

**STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION**

IN RE: INVESTIGATION INTO THE FUTURE OF :
THE REGULATED GAS DISTRIBUTION BUSINESS IN : DOCKET NO. 22-01-NG
RHODE ISLAND IN LIGHT OF THE ACT ON CLIMATE :

Draft Staff Recommendation for Public Comment

I. Background and purpose of this document

On June 9, 2022 the Rhode Island Public Utilities Commission (PUC) published a Notice of Commencement of Docket to investigate the future of the regulated gas distribution business in Rhode Island in light of the Act on Climate (Act), R.I. Gen Laws § 42.6-2 *et seq.* In that notice, the PUC described seeking public comment on specific questions before formally engaging with the utility and stakeholders.

PUC staff provides a draft scope for the docket below. The intent is for the public to comment on whether the draft scope, which includes the questions the PUC will contemplate through this process, should be narrowed or expanded. Staff is not asking the public to provide specific responses to the questions below at this time—those responses will be requested later in the stakeholder process.

PUC staff then will consider the comments and revise the draft scope into a recommendation to the Commissioners, to be published on the docket webpage. Shortly thereafter the Commissioners will consider Staff’s recommendation and the public comments and formally adopt a scope, after which the PUC will begin a stakeholder process to execute the scope. More specific information on the request for comments appears below in Section IV.

Stakeholders are asked to provide comments by Friday, October 7, 2022 to the PUC at PUC.PublicComments@puc.ri.gov ATTN: 22-01-NG Future of Gas.

II. Scoping discussion

A. The Act on Climate

On April 10, 2021, Governor McKee signed the Act into law, thereby amending R.I. Gen. Laws § 42.6-2 *et seq.* Of these amendments, Staff highlights four that provide particular purpose and motivation for Staff’s recommended scope.

First, the Act updated the greenhouse gas (GHG) emissions reductions requirements and timeline so that economy-wide reductions targets are accelerated and progress to net zero by 2050.¹ Second, the Act establishes that the economy-wide targets are mandatory upon “the state”.² Third, the Act establishes enforcement provisions on the emissions reductions mandate.³ And, fourth, the Act updated the powers and duties of state agencies in exercising their existing authorities—

¹ R.I. Gen. Laws §§ 42-6.2-2(a)(2)(i) and 42-6.2-9.

² R.I. Gen. Laws § 42-6.2-9.

³ R.I. Gen. Laws § 42-6.2-10.

the statute now obligates each agency⁴ to address “the impacts on climate change... in the exercise of its existing authority.”⁵

In addition, the Act amended aspects of the Executive Climate Change Coordinating Council (EC4)⁶, whose many purposes include coordinating the efforts of state agencies and to creating quinquennial Net Zero Plans beginning in 2025. Net Zero Plans are intended to establish a strategy for meeting the requirements of the Act.⁷ Agencies must also support the EC4’s work by, among other efforts, assisting the EC4 in implementing the provisions of the Act and by developing short- and long-term GHG emissions reduction strategies.⁸

Compliance with environmental laws is a normal and expected activity of a utility, and the PUC’s review is typically narrow and may be limited to whether the compliance is conducted prudently—for example in a least-cost manner. The Act, however, places the mandate to reduce emissions on the State and the obligation to implement coordinated actions on state agencies. To successfully implement the requirements of the Act, the PUC should first identify how the Act may affect public utilities and enumerate issues that require government action. Of these, the PUC should explain its point-of-view on which issues are within its jurisdiction and which are not.

B. Gas System Regulation and the Act

The PUC’s implementation of the Act applies to all utilities, but The Narragansett Electric Company d/b/a Rhode Island Energy (RIE) owns and operates the electrical and natural gas businesses that have the largest GHG emissions of regulated utilities operating within the state. This proceeding will focus on the gas system.⁹ Similar to the electric system, there are two primary alternatives for reducing emissions associated with gas consumption in alignment with the Act: create a scalable and sustainable market for low- and no-carbon natural gas or transition customers from the gas system to alternative fuels with clearer pathways for meeting the mandated targets (such as electricity). The PUC’s experience is that both options (including hybrid scenarios) require significant intervention. Understanding the scale of that intervention is useful to the discussion of the future of the gas system. Staff therefore recommends conducting a technical analysis of these alternatives that are specific to Rhode Island.

⁴ Here “agency” refers to all state departments, agencies, commissions, councils, and instrumentalities, including quasi-public agencies within which the PUC is included.

⁵ R.I. Gen. Laws § 42-6.2-8.

⁶ The EC4 comprises “officials from state agencies with responsibility and oversight relating to assessing, integrating, and coordinating climate change efforts.” The PUC is not included in the statutory membership of the EC4, nor has a PUC official been added to the EC4 through the unlimited membership provision in the statute.

⁷ R.I. Gen. Laws § 42-6.2-2(a)(2)(iv).

⁸ R.I. Gen. Laws § 42-6.2-3.

⁹ Staff believes it is appropriate to focus on the gas system in this proceeding. While alignment of the electric business with the Act is ongoing, the electric sector is much further along a feasible emissions-reduction pathway than the gas business. This is because long-term government and private actions have created scalable solutions for directly reducing emissions from electricity use. Specifically, a feasible path for electric-system emissions has emerged with the growth of clean electricity generation in the region. This is particularly compelling if one assumes that retail electricity suppliers’ compliance with the Renewable Energy Standard (RES) through the procurement of NEPOOL-GIS certificates (RECs) will be accounted for by the EC4 as low- or no-carbon electrical energy emissions. This assumption about electricity consumption and its effects may be explored in this docket as a first-order issue, but the focus will remain on the gas system.

The PUC's work here will recognize that the EC4 has options for deploying emissions-reducing technology in other sectors like transportation and oil heating. The coordinated dispatch of these technologies through time will be driven primarily by cost, but also by other factors like effectiveness, sustainability, fairness, equity, and economic impacts. Thus, the PUC's work cannot assume lock-step emissions reductions across sectors. Between now and 2050, it is plausible that emissions from the gas sector need to be addressed much faster than other sectors or much slower—two scenarios that may favor differing implementation plans for the gas system.¹⁰

Relatedly, the PUC's analysis should go beyond a review of cost, feasibility, and effectiveness of technology solutions. The PUC also should examine other policy factors such as reliability, safety, rate impacts, fairness, equity, and inclusion, among others. Identifying these factors and exploring them within the context of utility regulation should be a key task in the proceeding.

C. The process should develop a framework for progress

Similar to the work executed in Docket 4600, the PUC should determine its principles for harmonizing the requirements of the Act with regulation of the gas system. The PUC should also determine goals for the gas system consistent with both the Act and the policies set forth in Title 39 and the PUC's existing policy. Additionally, the PUC should consider existing dynamics within the gas system, like investment in growth of the gas system, investment in repair and replacement of leak-prone pipes, and allocation of the costs of gas supply and the gas system.

D. The work should aim to encompass the Act on Climate Report required by settlement between the Attorney General and RIE

Staff also recognizes the settlement agreement between Attorney General Neronha (AG) and RIE (Settlement Agreement) required RIE to conduct a stakeholder process and create a report on meeting the Act and develop a long-term strategy for the gas distribution system in light of the Act.¹¹ The Settlement Agreement, however, stipulated that if the PUC opens a docket requiring the same, the PUC's docket would supersede this requirement in the Settlement Agreement. Recognizing the AG's foresight to allow for efficiency and maximizing effectiveness through a PUC proceeding, Staff has endeavored to create a scope that encompasses the aims and requirements described in the Settlement Agreement.

III. Scope

A. Purpose

Staff recommends the PUC define the purpose(s) for the docket. The purpose(s) will provide a way to determine if new issues identified during the proceeding should be addressed in a different manner or included in the scope of this proceeding. Staff recommends the Commission adopt the following purpose(s):

1. Explore the requirements of the Act that are relevant to the PUC's jurisdiction;

¹⁰ The Act mandates an economy-wide reduction of GHG emissions below the level emitted in 1990 of 45% by 2030 and 80% by 2040.

¹¹ The settlement agreement can be accessed at <https://riag.ri.gov/media/3241/download>.

2. Identify and analyze the technical and regulatory approaches that enable meeting the goals for the gas system, including enabling the State to meet the emissions reduction mandates in the Act;
3. Identify goals for the gas system that are consistent with the law, including, but not limited to, the emissions requirements of the Act and the requirements of Title 39;
4. Create a framework for implementation of necessary or beneficial actions under the PUC jurisdiction over the gas system specifically and/or public utilities generally; and
5. Identify necessary or beneficial actions that are beyond the PUC’s jurisdiction over the gas system specifically and/or public utilities generally.

In meeting these purposes, the PUC will have clear recommendations from stakeholders on the future of the gas system in light of the Act. The PUC will, at that point, begin one or more processes to implement the recommendations the PUC finds appropriate.

B. Policy Analysis

Staff recommends the PUC’s scope begin with an initial policy analysis with stakeholders. Rather than arrive at fully formed policy, the policy analysis phase will identify a range of potential answers to first-order questions about the interplay between the Act and gas regulation (or utilities generally). The list of relevant questions, and range of possible answers the stakeholder group enumerates, will allow for a public vetting of what needs to be tested during the Technical Analysis and advanced by the Policy Development phases described below.

Staff presents the following questions as the scope of the Policy Analysis phase:

1. What are the technical requirements of the Act?
 - a) How are emissions accounted for by the EC4 in each sector and for the state?
 - b) What emissions and actions are represented in the 1990 GHG inventory and the current GHG inventory?
2. What are the emissions policy requirements of the Act?
 - a) What is the definition and effect of “net zero” emissions?
 - b) Which point-of-view of emissions reduction does the Act and EC4 take—e.g., societal emissions, state emissions, and/or consumer emissions?
 - c) How will decreases in Rhode Island’s emissions that cause increases in other states’ emissions be treated in emissions accounting?
 - d) How will decreases in gas-system emissions that cause increase in emissions from other sectors be treated?
 - e) Do the cumulative emissions between now and 2050 matter under the Act?
 - f) What timespans constitute short- and long-term greenhouse gas emissions reduction strategies, with particular focus on the gas system?
 - g) What policies, such as cost, equity, reliability, etc. does the Act identify in directing the EC4 and agencies to develop GHG reduction plans?

C. Scoping of the Technical Analysis to Be Performed by RIE

As required in the Settlement Agreement, RIE committed to retain a consultant to investigate and prepare an “Act on Climate Report.” This would inevitably have required a comprehensive Technical Analysis. A Technical Analysis is necessary to create information useful to understanding what actions and options for emissions reductions are effective and to identify the potential benefits and costs of these actions and options. The analysis should also, to the extent possible, examine different mechanisms for implementation of solutions and cost recovery, as these options will have distributional impacts as well as the potential for negative and positive effects on achievement.

Given the opening of this docket, and consistent with the Settlement Agreement, this Technical Analysis will now be scoped through a PUC-led stakeholder process. The final product of the Technical Analysis Scoping phase is the identification of the final scenarios, including alternative testing and sensitivity ranges, that should be included in RIE’s scope for the Technical Analysis. Staff envisions subsequently creating a technical working group within the larger stakeholder group that is convened by RIE with the purpose of managing delivery of a report on the Technical Analysis to the larger stakeholder group.

Staff presents the following questions to consider in the Technical Analysis Scoping phase:

1. What infrastructure and non-infrastructure options exist for reducing emissions from the gas system?
 - a) Which have been explored in previous and current studies and which have not?
 - b) What updates to the examinations in previous studies, including key assumptions, should be updated and/or considered for sensitivity testing?
2. What scenarios for (all) sector-level emissions will allow the state to meet the emissions reduction mandates of the Act?
 - a) What is the appropriate baseline for the economy and for the gas system?
 - b) In terms of different timing and extent of emissions reductions, what is the implication of these scenarios on the gas system?
 - c) Does the feasibility of options for reducing gas system emissions change between these differences in timing and extent in these scenarios?
3. What outputs of the Technical Analysis will inform the Policy Development phase?
 - a) What effects of decarbonization should be tracked between scenarios? For example, benefits, costs, rate impacts, inclusion and participation, reliability factors, impacts on other sectors, etc.
 - (1) What mechanisms of cost recovery should be examined?
 - b) Which effects can be directly tracked, and which must be indirectly inferred by tracking related factors or proxies?
 - c) From which points-of-view do we wish to track the effects of decarbonization? For example, the point-of view of society, the state, the EC4, residents, utility ratepayers, gas system ratepayers, etc.

- d) How much detail about how changes in the gas system will impact other sectors is necessary to model in order to answer key questions?
- 4. What assumptions and inputs are critical to the outputs of the Technical Analysis?
 - a) Does current knowledge about these assumptions warrant testing alternative assumptions?
 - b) Does current knowledge about these inputs warrant performing sensitivity analyses?
- 5. What final scenarios, including alternative testing and sensitivity ranges, should be included in RIE's scope for the Technical Analysis the company will perform?

D. Policy Development

After scoping the Technical Analysis, consistent with the purposes of the docket, the Policy Development Phase should begin with a review of gas regulation, proceed to identify stakeholders' goals and principles, apply stakeholders' goals and principles to the results of the Technical Analysis, and conclude with stakeholders' recommendations to create a framework for implementation.

The following are questions to review gas regulation:

- 1. What are the goals of the gas system absent the Act and how were they developed?
- 2. What is the current business-as-usual status of the gas system?
 - a) What are the basic statistics of customers and usage relied on in regulation, planning, and operation of the system?
 - b) What are the characteristics of customers that define rate classes?
- 3. What processes affect procurement of gas?
 - a) How is gas procured, delivered, and from whom?
 - b) Who has profit motive in the sale of the gas commodity?
 - c) How is gas usage forecasted and gas procurement planned?
 - d) What requirements or norms exist around reliability of gas supply and who bears the responsibility of reliability?
- 4. What processes affect investment in the gas system and spending on operation and maintenance?
 - a) How is spending for safety and reliability planned?
 - b) How is spending for growth planned?
 - c) What profit motives drive investments in the system?
 - d) How is the gas system paid for?
 - (1) How is the revenue requirement set?
 - (2) How are costs allocated?
 - (3) How are rates set?

- e) What are the economic risks associated with investment in the gas system and who bears those risks?
5. What principles and policy does the PUC (and regulatory commissions generally) use in making decisions on procuring gas and spending on the system (including investment and O&M).
- a) What are the requirements of gas service in Rhode Island?
 - b) What are the rights and obligations of RIE in providing gas service?
 - c) How does least-cost procurement affect gas regulation?
 - d) How does the leak-prone pipe replacement program affect future value propositions?
 - e) How do revenue decoupling and other reconciliations affect RIE's business model?
 - f) What are customers' rights, obligations, and expectations?

The following questions are intended to identify stakeholders' goals and principles:

- 6. What values are not considered in the current regulation of RIE's gas business that should be considered in light of the Act?
- 7. What goals for the gas system are consistent with the law, including, but not limited to the Act and Title 39?
- 8. What ratemaking principles support or hinder achieving goals?
- 9. What existing mechanisms for gas system spending (including investment, O&M, and commodity procurement) are consistent or inconsistent with the purposes of the Act, or present a barrier to meeting the goals of the Act?
- 10. What mechanisms could be created that would enable decreased emissions from the gas system that are consistent with the Act?
 - a) What programs can the PUC create to meet the emissions targets?
 - b) What is RIE's duty to serve?
 - (1) Can the PUC implement a moratorium on new gas connections?
 - (2) Can the PUC implement a cap on gas sales?
 - (3) Can the PUC implement a cap on gas emissions?
 - c) Can the PUC approve alternative technologies, commodities, or business practices and include cost-recovery in regulated rates?
 - d) Can the PUC authorize RIE to construct, own, and operate district geothermal systems as an alternative to natural gas infrastructure as a distribution service to customers, regulated by the PUC?
 - e) Can the PUC employ alternative ratemaking to align RIE's business model with the Act?
 - f) Can the PUC alter other underlying revenue requirement factors, like capital structure and depreciation schedules and rules, in light of the Act?
 - g) Can the PUC create a gas abandonment program?

11. What principles can be used to support decision-making that is consistent with the Act and other existing laws?

The following questions apply stakeholders' goals and principles to the Technical Analysis.

12. Which scenarios allow for emissions reductions consistent with the suggested goals for the gas system?
13. What are the weaknesses and strengths of the different scenarios?
 - a) Do any of the results of the Technical Analysis foreclose an option or scenario?
 - b) What are the quantifiable weaknesses and strengths, such as cost and effectiveness?
 - c) What are hard-to-quantify weaknesses and strengths, such as equity, inclusion, fairness, and socio-economic effect?
 - (1) Can weaknesses be mitigated (or strengths enhanced) through program design, cost allocation, or rate design?
 - d) Which results are reliable, and which should be viewed with less confidence?

The following questions are intended to identify stakeholders' recommendations for an implementation framework:

14. What updates to regulatory policy, rate design, and cost-recovery mechanisms are required to support stakeholders' preferences?
15. What changes to support stakeholders' preferences are not within the PUC's jurisdiction?
16. What updates to statute are required to support stakeholders' preferences?

IV. Conclusion

Staff requests comments from the public on the scope of this proceeding described in Section III above. As the scope is still a draft proposal, responses to the questions in the draft scope are not necessary at this time—that public input will be sought later during the proceeding. Specifically, the public's input is requested on the following:

1. Have staff identified appropriate purposes for the docket?
2. Is the proposed workplan described in Section III—including a Policy Analysis, Scoping of the Technical Analysis to Be Performed by RIE, and Policy Development—appropriate for meeting the purposes?
3. Do any issues or questions described in Section III need to be narrowed or broadened?
4. Do any issues or questions need to be eliminated from or added to Section III?

Public comment is appreciated in written form submitted to PUC at PUC.PublicComments@puc.ri.gov ATTN: 22-01-NG Future of Gas by Friday, October 7, 2022.