whether the negotiated rate in the agreement exceeds the company's marginal cost to provide the distribution service. Boston Gas Company d/b/a National Grid, D.P.U. 17-GC-24, Letter Order at 2 (2017), citing Boston Gas Company, D.P.U. 92-259, at 31-32 (1993).

Additionally, off-tariff agreements must address the Department's recently issued filing requirements, where a company must: (1) provide the source reference for all the information in the marginal cost analysis (including docket number and exhibit for the approved marginal cost study); (2) provide an explanation of the customer's ability to bypass the company's system (i.e.,

[1] The written comments were submitted by: Cathy Armer; Boston Clean Energy Coalition (individually and along with other co-signers); Green Committee, Neighborhood Association of Back Bay; Carissa Halston; Stuart Heebner; Peter Papesch; Physicians for Policy Action; Mary Russell; Sierra Club Massachusetts Chapter; and Laura Zatz.

alternative energy source or access to other delivery source); (3) if the proposed contract replaces, amends, or restates a current contract, provide a copy of that contract; (4) provide all Excel spreadsheets of the attachments; and (5) make the filing at least 45 days prior to the effective date of the proposed contract or amendment. See Boston Gas Company d/b/a National Grid, D.P.U. 17-GC-06, Letter Order at 2 (2017); Boston Gas Company d/b/a National Grid, D.P.U. 17-GC-08, Letter Order at 2 (2017). Finally, agreements shall be accompanied by a letter containing: (1) the justification for the off-tariff agreement; (2) the estimated revenue difference between the negotiated rate and applicable tariff rate; and (3) general comments on the special features or provisions of the contract. 220 C.M.R. § 5.03(2).

IV. Argument

a. The Agreement Meets The Department's Requirements For An Off-Tariff Agreement And Therefore Should be Approved.

i. *Marginal Cost Analysis and Rate Comparison*

The Agreement meets the Department's requirements for an off-tariff agreement and should be approved. The Company filed the Agreement for the Department's review and approval since it contains a negotiated off-tariff rate designed to allow the Customer to pay part of the multi-million dollar capital contribution over time through a customized distribution rate. In the Company's Initial Filing, the Company included two attachments regarding the negotiated rate of the Agreement: (1) a marginal cost analysis as Attachment 1; and (2) a comparison of the proposed contract rate to the Company's filed tariff rate marked as Attachment 2. The marginal cost analysis demonstrates that the cost to serve the Customer over the term of the Agreement will be exceeded by the negotiated rate. See Co. Initial Filing, Attachment 1 (Confidential). Therefore, the Company has met the requirement that the negotiated rate of the agreement exceed the marginal cost to serve the customer. See Boston Gas Company d/b/a National Grid, D.P.U. 17-GC-24, Letter Order at 2 (2017), citing Boston Gas Company, D.P.U. 92-259, at 31-32 (1993).

The rate comparison schedule, Attachment 2, compares the negotiated rate to the Company's otherwise available tariff rate. See Co. Initial Filing, Attachment 2 (Confidential); 220 C.M.R. § 5.03(2)(b). To develop a negotiated rate, the Company uses a value of service methodology, where the customer's energy alternatives are priced against the Company's tariff rates. See Investigation into Interruptible Transportation, D.P.U. 93-141-A, at 6 (1996). In the case of One Dalton, the barrier to gas service was the upfront payment of the multi-million dollar capital contribution, so the Company negotiated a rate that is comparable to the firm tariff rate available for this type of service, plus the payment of a portion of the capital contribution over time. See Co. Initial Filing, Attachment 2 (Confidential). Therefore, the Company has demonstrated that the negotiated rate exceeds the marginal cost to provide the service and is comparable to the Company's otherwise available tariff rate.

ii. The Department's Filing Requirements

The Company has also fulfilled or addressed the Department's filing requirements for off-tariff contracts. First, the Company's marginal cost analysis included the source references, including the docket number and exhibit for the approved marginal cost study. See Co. Initial Filing, Attachment 1 (Redacted) (notes 1-5).

Second, National Grid provided the justification for the off-tariff agreement, which is to allow One Dalton to pay a portion of the multi-million dollar capital contribution over time through the distribution rate. See Co. Initial Filing, Cover Letter at 1-2; Exh. AG-1-19. This Agreement negotiated between the parties was a customized and creative solution to bring gas service to One Dalton when the Customer was confronted with a substantial upfront cost, the multi-million dollar capital contribution. The main driver of the capital contribution amount is that the Company has to install an approximate 4,100 foot main extension from its intermediate-pressure system into the Back Bay since the Company's current low-pressure system is insufficient to serve the Customer's needs. Exh. AG-1-1. As the first customer to request gas service in the Back Bay that would exceed the low-pressure system's available capacity, One Dalton's multi-million dollar capital contribution is based on the scope and cost of a new main extension needed to serve its specific gas load in a system-constrained area. See Co. Initial Filing, Agreement (Redacted), § 4.3; Exh. AG-1-20. Recognizing the unusual size of the capital contribution and to alleviate a portion of the upfront cost burden, National Grid worked with Customer to develop the Agreement and allow payment of a portion of the capital contribution over a twenty-year term. Additionally, the Company was able to negotiate a "take or pay" rate structure, where One Dalton is obligated to pay an annual minimum amount for distribution service, ensuring National Grid a revenue stream over the contract term that is not available under the Company's tariff rate. See Co. Initial Filing, Agreement (Redacted), § 7.2(b).

The concept of a customer paying a capital contribution through an off-tariff distribution rate is not novel and has been employed by the Company in other Department-approved off-tariff agreements. See Boston Gas Company d/b/a National Grid, D.P.U. 13-GC-05 (2013); Boston Gas Company d/b/a National Grid, D.P.U. 10-GC-1 (2010); see also Exh. AG-2-24. For example, the Company's agreement with Boston University-East Campus reflects a similar negotiated rate structure, where Boston University agreed to pay over a long term a gas distribution rate which exceeded the then-current tariff rate to avoid paying an upfront capital contribution associated with the necessary infrastructure investments. See Exh. AG-2-23.

As One Dalton is a new customer, it was not necessary for the Company to include in its filing a previous off-tariff agreement, as required under the third prong of the Department's filing requirements. Fourth, the Company provided copies of the Excel attachments. Fifth and finally, the Company requested a limited three-day waiver of the Department's requirement to make the filing at least 45 days prior to the effective date of the proposed contract or amendment. See Co. Initial Filing, Cover Letter at 2. The Company based its waiver request on two justifications: (a) due to the construction lead time, the gas distribution service to the Customer, and therefore billings at the negotiated rate, will not occur until around October 2018; and (b) the time it took to get the final review and signatures from each party's officers on a complex agreement. See id.; see also Exh. AG-1-23. The Department recently approved an off-tariff agreement amendment that included a request to waive the 45-day requirement. See The Berkshire Gas Company, D.P.U. 17-GC-14 (2017) (where the Department approved an amendment to an agreement filed 14 days before its effective date). Finally, the Company provided a filing letter that explained the justification for the off-tariff agreement, referred to Attachment 2 for the estimated revenue difference between the negotiated rate and applicable tariff rate, and contained general comments on the Agreement's provisions. See Co. Initial Filing, Cover Letter; 220 C.M.R. § 5.03(2).

As detailed above, the Agreement with One Dalton meets and addresses the Department's requirements for off-tariff agreements and therefore should be approved.

b. The Agreement Is Consistent With Cost-Causation And Gas Expansion Policies And Should Be Approved.

In addition to meeting the Department's requirements, the Agreement is consistent with cost-causation and gas expansion principles. A capital contribution is required from a new customer when the projected revenues from serving that customer are insufficient to cover the

Company's projected infrastructure costs associated with serving that customer. Exhs. AG-1-1; AG-1-9. Requiring a capital contribution ensures that other customers do not subsidize the incremental cost of serving the new customer and maintains the principles of cost-causation – that the customer causing the expense should bear the associated cost. The Department has stated that "[i]n order to make service to a particular customer economic, the Company may require a …CIAC… to ensure that existing customers do not incur an undue level of expense for their presence, and that service to the customer is profitable within a reasonable period of time." Boston Gas Company, D.P.U. 88-67, at 283 (1988); see also NSTAR Gas Company d/b/a Eversource Energy, D.P.U. 16-79, at n. 3 (2017).

One Dalton's multi-million-dollar capital contribution is caused by the fact that it is the first customer requesting gas service with a need that cannot be met with the existing low-pressure system in the Back Bay. As the customer necessitating the gas main extension, the Company's infrastructure cost associated with bringing service to One Dalton includes a substantial capital investment that is not fully offset by the Customer's expected revenues, hence the need for a large capital contribution. See Co. Initial Filing, Agreement (Redacted), § 4.3; Exh. AG-1-20. In light of the unusual size of the capital contribution, the Company has agreed to permit One Dalton to pay a portion of the multi-million-dollar capital contribution over time, with interest accruing on the unpaid balance until the full amount is paid. Moreover, the Company's existing customers will benefit from the addition of One Dalton because the incremental revenue that One Dalton will generate, over the long term, is expected to exceed the cost of adding One Dalton to the system, thereby offsetting cost increases that would, in part, drive the need for future rate increases. See D.P.U. 16-79, at 17.

The Agreement is also consistent with the gas expansion act (Chapter 149, § 3 of the Acts of 2014) (the "Act") pursuant to which the Legislature granted the Department the authority to approve a gas company's proposal to offer programs to customers which increase the availability, affordability, and feasibility of natural gas service for new customers in the Commonwealth. See Exh. AG-2-24. The Act further provides:

> Gas companies may petition the [D]epartment independently or in coordination with the department of energy resources to approve: (i) financing programs for customer natural gas conversion costs repaid on participating customers bills; (ii) other financing programs developed by a gas company; or (iii) other cost-effective programs that reasonably accelerate the expansion of and conversion to natural gas usage in the commonwealth; provided, however, that programs do not unreasonably burden existing gas customers.

Acts of 2014, c. 149, § 3(b) (emphasis added). Pursuant to the Act, the Department approved Eversource's gas expansion pilot which entailed the financing of CIACs over time to remove the upfront cost-burden obstacle for natural gas conversions. D.P.U. 16-79, at 10-11, 17. Though not filed as a gas expansion pilot, the Agreement with Once Dalton represents a similar construct, whereby National Grid devised a creative mechanism to alleviate an upfront and prohibitive cost burden for a customer through a CIAC payment arrangement designed so that the customer causing the Company to incur costs to provide it service is still responsible for paying for those specific costs. See Co. Initial Filing, Agreement (Redacted), § 4.3; Exh. AG-1-20. Moreover, the Company would consider using a similar CIAC payment arrangement for a future gas expansion pilot pursuant to the Act. Exh. AG-2-24. For these reasons, the Agreement is consistent with the Department's cost-causation principles and gas expansion authority.

V. Conclusion

The Company has demonstrated in its initial filing that the Agreement meets the Department's requirements with respect to an off-tariff agreement filed pursuant to G.L. c. 164, §§ 17A, 94, and 220 C.M.R. § 5.03. Therefore, the Department should approve the Agreement as filed.

Respectfully submitted,

Boston Gas Company
d/b/a National Grid

By its attorney,

Andrea G. Keeffe

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Dated: January 23, 2018

THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES

Boston Gas Company d/b/a National Grid	)	**D.P.U. 17-GC-22**

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding in accordance with the requirements of 220 CMR 1.05 (Department's Rules of Practice and Procedure).

Respectfully submitted,

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