

PENDING PETITION MEMO

Date: 4/4/2007

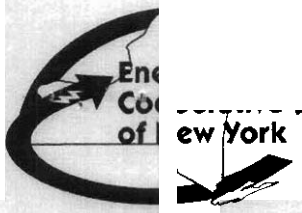
TO : Office of Electricity and the Environment
Office of General Counsel

FROM: CENTRAL OPERATIONS

UTILITY: ENERGY COOPERATIVE OF NEW YORK

SUBJECT: 07-E-0396

Petition for Energy Cooperative of New York, Inc. to File a Complaint
Against Nation Grid, filed in C 26358.



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March 30, 2007

VIA ELECTRONIC and US Mail

Honorable Jaclyn A. Brilling
Secretary
NYS Public Service Commission
Three Empire State Plaza
Albany, NY 12223

Re: Petition to Commence a Complaint Against National Grid

Dear Secretary Brilling:

Enclosed please find an Original and three (3) copies of the above-mentioned referenced Petition that we are submitting for filing with the Public Service Commission. Also, we are requesting a date-stamp copy which postage paid envelope is enclosed. If they're any questions or concerns relative thereto please do not hesitate to contact the undersigned.

Very truly yours,


Joseph S. Mascaro
Executive Director

JSM/mmc
Enclosure
Cc: Kathleen Yetman, National Grid

Energy Cooperative of New York

NEW YORK STATE PUBLIC SERVICE COMMISSION

Petition of Energy Cooperative of New York, Inc to
File a Complaint against National Grid

Case ____ - E - ____

PETITION TO FILE A COMPLAINT AGAINST NATIONAL GRID

INTRODUCTION

Based upon the arguments more particularly set forth hereafter, Energy Cooperative of New York, Inc. ("ECNY") hereby respectfully requests that the Public Service Commission ("PSC") initiate an immediate, comprehensive investigation of the impact upon ECNY of National Grid's recent correction of a meter reading error involving an account of a member of ECNY's electric aggregation group. This request is driven by the financial hardship ECNY has encountered as a direct result of this correction, which modified usage dating back to February of 2004.

ECNY has been electric Energy Service provider since first one of deregulation back in November 1999 and has never encountered this type major error by any utility in New York State. ECNY is a not-for-profit, member-owned cooperative corporation whose members include both electricity and natural gas end users in utility territories across New York State. ECNY was initially formed in October 1997 as the Energy Cooperative of Western New York, Inc. An amendment to the Certificate of Incorporation was filed in April of 1999, which changed the corporate name to reflect the fact that the customer base had grown to encompass all regions of Upstate and much of Central New York.

ECNY is dedicated to providing businesses, industries, civic groups, churches and residents with an alternative for the purchase of natural gas and electricity, driven solely by the objective of minimizing the ultimate costs of said commodities to the end user. A ten-member board of directors elected by its members governs the Cooperative. Membership within the Cooperative enables customers to typically secure the best energy prices for which they would not otherwise qualify if they were not part of buying group. The focus on maximizing benefits enjoyed by the members also translates into a strong commitment to the individual communities and regions in which the members are located, thereby maintaining, or improving, the fiscal stability of these communities and regions, which in turn contributes to the economic and financial stability of New York State as a whole.

We are currently a natural gas and electricity supplier to end users in the following utility territories: National Fuel Gas, National Grid, New York State Electric & Gas, Consolidated Edison and Rochester Gas & Electric. Also, we are supplying residential natural gas customers in the National Fuel Gas territory, and residential electric customers in the National Grid, Rochester Gas & Electric and New York State Electric & Gas territories. There are more than 1,500 members in the Cooperative, which translates into more than 6,000 service accounts across New York State. ECNY is an approved Energy Service Company (ESCO) with both the PSC and the New York Independent System Operator.

I. Facts:

In early 2005 ECNY enrolled the Dash Markets electric account located at 499 W Klein Road, with National Grid account number 0644884159, and service class SC3. Effective February 5, 2005, ECNY became the supplier of record. Dash Markets is a locally owned small grocery chain, which operates four stores in the Buffalo, New York area. The location in question was built in 2002. In February 2006, National Grid

realized that they were using the wrong meter multiplier, and that the metered usage at this facility that was utilized for billing purposes should have twice what was reported. Based upon with the State's statutory provisions, presumably, National Grid went back two years from February 2006 and back billed Dash Markets based upon the revised usage numbers following its discovery of its error.

The meter error by National Grid resulted in a total cost, exclusive of any related financial impact such as interest charges, of \$234,867.06 to Dash Markets apportion between National Grid and ECNY as follows:

National Grid Back Bill:

T&D Charges 02/01/04 – 02/02/06

Supply Charges 04/01/04 – 04/05/05

| | |
|----------------------|---------------------|
| Total Charges | \$155,248.65 |
|----------------------|---------------------|

ECNY Back Bill:

Supply Charges 04/05 – 02/02/06

| | |
|------------------------|---------------------|
| 872,400 Kwh Adjustment | \$ 79,618.41 |
|------------------------|---------------------|

Dash Markets filed a complaint against National Grid after reviewing the modified billing documentation that they received following National Grid's aforementioned discovery of its error. The PSC reviewed the complaint and granted Dash Markets a hearing. The PSC assigned Case Number 612231 to the proceeding and assigned the case to Mr. Sullivan. Shortly after learning of the complaint, National Grid offered a settlement to Dash Markets for the transmission and distribution portion of the retroactive charges. Mr. Joseph Dash, owner of Dash Markets, requested additional language which would provide that the credit should be effectuated by providing adjusted billing determinants to ECNY, the commodity provider during a portion of the time frame in question. National Grid rejected the concept of resolving the matter through the use of billing determinant corrections. Two attempts were made by Dash Markets to include additional language reflecting a volume reduction, which would yield the same

- settlement result, however it would significantly lower Dash Markets' commodity cost exposure associated with the corresponding retroactive billing that its supplier, ECNY, would need to charge. Having been unsuccessful in its repeated attempts to secure a settlement that would accommodate all parties, Dash Markets accepted National Grid's settlement offer without the requested language. Upon information and belief, at the time Dash Markets believed they could negotiate a similar settlement ECNY.

II. ESCO Impact:

The primary basis for this complaint centers around the simple fact that ECNY does not have the same resources, nor is it in the same position as a public utility, to settle a matter such as this for what essentially amounted to less than fifty cents on the dollar. Once National Grid, following discovery of its error, submitted the adjusted usage data to the NYISO, ECNY, as LSE, was charged for the energy costs relating to the retroactive period in which it was the commodity supplier to Dash Markets. Listed below are some of the impacts on ECNY of National Grid's correction of its metering error.

1. Based on the inaccurate meter data provided by National Grid, ECNY was under-scheduling the monthly electric load for its aggregate into the NYISO for a period of ten months, to a significant degree given that the Dash Markets facility is a large SC-3 account.
2. Subsequent to its receipt of the corrected usage information, the NYISO billed ECNY in its four and twelve month true-up statements in order to recover the costs relating to the under-scheduled energy attributable to the erroneous usage information for the Dash Markets account. In addition, ECNY was charged interest by the NYISO on the total charges for the length of the true-up period.
3. ECNY was placed in an extremely awkward position – i.e. in the middle of a dispute between a member and National Grid – in which ECNY had no direct responsibility or right to insert itself in the settlement discussions. Notwithstanding this fact, ECNY attempted to engage itself in the process and suggested a resolution that could have delivered the same financial results to

- • • National Grid, while providing relief to Dash Markets from the significant impact of a retroactive commodity cost rebill.
4. Unsuccessful in its attempts to reach a more equitable settlement, ECNY then faced an inevitable dispute with a respected member of its aggregate to collect for the retroactive commodity charges brought about through the settlement of National Grid's metering error.
5. There was no wrongdoing on ECNY's part, yet it is suffering the consequences. ECNY billed its member accurately based on the meter data provided by National Grid, however the retroactive adjustment of that data has resulted in a significant financial obligation to the NYISO that ECNY must attempt to address, either directly with Dash Markets or indirectly by assessing the costs to the rest of the members.

Energy supply costs during this re-bill period were impacted by the aftermath of hurricanes Rita & Katrina, which caused significant increases in electricity prices, including numerous periods in which commodity costs exceeded \$100 per MWh. ECNY's management made a good faith effort to discuss this matter with National Grid representatives, however they refused to adjust the volumes for this account in a manner that would result in a limited impact under the NYISO's billing practices.

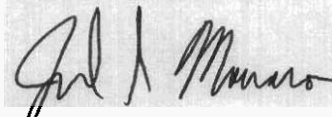
Upon information and belief, National Grid would have received remuneration through the process by which Unaccounted for Energy is treated on its system. On further information and belief, it may be able to obtain financial relief from the costs incurred in connection with its settlement through provisions of its current or future rate cases. ECNY does not have this luxury,

III. Conclusion:

In conclusion, ECNY asks that the PSC direct National Grid to reduce the metered usage of the aforementioned Dash Markets account, consistent with the percentage reduction agreed to in the National Grid settlement with Dash Markets, to an

amount that will result in a retroactive commodity charge that delivers a corresponding equivalent reduction in said commodity charge due and payable by Dash Markets to ECNY. Should this not occur, ECNY requests that National Grid reimburse ECNY for its financial hardship incurred due to their error, inclusive of any interest and other related costs.

Respectfully submitted,



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March 29, 2007

Cc: Kathleen Yetman – Manager, Supplier Services
National Grid