

**Re: 16-G-0059 - PROCEEDING ON MOTION OF THE COMMISSION AS TO THE RATES, CHARGES, RULES AND REGULATIONS OF THE BROOKLYN UNION GAS COMPANY FOR GAS SERVICE**

**Submitted by** Douglas DiCeglio, President, Urac Corp, 156 Scranton Avenue, Lynbrook, NY 11563, 516-536-4545, DDiCeglio@UracCorp.com

**STATEMENT IN OPPOSITION TO JOINT PROPOSAL**

**September 9, 2016**

Urac Corp. (URAC) submits herein its position against the acceptance of the Joint Proposal (JP) in connection with PSC Case 16-G-0059 regarding The Brooklyn Union Gas Company's a/k/a KEDNY a/k/a National Grid (KEDNY or Utility). URAC has been in business since 1975 representing many consumers within the Utility's service territory in its capacity as a utility rate consulting firm which has a primary responsibility of recovering overcharges made by the Utility. URAC's billing dispute cases have caused this utility, and many others within New York, to alter their tariffs and provide refunds for improper application of those tariffs. We believe our involvement in this case would have provided a unique look, from the consumers prospective, at the rates and charges and how they are actually implemented at the consumer level; however, even though a Party to this proceeding, PSC Staff was reluctant to hear our concerns placing us on the sidelines of the negotiations that created the JP. We will now use this opportunity to be truly heard not only before the Commission but more importantly, the public.

### **KEDNY Corporate Structure**

URAC makes no claim about the legality of the different entities that KEDNY uses when it has interactions with its consumers.<sup>1</sup> However, the use of the entity National Grid on the customers bills along with the acceptance of payment under that entity is confusing because it fails to correspond to the filed and approved tariff; which is under the name The Brooklyn Union Gas Company. Concerned consumers attempting to verify their rates and charges will not find National Grid tariffs anywhere on the Commission's website. Nothing on the actual bills rendered to the customer mentions that National Grid is the d/b/a and that the charges are calculated under The Brooklyn Union Gas Company's tariff. Tariffs to the layman are confusing enough; adding to that confusion KEDNY is portraying itself to its consumers in a manner that misdirects those consumers to an entity, at least as far as the PSC tariffs are concerned, that does not exist. **The JP does not address this important issue.**

KEDNY should correct this confusing manner of operation with either a change in, not only its bill format, but all correspondence exchanged with a consumer, explaining that KEDNY is utilizing The Brooklyn Union Gas Company's filed tariffs. We are open to suggestions about correcting this situation but PSC Staff did not want to hear our concerns during the closed door negotiations the generated the JP.

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<sup>1</sup> See IR, URAC-1 DDC-1 BU-35

## Customer Service

### (a) Company Operating Policies

The Utility has not adopted any internal operating policies to implement and provide guidance to its employees as to how to uniformly adhere to its Tariff, Public Service Law, 16 NYCRR and Commission's Orders.<sup>2</sup> Given PSL §65 and §66 require uniform treatment of consumers, the lack of any internal policies will and has resulted in a violation of these Laws. KEDNY's response to that IR reveals that it expects its employees to know all the Tariff requirements, Laws, Rules and Regulations and Orders of the Commission when dealing with its consumers. Even if that were possible, individual interpretation of all that information, by each employee, would result in the tariff not being uniformly applied. Attached as Exhibit A is an example of how a Senior Supervisor of Customer Satisfaction and Regulatory Compliance at National Grid, Mr. Malik Wellington, denied us a copy of the utility's operating procedure regarding bill processing and the rendering of bills to a consumer. His defense was that it was "proprietary information" (see Wellington letter dated May 11, 2016).<sup>3</sup> However, in this rate proceeding, URAC obtain the same information, without objection or request for confidentiality, under IR *URAC-10 DDC 33 BU -67*. It is clear that the lack of operating procedures results in similar situations being treated differently and is inconsistent with Public Service Law and proper customer service. **PSC Staff did not consider this important enough to include it in the closed door negotiations that resulted in the JP.**

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<sup>2</sup> See IR URAC-1 DDC-9 BU-43

<sup>3</sup> Account numbers have been redacted from the Exhibit so that public knowledge of this information is protected.

KEDNY should be required to provide a comprehensive plan, with detailed written operating procedures, for its employees to follow, so that consumers filing complaints receive the same treatment regardless of the employee handling the situation.

**(b) *Delayed refunds in PSC Case 14-G-0091***

As noted in *IR URAC-3 DDC-23 BU-57* KEDNY has not provided the refunds required in accordance with an Order of the Commission in PSC Case 14-G-0091. That Order was issued October 27, 2014 and is now two years old. KEDNY has submitted testimony about how it provides excellent customer service but in reality its customer service is lacking. This situation is just one which shows a reluctance on KEDNY's part to deal with its consumers in a fair, prompt and reasonable manner.

The JP does include the resolution of this issue which was the result of closed door negotiations. (Section 3.9) While I am not allowed to divulge the specifics of those negotiations it became apparent to me early on that both PSC and KEDNY Staff played Three Card Monte with this issue by dealing with it behind closed doors and in the background of this rate proceeding instead of where it properly belongs, in an open forum, under PSC Case 14-G-0991.

URAC does not support either the way this matter was dealt with or the JP's suggestion that KEDNY only refund 6 million dollars. Nor do we agree with the method of refund which it suggests should be made to certain SC 2 customers regardless of whether or not they were affected by the overcharged. There is a lot more money due the consumers that were affected. And, the PSC clearly stated in PSC Case 14-G-0091 that interest was due on that money. It has been 2 years since the Commission began that case and KEDNY has been in possession of all that consumer money for those 2 years. If we are talking about 9 million dollars then the interest

on that money would be another 3 million dollars. For PSC Staff to cower to KEDNY, reducing 12 million dollars to 6 million dollars, is not in the consumers interest and should not be accepted by the Commission. The matter should be dealt with outside this rate proceeding, where is properly belongs, in PSC Case 14-G-0091. If the entire JP is not rejected then Section 3.9 should be rejected.

(c) **Poor responses and response times to consumer billing complaints**

In the testimony by the Shared Services Panel KEDNY explains the PSC's Quick Response System (QRS) and offers some figures without actually admitting that the figures support a finding that KEDNY's customer service has not improved since its Historic Test Year.<sup>4</sup> They confirm in this testimony that they "*handled 1546 QRS complaints with 97 rising to the level of an SRS.*"<sup>5</sup> That represents a percentage of escalated to non-escalated complaints of 6.3%. As noted on its Exhibit SSP-7, p.1, the 2015 figures, exclusive of December, were 1404 total QRS complaints with 81 escalated to SRS, or 5.7%. In 2014 there 1473 QRS's and 81 SRS's, or 5.5%. These figures clearly reveal that KEDNY has not improved its customer service efforts. Even though it is well documented that KEDNY lacks proper customer service the JP clearly defies that information when, under Section 7.6, it removes the tripling and quadrupling requirements for poor customer service that existed under the previous rates. Again for this reason, if the JP is accepted at all, Section 7.6 should not be accepted.

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<sup>4</sup> See Book 9, p. 44 at 2

### **Application for Service**

All consumers are required to provide an application for service in order to obtain gas. It appears that residential consumers mainly provide verbal applications and that non-residential users are required to provide written applications.<sup>6</sup> The utility has confirmed that it only maintains applications for one year.<sup>7</sup> While we understand that 16 NYCRR §733.15 only requires that these documents be maintained for one (1) year, given the world we now live in, where storage capacity is endless and inexpensive, KEDNY should be considering maintaining these documents for the life of an account. These documents have pertinent information regarding the rate assigned at the inception of an account. The rate for which a consumer is billed, most likely, for the entire time the account is in existence. However, when a question about rate assignment occurs these documents are no where to be found. Normal businesses exist because they maintain contracts they have with their clients. Unless KEDNY can provide a reasonable excuse for not maintaining these documents we believe a precedent should be set in this rate case requiring that KEDNY begin maintaining all applications for the life of an account plus one year.<sup>8</sup> After all, the application is the contract between the utility and the consumer. As an added benefit to maintaining the application, billing dispute cases will be reduced if KEDNY can produce the application for service revealing that an account was properly assigned at inception. Thereby reducing PSC consumer complaint case load.

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<sup>5</sup> id. 3-4

<sup>6</sup> See IR URAC-1 DDC-4 BU-38

<sup>7</sup> See IR URAC-1 DDC-5 BU-39

<sup>8</sup> KEDNY does not maintain any data on the cost of maintaining these records. See IR - URAC-1 DDC-8 BU-42. Therefore, it is appropriate to assume that the cost is minimal.

**PSC Staff had no interest in this matter so the JP does not address this important issue.**

### **Weather Normalization Adjustment and Base and Slope**

PSL §66 (12) at (a) requires that KEDNY “keep open to public inspection schedules showing all rates and charges...”. The Utility is authorized to bill for a Weather Normalization Adjustment and to utilize a Base and Slope method, on heating customers accounts. These two methods of billing have “hidden” variables only known to KEDNY. The JP does appear to now provide information related to the WNA (see Section 3.8). However, the Base and Slope variables are still “hidden”. **The JP fails to even address a legal requirement that all rates be available to the public.**

The JP should be amended to include a provision directing KEDNY to provide the Base and Slope use on every customers bill where the base and slope method is used. If not amended the JP should be rejected. The PSC is even aware of the problem as the result of one of my cases but has not taken action. In a ruling by Mr. David LaBombard confirming that Base and Slope billing was consistent with the tariff he also found that *“My review of the Tariff language in Tariff Leaf 37, finds that, as written, the company has adhered to the current spirit of the language contained therein. However, based on your clients' concerns, Staff is working with KEDNY to modify Tariff 37 and also adding language regarding the description and clarification of the "base and slope" methodology for determining a customer's monthly usage and billing in Tariff Leaves 217 - 223 "Service Class 6M".* Neither PSC Staff nor KEDNY ever corrected this problem and the lack of it even appearing in the JP is proof of PSC Staff's inability

to protect the consumers it claims to represent. Sweep it under the rug and maybe it will go away appears to be the philosophy.

### **Migration Between Schedules within a Service Classification**

Migration is the commonly used term when a Service Classification has, within it, different schedules and rates applicable depending on a customer's usage pattern. With regard to KEDNY it has two Service Classifications (Service Classification 2 & 6) which require a review of the customer's usage pattern to determine which Schedule will be applicable to future service. Under Service Classification 2 KEDNY has a migration process that uniformly transfers, on an annual basis, existing customers between Schedule 1 and Schedule 2.<sup>9</sup> However, KEDNY has no such policy for migrating Service Classification 6 consumers between the two (2) Schedules applicable to Commercial and Government properties and the five (5) Schedules applicable to Multi-Family Buildings. The fact it provides migration under Service Classification 2 but does not provide it under Service Classification 6 sends contradicting information to its consumers. To add to this inconsistency, filings by the Utility indicate that it will be re-classifying residential customers from SC 1A to SC 1B based on a review of their usage even though the tariff has no such migration process. It appears that KEDNY will put the effort into reclassifying consumers when a reclassification results in more income but does not put the effort into those situations where the income would be reduced. KEDNY is aware that there are 1B customers that belong on the 1A rate but is taking no action to correct that improper billing. KEDNY is aware that some SC 6 customers are not on the proper Schedule within those rates but has also taken no

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<sup>9</sup> URAC-1 DDC-10 BU-44

action to correct the improper billing. The only action they are taking is action that results in increased income. As a monopoly, governed by the tariff, KEDNY should correct all its billing, uniformly, and not segregate only those where it can increase its income. **PSC Staff did not consider this important enough to include in the JP.**

The proper resolution to this inconsistency would be to put a migration process in place for all customers and Service Classifications. A process where all customers were treated the same by a uniform utility migration system which would also avoid a violation of PSL §65 (2) (a).

#### **SUMMATION**

PSC Staff made it clear from the onset that URAC's consumer protection issues would not be dealt with within the private negotiations that resulted in the JP. URAC, not having the legal backing, finances, or knowledge to combat the resistance it received, is now using this public forum to contest National Grid's request for new rates and the JP.

Sincerely,

*Douglas DiCeglio*

Douglas DiCeglio  
Urac Corp.  
156 Scranton Avenue  
Lynbrook, NY 11563

516-536-4545  
DDiCeglio@UracCorp.com  
Enc.

*C: All Active Parties by email*

# EXHIBIT A

**nationalgrid**

One Metrotech Ctr  
Brooklyn, New York 11201

May 27, 2016

David LaBombard  
Office of Consumer Services  
New York State Department of Public Service  
3 Empire State Plaza  
Albany, NY 12223

Re: Case No. 621416 – Premier House Inc.  
1401 Ocean Ave  
Account No

Dear Mr. LaBombard:

In response to URAC's further communication dated May 12, 2016, the Company confirms that it has credited the above account \$7.80 as interest to the \$327.65 in refunded late payment charges. As to URAC's request for further specifics on the human error that caused the delayed bill, National Grid has no additional information to add beyond what was stated in its May 11, 2016 response. The Company has fully addressed the issue that caused the delayed billing and has taken steps to ensure that the same error does not occur again.

Finally, while the Company maintains that providing URAC with the Company's operating procedures is not necessary for resolution of the customer's issue, the Company refers URAC to the Company's response to Request for Information No. URAC-10 DDC-33 in the current KEDNY/KEDLI rate case (Cases 16-G-0058 & 16-G-0059), which we believe responds fully to your question regarding the process followed in responding to a billing issue.

Please contact me if you have any further questions.

Sincerely,  
*Matik Wellington*  
Sr. Supervisor  
Customer Satisfaction & Regulatory Compliance

Cc:  
Douglas DiCeglio  
President  
URAC

**From:** [ddiceglio@uraccorp.com](mailto:ddiceglio@uraccorp.com)  
**To:** "[Wellington, Malik E.](#)"; "[LaBombard, David \(DPS\)](#)"  
**Subject:** RE: Case No 626402  
**Date:** Thursday, May 12, 2016 8:39:00 AM

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Mr. LaBombard

National Grid's response does not satisfy this complaint. First, interest is now applicable on the refunded late payment charges. Second, National Grid has failed to specify exactly what human error caused this problem. Third, I would like to know who made the decision and the title of their position, that the operating procedure regarding bill processing is proprietary and therefore will not be provided. It seems illogical that a monopoly can be hurt by releasing an operating procedure that reveals how it bills its consumers. After all, no one can deliver gas in National Grid's territory so claiming that it is confidential seems unreasonable. I would like to know who in the Executive Office, or if only Mr. Wellington, made this decision.

Please provide a response to the three issues mentioned above.

Douglas DiCeglio

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**From:** Wellington, Malik E. [mailto:[Malik.Wellington@nationalgrid.com](mailto:Malik.Wellington@nationalgrid.com)]  
**Sent:** Wednesday, May 11, 2016 6:19 PM  
**To:** 'LaBombard, David (DPS)'  
**Cc:** 'ddiceglio@uraccorp.com'  
**Subject:** Case No 626402

Good day,

Please see National Grid's response to this case attached.

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*Malik Wellington*

Senior Supervisor

Escalated Complaint Management

[nationalgrid](#)

One Metrotech Center  
Brooklyn, N.Y. 11201

[Malik.wellington@nationalgrid.com](mailto:Malik.wellington@nationalgrid.com)

Please consider the environment before printing this email

**nationalgrid**

One Metrotech Ctr  
Brooklyn, New York 11201

May 11th, 2016

David LaBombard  
Office of Consumer Services  
New York State Department of Public Service  
3 Empire State Plaza  
Albany, NY 12223

Re: Case No. 621416 – Premier House Inc.  
1401 Ocean Ave  
Account No.

Dear Mr. LaBombard:

We have removed the late payment charges as requested on May 6<sup>th</sup>, 2016; attached is a statement of the payment history which confirms the credit. We immediately investigated the cause and have determined that it was the result of human error and action has been taken to address the employees involved. In addition, we have placed a hold on the account that will prevent late payment charges from being assessed. This hold will remain on the account until September 30<sup>th</sup>, 2016.

The Company's operating procedure regarding bill processing is proprietary information and will remain confidential to the public. National Grid has taken every action to correct this error and respectfully submits that URAC is not entitled to the Company's proprietary information.

Please contact me if you have any further questions.

Sincerely,  
*Malik Wellington*  
Sr. Supervisor  
Customer Satisfaction & Regulatory Compliance

Cc:  
Douglas DiCeglio  
President  
URAC

**From:** [David.LaBombard@dps.ny.gov](mailto:David.LaBombard@dps.ny.gov) on behalf of [complaint.filing@dps.ny.gov](mailto:complaint.filing@dps.ny.gov)  
**To:** [ddiceglio@uraccorp.com](mailto:ddiceglio@uraccorp.com)  
**Subject:** Consultant-QRS Consultant Acknowledgement Letter  
**Date:** Friday, April 29, 2016 10:08:04 AM

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April 29, 2016

Mr. Douglas DiCeglio, President  
Utility Rate Analysis Consultants  
156 Scranton Avenue  
Lynbrook, NY 11563

Re: Consultant Case: 626402  
Premier House, Inc.  
National Grid - Metro (National Grid) Account #(s):

Dear Mr. DiCeglio:

This letter will acknowledge your recent contact with our Office of Consumer Services regarding your client's concerns with National Grid's mailing of its bills and applying late charges to its account as well as advising you of the process in which your concern will be addressed.

Staff will send your client's unresolved concern to the service provider. We expect the service provider to review the matter promptly and attempt to resolve it directly with you. We will also require the service provider to provide a detailed written response to us and a copy to you within 14 days. If the service provider reports that the case is satisfactorily resolved, the case will be closed. However, if the following occurs:

- The service provider fails to respond at all or on time;
  - The service provider fails to provide a sufficient (detailed and responsive) response;
  - The service provider reports that the case is not satisfactorily resolved; or
  - You report to us that you are not satisfied with the service provider's resolution of the case;
- our investigation will continue and the full complaint resolution process (e.g., initial decision, informal hearing and appeal process) will be available to you. Staff will write to you at the conclusion of your case regardless of the outcome.

If you have any questions regarding the process, you can contact me at 518-322-4029.

Sincerely,

David R. LaBombard  
Office of Consumer Services

# *Utility Rate Analysis Consultants (URAC)*

156 Scranton Avenue  
Lynbrook, NY 11563

(516) 536-4545 fax (516) 594-9413  
email: [DDiCeglio@UracCorp.com](mailto:DDiCeglio@UracCorp.com)

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April 26, 2016

The Brooklyn Union Gas Company d/b/a National Grid  
One MetroTech Center, 15th Floor  
Brooklyn, NY 11201-3850

Re: Premier House Inc.  
1401 Ocean Ave HH

To Whom It May Concern:

We request that all late payment charges be refunded on the above referenced account. We make this request because National Grid has not processed and provided the billing in a timely manner, sometimes after the due date, which is the direct cause of the late payment.

In addition, please provide all evidence and operating procedures regarding the processing of bills and the timeline associated with that process.

Thank you for your attention to this matter.

Sincerely,

*Douglas DiCeglio*

Douglas DiCeglio  
President

DDC:wp  
Enc.