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December 30, 2022

**VIA HAND DELIVERY & ELECTRONIC MAIL**

Luly E. Massaro, Commission Clerk  
Rhode Island Public Utilities Commission  
89 Jefferson Boulevard  
Warwick, RI 02888

**RE: Docket No. 22-22-NG – Issuance of Advisory Opinion to EFSB re RIE Application to Construct an LNG Vaporization Facility on Old Mill Lane, Portsmouth, RI**

Dear Ms. Massaro:

On behalf of The Narragansett Electric Company (the “Company”), I have enclosed the Company’s Objection to First Set of Data Requests Issued by the Rhode Island Division of Public Utilities and Carriers (the “Division”) together with the Company’s Motion to Extend Time to Respond to the First Set of Data Requests Issued by the Division.

Thank you for your attention to this matter. If you have any questions, please contact me at (401) 709-3351.

Sincerely,



George W. Watson III

Enclosures

cc: Docket 22-42-NG Service List

Certificate of Service

I hereby certify that a copy of the cover letter and any materials accompanying this certificate were electronically transmitted to the individuals listed below.

The paper copies of this filing are being hand delivered to the Rhode Island Public Utilities Commission and to the Rhode Island Division of Public Utilities and Carriers.

Heidi J. Seddon

December 30, 2022

Date

**Docket No. 22-42-NG – Needs Advisory Opinion to EFSB regarding Narragansett Electric LNG Vaporization Facility at Old Mill, Portsmouth, RI  
Service List update 12/20/22**

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STATE OF RHODE ISLAND  
PUBLIC UTILITIES COMMISSION

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In re:	)	
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THE ISSUANCE OF ADVISORY OPINION	)	
TO THE ENERGY FACILITY SITING BOARD	)	
REGARDING THE NARRAGANSETT ELECTRIC	)	
COMPANY’S APPLICATION TO CONSTRUCT AN	)	DOCKET NO. 22-42-NG
LNG VAPORIZATION FACILITY ON OLD MILL	)	
LANE, PORTSMOUTH, RHODE ISLAND	)	
	)	

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OBJECTION OF THE NARRAGANSETT ELECTRIC COMPANY  
TO FIRST SET OF DATA REQUESTS  
ISSUED BY THE RHODE ISLAND DIVISION OF PUBLIC UTILITIES AND CARRIERS

I. INTRODUCTION

Pursuant to RICR 810-RICR-00-00-1.19(C)(3), The Narragansett Electric Company (the “Company”) objects to three data requests included in the Rhode Island Division of Public Utilities and Carriers’ (the “Division”) First Set of Data Requests to the Company issued on December 20, 2022.<sup>1</sup> Specifically, Data Request 1-1 is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, Data Request Division 1-1 inevitably would require the production of electronically stored information and the expense and burden of its gathering and compilation outweighs the likely benefit of any such materials in resolving the issues under consideration by the Public Utilities Commission (the “PUC” or “Commission”). The Company also objects to Data Requests Division 1-10 and Division 1-11, which request that the Company assess the impact of unspecified “conservation initiatives” on the annual and peak hour demands of gas customers, by

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<sup>1</sup> The Company has made several unsuccessful attempts to confer with the Division regarding its First Set of Data Requests since they were issued.

rate class, over a ten-year period. These requests are vague and would require the Company to formulate its own assumptions about what “conservation initiatives” legislatures or regulatory bodies might enact *over the next decade* resulting in useless speculative responses. For these reasons, explained more fully below, Data Requests Division 1-1, Division 1-10, and Division 1-11 should be quashed.

## II. BACKGROUND

On April 1, 2022, the Company submitted an application to the Rhode Island Energy Facility Siting Board (“EFSB”) for a license to construct and operate a portable liquefied natural gas vaporization and injection facility at 111 Old Mill Lane in Portsmouth, Rhode Island (the “Project”). The Project is needed to address the vulnerability of the natural gas distribution system on Aquidneck Island that results from its location at the end of a single gas transmission lateral from the mainland. The Project is also used to address the supply capacity constraint by injecting natural gas into the distribution system when demand on Aquidneck Island exceeds what the Company can permissibly take from the transmission pipeline that delivers gas to Aquidneck Island. The Project utilizes portable vaporizers, portable booster pumps, portable storage tanks, portable generator, mobile office trailer, and portable lavatory (collectively, the “Equipment”). For the annual winter mobilizations, the Equipment is brought online by December 1, and it is taken offline and removed from the site after April 1.

Pursuant to R.I. Gen. Laws § 42-98-10, on October 19, 2022, the EFSB issued Preliminary Decision and Order No. 156 (the “Preliminary Order”) designating the PUC as one of several agencies from which advisory opinions would be required. The EFSB directed the PUC to render an advisory opinion on several issues, including the statutory elements of need

and cost. *See* R.I. Gen. Laws §§ 42-98-11(b)(1) and (b)(2). Specifically, the Preliminary Order directed the PUC to opine upon

(i) whether the proposed Facility is needed, as such opinion from the PUC is required by the Siting Act. The need analysis should also include the potential duration of the license, whether the license should contain a contingent expiration date, identifying the conditions that would need to be met for granting an extension, and proposing such a date if a contingent expiration is deemed appropriate. The PUC should also advise on the extent to which a moratorium on new gas connections on Aquidneck Island could materially contribute to shortening the period over which the proposed Facility would be needed.

(ii) whether the Facility is cost-justified. The cost justification analysis should include an evaluation of alternatives. As part of its assessment of cost and alternatives, the PUC should include in its advisory opinion an evaluation of the extent to which there are any cost-effective, non-infrastructure options (such as energy efficiency, heating conversions, and demand response initiatives) which would avoid the need for the Facility. In performing the evaluation of any non-infrastructure options, the PUC should determine the extent to which there are technically feasible solutions available at a reasonable cost to ratepayers that could eliminate the need for the Facility, and whether any such solutions could be reasonably relied upon to eliminate the need for the Facility within a reasonable period of time. As part of this analysis, the PUC should evaluate the Applicant's assumptions related to fuel switching and the relative emissions of different heating sources.

(iii) whether the Facility is expected to produce energy (i.e., provide and vaporize liquified natural gas) at the lowest reasonable cost and perform its reliability function at the lowest reasonable cost to the consumer consistent with the objective of ensuring that the construction and operation of the proposed Facility will be accomplished in compliance with all of the requirements of the laws, rules, and regulations.

Preliminary Order, at 17-18 (footnotes omitted).

### III. STANDARD OF CONSIDERATION

With respect to objections to discovery requests, the Commission's Rules of Practice and Procedure provide, in relevant part,

Objection to a data request in whole or in part on the ground that the request is unreasonable and/or the material is not relevant or not permitted or required by law shall be made by motion filed as soon as practicable and in no event later than

ten (10) days after service of the request.... The relevancy of a request shall be determined under the standards established for such determinations under Rule 26 of the Superior Court Rules of Procedure.

810-RICR-00-00-1.19(C)(3).

In turn, Superior Court Rules of Civil Procedure provide,

(b) Discovery: Scope and Limits. Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:

(1) In General. Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party....

The frequency or extent of use of the discovery methods set forth in these rules shall be limited by the court if it determines that:...

(C) [t]he discovery is unduly burdensome or expensive, taking into account the needs of the case, the amount in controversy, the parties' resources, and the importance of the issues at stake in the litigation. The court may act upon its own initiative after reasonable notice or pursuant to a motion under subdivision (c).

#### IV. ARGUMENT

The Preliminary Order defines the matters at issue in this docket, and the EFSB detailed with precision the facets of need and cost that must be considered by the PUC. Notwithstanding the precision offered by the EFSB, the Division's objectionable data requests lack the specificity that would permit the Company to respond in a meaningful way. With respect to Data Request Division 1-1, the request is overly broad, unduly burdensome, and not designed to lead to the discovery of admissible evidence. Data Requests Division 1-10 and Division 1-11 are so vague

that formulation of a response would require pure speculation on the part of the Company.

A. Data Request Division 1-1

Data Request Division 1-1 requests that the Company

...provide copies of *all communications between RIE (or its predecessor National Grid) and Enbridge (or Algonquin Gas Transmission) over the last five years* regarding plans for replacing the lateral gas transmission pipeline serving Aquidneck Island and/or RIE's need for additional capacity to serve Aquidneck Island. The response to this request should include, but should not be limited to, communications that specify RIE's anticipated gas capacity requirements for Aquidneck Island.

(Emphasis added.) Formulating a response to this request would require: (1) the identification of a presently unknown but undoubtedly significant number of potential custodians of responsive documents including employees of the Company's former owner; (2) the development of agreed search terms to identify potentially responsive documents within the email boxes of each custodian; (3) the manual review of the documents that result from the searches; (4) deduplication of the resulting responsive documents; and (5) a confidentiality review of the resulting set of documents prior to production. Although this process is not impossibly burdensome, it is unduly so given the matters referred to the PUC through the EFSB's Preliminary Order—the need and cost justification for the Project.

The Division's request is tailored to determine whether there exists a pipeline alternative to address the vulnerability of natural gas transmission to Aquidneck Island, i.e. the potential that an upstream event would disrupt the flow of natural gas supply. Instead of issuing a data request that would bear on the question of the need for the Project, the Division simply requested that the Company undertake a time consuming, expensive and ultimately needless document review project to produce *all* communications with Enbridge over a five year period concerning the limitations of the transmission infrastructure serving Aquidneck Island. Rhode Island's Superior



Court has rejected litigants' similar requests for "all" documents on an issue that is the subject of litigation, and the PUC should similarly reject this request. *See Berrios v. Jevic Transp., Inc.*, C.A. No. PC 2004-2390, 2012 R.I. Super. LEXIS 100, at \*35 (R.I. Super. Jun. 29, 2012) (stating "[Defendant's] request for 'all documents relating to the accident' is essentially a blanket request for every document connected to the events giving rise to this litigation. Such a request is overly broad and excessive in its generality. Parties should aim for some sort of specificity in their discovery requests."); 810-RICR-00-00-1.19(C)(1) (requiring data requests to seek information "reasonably relevant" to a proceeding) and 1.19(C)(2) (requiring data requests to "specify *in as much detail as possible* the material requested") (emphasis added).

B. Data Requests Division 1-10 and Division 1-11

Data Request Division 1-10 asks the Company to "...document and explain the Company's assessment of gas energy efficiency improvements and conservation initiatives on *annual* gas supply requirements by rate class for Aquidneck Island for the years PY2023 through PY2032." (Emphasis added.) Similarly, Data Request Division 1-11 requests that the Company "document and explain the Company's assessment of gas energy efficiency improvements and conservation initiatives on *Peak Hour* gas supply requirements by rate class for Aquidneck Island for the years PY2023 through PY2032." (Emphasis added.) These data requests are so vague and indefinite that they are not susceptible to responses that are anything other than soothsaying. First, the requests would require the Company to make assumptions about what energy efficiency technologies might become available over the next decade. Second, the requests provide no indication of what is meant by "conservation initiatives" or how such initiatives would affect Aquidneck Islanders' demand for and reliance upon natural gas as a source of energy. For example, it is not indicated if these initiatives are legislative, regulatory, or

the initiatives of individual Aquidneck Island customers to conserve energy. Third, even if the term “conservation initiatives” was susceptible to a sufficiently certain definition to inform the Company’s analysis of the potential impact of such initiatives on natural gas demand, there is no reasonable way to determine what initiatives may be put in place over the next decade.

The Division could have requested an analysis of annual and peak hour gas supply requirements assuming some certain percentage decrease in customer demand, or some other sufficiently certain means of informing the Company’s analysis. Because no such specificity was provided, Data Requests Division 1-10 and Division 1-11 do not satisfy the specificity requirement of 810-RICR-00-00-1.19(C)(2) and should be quashed.

IV. CONCLUSION

For the foregoing reasons, the Company requests that the Commission sustain its objections to Data Requests Division 1-1, Division 1-10, and Division 1-11 and that those requests be quashed.

Respectfully submitted,

**THE NARRAGANSETT ELECTRIC  
COMPANY**

By its attorneys,



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Dated: December 30, 2022

STATE OF RHODE ISLAND  
PUBLIC UTILITIES COMMISSION

In re:	)	
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	)	
THE ISSUANCE OF ADVISORY OPINION	)	
TO THE ENERGY FACILITY SITING BOARD	)	
REGARDING THE NARRAGANSETT ELECTRIC	)	
COMPANY’S APPLICATION TO CONSTRUCT AN	)	DOCKET NO. 22-42-NG
LNG VAPORIZATION FACILITY ON OLD MILL	)	
LANE, PORTSMOUTH, RHODE ISLAND	)	
	)	

MOTION OF THE NARRAGANSETT ELECTRIC COMPANY  
TO EXTEND TIME TO RESPOND TO THE FIRST SET OF DATA REQUESTS ISSUED BY  
THE RHODE ISLAND DIVISION OF PUBLIC UTILITIES AND CARRIERS

Pursuant to RICR 810-RICR-00-00-1.7(b), The Narragansett Electric Company (the “Company”) seeks a three-week extension of time, up to and including January 24, 2022, to respond to the First Set of Data Requests issued by the Rhode Island Division of Public Utilities and Carriers (“Division”) on December 20, 2022, in the above referenced docket.<sup>1</sup> The Company is seeking additional time to respond to the Division’s First Set of Data Requests because the data requests require substantial information that is overly burdensome to respond to in a two-week period.<sup>2</sup> Due to the breadth and depth of the questions themselves, additional time is needed to prepare and file responses. The Company respectfully requests an extension of time to reply (from January 3, 2023, to January 24, 2023).

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<sup>1</sup> Contemporaneously with this request for an extension of time, the Company is also filing an objection to data requests Division 1-1, Division 1-10, and Division 1-11.

<sup>2</sup> The Company has made several unsuccessful attempts to confer with the Division regarding its First Set of Data Requests since they were issued. The burden of responding in a two-week period is compounded by the fact that the responses were issued on December 20, 2022 and are due January 3, 2023 and certain Company personnel are not available during this time.

For the foregoing reasons, the Company requests that the Commission grant its motion for extension of time.

Respectfully submitted,

**THE NARRAGANSETT ELECTRIC  
COMPANY**

By its attorneys,



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Dated: December 30, 2022