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Rhode Island Energy™
a PPL company

February 28, 2023

VIA HAND DELIVERY & ELECTRONIC MAIL

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

RE: Docket No. 22-54-NG – The Narragansett Electric Company
Proposed Fiscal Year 2024 Gas Infrastructure, Safety, and Reliability Plan
Rebuttal Testimony and Response to Attorney General's Position Statement

Dear Ms. Massaro:

On behalf of Rhode Island Energy[1] I have enclosed the following documents for filing in the referenced docket[2]:

1. Joint Rebuttal Testimony of Nathan Kocon and Laeyeng Hunt; and
2. Response of The Narragansett Electric Company d/b/a Rhode Island Energy to Position Statement of Attorney General Peter F. Neronha.

Thank you for your attention to this matter. If you have any questions, please contact me at 401-316-7429.

Very truly yours,

Jennifer Brooks Hutchinson

Enclosure

cc: Docket 22-54-NG Service List
Leo Wold, Esq.
John Bell, Division
Al Mancini, Division

[1] The Narragansett Electric Company d/b/a Rhode Island Energy ("Rhode Island Energy" or the "Company").

[2] Per communication from Commission counsel on October 4, 2021, the Company is submitting an electronic version of this filing followed by six (6) hard copies filed with the Clerk within 24 hours of the electronic filing.

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

February 28, 2024
Date

No. 22-54-NG- RI Energy's Gas Infrastructure, Safety and Reliability (ISR) Plan 2024 - Service List 2/6/2023

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JOINT REBUTTAL TESTIMONY

OF

NATHAN KOCON

AND

LAEYENG HUNT

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I. Introduction and Qualifications

Nathan Kocon

Q. Mr. Kocon, please state your name and business address.

A. My name is Nathan Kocon. My business address is 477 Dexter Street, Providence, RI 02907.

Q. Mr. Kocon, by whom are you employed and in what capacity?

A. I am employed by The Narragansett Electric Company d/b/a Rhode Island Energy ("Rhode Island Energy" or the "Company") as the Principal Regulatory Analyst, within the Resource and Investment Planning group, for the Rhode Island Gas Division. I support Rhode Island for all gas system issues, with a focus on those related to the capital investment strategies for Rhode Island Energy. In my role, I work closely with the Rhode Island Jurisdictional President, the Vice President - Gas, and Jurisdiction staff on all local gas issues related to the Rhode Island natural gas distribution system in the Rhode Island service territory. In this role, I am responsible for issues related to the natural gas distribution system, developing strategies to support Company objectives regarding investment in the natural gas distribution system, and supporting Rhode Island Energy's gas capital investments during state regulatory proceedings.

Q. Have you previously submitted testimony in this proceeding?

A. Yes, I previously submitted joint pre-filed direct testimony in this proceeding on December 23, 2022.

<u>Laeyeng Hunt</u>

Q. Mrs. Hunt, please state your name and business address.

A. My name is Laeyeng Hunt. My business address is 477 Dexter St, Providence, RI 02907.

Q. Mrs. Hunt, by whom are you employed and in what capacity?

A. I am employed by Rhode Island Energy as the Director of Engineering and Asset Management. In my role, I oversee the asset management and engineering design and provide input to capital investment strategies for Rhode Island.

Q. Have you previously submitted testimony in this proceeding?

A. Yes, I previously submitted joint pre-filed direct testimony in this proceeding on December 23, 2022.

II. <u>Purpose of Rebuttal Testimony</u>

Q. What is the purpose of your joint rebuttal testimony?

A. The purpose of our joint rebuttal testimony is to respond to the pre-filed direct testimony of Alberico Mancini, Chief Regulatory Analyst for the Rhode Island Division of Public

Utilities and Carriers (the “Division”) and Rod Walker, CEO and President of Rod Walker & Associates Consultancy, Inc., (referred to as “Mr. Walker” or the “Division’s Consultant”), which was concurrently filed in this proceeding on behalf of the Division on February 14, 2023. In addition, our joint rebuttal testimony responds to certain factual allegations set forth in the Statement of Position by Peter F. Neronha, Attorney General of the State of Rhode Island (referred to as the “Attorney General”) which was filed by counsel for the Attorney General, and on his behalf, on February 14, 2023.[1]

Q. How is your testimony organized?

A. Section I comprises the Introduction and Qualifications of Company Witnesses Nathan Kocon and Laeyeng Hunt. Section II is the Purpose of Rebuttal Testimony. In Section III, we respond to several observations and recommendations made by the Division and Mr. Walker. In Section IV, we respond to several factual allegations made by the Attorney General. Section V is the Conclusion.

[1] The Attorney General has not proffered a witness in support of the factual allegations contained within his Statement of Position. The Company has responded to certain legal issues raised in the Attorney General’s Statement of Position in a separate memorandum filed simultaneously with this Joint Rebuttal Testimony.

III. Company Response to the Division and Division's Consultant

(1) General Concerns

Q. How does the Company respond to the Division's general concern that it is increasing the budget for fiscal year ("FY") 2024 by approximately $11 million over the FY 2023 budget at a time when it is having difficulty advancing major projects?

A. As further discussed below, the Company reduced its main installation mileage in FY 2023 to reduce the number of "carry over" miles in response to the Commission's and Division's concerns expressed during the extended FY 2023 ISR hearings related to the Company's perceived delay in completing projects. As the Company transitions back to a nearly one-for-one ratio of installation to abandonment, the overall cost to replace leak prone pipe will rise accordingly. Also, COVID-19 Pandemic-related factors, such as self-imposed restrictions on accessing customer premises contributed to the challenges with advancing major projects that are no longer a concern for the Company.

In addition, as the Company explains below, it is withdrawing its proposal to include the Weld Shop category and the associated costs in the ISR proposal for FY 2024 (and FY 2023 reconciliation), which reduces the FY 2024 budget by $8.86 million (and the FY 2024 Projected Capital Additions Placed In-Service by $11.267 million). Additionally, as discussed below, the Company is reducing the proposed FY 2024 Tools & Equipment budget by $583,050, which reflects tools and equipment that originally had long lead times and were expected to arrive in FY 2024 but, fortunately, became available or arrived in FY 2023. With these budget reductions, the total FY 2024 Gas ISR budget proposal is now $177.023 million, which is $1.37 million, or 0.78% more than the FY 2023 budget.

Q. Are there areas of agreement between the Division and the Company with respect to the FY 2024 Gas ISR Plan?

A. Yes. Based on the Company's discussions with the Division to date, and except for the limited categories discussed in this joint rebuttal testimony, the Division has not expressed any objection to the overall scope of work to be completed through the Gas ISR Plan in FY 2024. With respect to the Proactive Main Replacement Program, specifically, the Company agrees with Mr. Walker on the need to prioritize the riskiest leak prone pipe ("LPP") on its system and to continue to closely monitor its leak activity in relation to progress in the LPP replacement program to ensure its continued efficacy (Division Consultant's Recommendations #1 and #2). In addition, the Company agrees with Mr. Walker that it must continue to invest in replacing LPP in the pending and future Gas ISR Plans (Division Consultant's Recommendation #4).

(2) <u>Proactive Main Replacement Program</u>

Q. How does the Company respond to the Division's concerns on pages 12 and 15 of the Division's testimony that the Company will not be able to complete 69.5 miles of main installation in FY 2024 and that it has fallen short of its planned 57 miles of abandonment through December 2022?

A. The Company believes the FY 2024 Plan to install 69.5 miles of replacement gas main and abandon 69.5 miles of LPP is achievable and it disagrees with the Division's characterization of its ability to complete this work.

The Company has reduced its main replacement installation miles over the last few years in response to the concerns raised by the Commission and Division over the amount of carryover work that accumulated during the first months of the COVID-19 Pandemic. This carryover was due to the Company's decision to minimize contact with customers during the early stages of the Pandemic. The Company has reduced the carryover work by over 15 miles in the last year, concentrating on the oldest projects first, whenever possible.

The Company is currently on track to meet or exceed its fiscal year abandonment goal of 64.5 miles. While the Company has underperformed relative to Plan through the end of calendar year 2022, it has had record abandonment performance in both January and February of 2023. The number of miles left to abandon is similar to abandonment accomplished in each of the two previous fiscal years, and significantly less than its record abandonment year. Additionally, the Company has implemented new means of tracking its work such that it is apparent that the amount of work left in individual work types, such as contractor service installations, Customer Meter Service fitting work, and main connections and abandonments are demonstrably less than at this time in previous years. As such, the Company is confident in its end-of-year forecast.

Meeting this near record abandonment total will come in conjunction with the installation of a record number of new Regulator Stations, completion of a record number of CISBOT projects, the completion of 4 regulator station Single-Valve Bypass projects and 7 Header Rebuilds, and the completion or near completion of two challenging, long duration, resource intensive projects, Reservoir Avenue in Cranston and Woonasquatucket Avenue in North Providence.

The Company views the proposed 8% increase in the main replacement category as well within its ability to achieve.

Q. How does the Company respond to the Division's assertion on page 15 that limited resources will impede the Company's ability to complete 69.5 miles of main installation in FY 2024?

A. The Company disagrees with the Division's assertion that limited resources will impede the Company's ability to complete 69.5 miles of main installation in FY 2024. While the Company acknowledges that the COVID-19 Pandemic led to labor force constraints that resulted in some project delays, the Division has offered no support for its assertion that

Company resources are limited post-Pandemic. The Company has secured contractor resources to ensure that the mileage targets laid out in the proposal will be met.

Additionally, the Company, in the process of soliciting bids for the upcoming Regulator Station installations, has received interest from several contractors in providing Mains and Services installation support. The Company plans to begin working with one or more new contractors to further support its Mains and Services installation capabilities in the coming construction season.

The Company has also worked diligently to realize improvements in the efficiency of its internal labor resources related to the main replacement programs. These improvements include leasing of additional special use vehicles such as a crane equipped freight truck, a labor agreement that allows construction inspectors to perform certain types of live gas operations, better coordination across departments to develop, provide visibility to, and remain focused on a list of priority projects throughout much of the construction season, better coordination of internal field operations crews, and others. The Company is procuring new gas stopping equipment that will improve the efficiency and reduce operational risk.

Q. Does the Company agree with the Division's assessment on page 14 of its testimony regarding the impact of the $5 million downward adjustment to the FY 2023 main replacement budget?

A. Not entirely. While the Company does not dispute that the downward adjustment to the budget in FY 2023 did not affect its ability to deliver on the leak prone pipe abandonment schedule for FY 2023, the adjustment did affect the ability to deliver on the overall ISR Plan goals in FY 2023. The Company reduced the number of installation miles for FY 2023 in order to reduce the number of carryover miles for FY 2024. The Company currently forecasts an installation shortfall of approximately 16 miles across all leak prone pipe replacement programs. Had the Company directed its contractors to continue to install main for future abandonment, it would have been necessary to spend this $5 million and more.

Q. How does the Company respond to the Division's statement on page 14 of its testimony that states, "[a]cross all main replacement categories including Public Works, Main Replacement Reactive, Low-Pressure System Elimination, Pro-Active Main Replacement, Atwells Ave Main Replacement, and Gas System Reliability, the Company is forecasting a total underspend of approximately $7.6M through the end of FY 2023."

A. The Company does not dispute the Division's assessment; however, the bulk of the underspend in this category is due to increased reimbursements (credits) in the Public

Works category, the strategic pause on the Oxbow Farms project, and a shift of work in the Gas Planning category to the non-ISR Reinforcement category, none of which relate to an inability to advance main replacement work. The specific high-level explanations for the overall underspend in these categories are listed below:

- The Public Works category is a reactive program and relies on sufficient advanced notice of City, State, and third-party utility plans in order to prepare work. Because of late construction season notifications, as well as overall lack of work in this category, the Company shifted $6.2 million to the Main Replacement Leak Prone Pipe category. Additionally, the Company has been able to collect $2.8 million in the Public Works Reimbursable category beyond what was budgeted. These additional reimbursements appear as underspend when compared against the overall budget.
- The Main Replacement Reactive (Maintenance) category is projected to underspend by $2.0 million because it continues to await a decision in conjunction with the ownership of the Oxbow Farms residential complex in Middletown on the remediation path it wishes the Company to take to address a number compliance concerns there.
- The Low-Pressure System Elimination category is projected to underspend by $1.6 million due to a deferral of projects in the Easton Point section of Middletown. This project was dependent on a regulator upgrade at the St. George School, and the Company decided to bundle two additional Public Works projects into a phased

approach to address all the leak prone pipe in this neighborhood. This approach improves the overall efficiency of the projects.

- The Proactive Main Replacement category is projected to overspend by $5.9 million due to additional work done in this category to offset the underspend in the Public Works category. The Company maintains an inventory of workable work in this category and can absorb significant underruns in the portfolio if necessary or advisable.
- The Atwells Avenue Main Replacement category is projected to overspend by $1.3 million as a result of restoration work costs that were greater than anticipated, as well as work pulled forward from FY 2024 into the current fiscal year.
- The Gas System Reliability category is projected to underspend by $2.9 million as a result of a shift of work to the non-ISR Reinforcement category.

Q. Why is $7.6 million underspend across the main replacement categories not indicative of the Company's ability to increase its installation miles to 69.5 for FY 2024?

A. As discussed above, the specific projected category underspends highlighted by the Division serve to illustrate typical movement of the allocated dollars between budget categories over the course of a fiscal year as the construction environment, customer, permitting, and other practical realities vary from what was initially planned. For example, the Company would have been able to make up the $7.6 million underspend had it not chosen to reduce the installation miles executed in the Proactive Main Replacement category to affect a reduction in the overall carryover miles. The installation portion of a main replacement project typically represents a higher proportion of spend than the abandonment and road restoration portions of the project.

(3) <u>Tools and Equipment</u>

Q. How does the Company respond to the Division's recommendation on page 24 of its testimony that the Tools and Equipment budget category be maintained at the FY 2023 level of $824,000, which would be a reduction of $792,000 for FY 2024.

A. The Company disagrees with the recommendation to reduce the FY 2024 budget proposal for Tools & Equipment to $824,000. The general need driving the increase in the Tools and Equipment budget category for FY 2024 is that the Tools and Equipment budget has not kept pace with the tooling needs of the Company over time and the increase in the budget for FY 2024 and the projected spend reflect a degree of catch up, as explained in the Company's response to Data Request PUC 1-11(c) in this docket. In addition, the FY 2024 budget proposal of $1.617 million included purchases of specialty equipment totaling $589,290 for T.D. Williamson ProStopp Equipment ($522,050) and four Ground Penetrating Radar ("GPR") units (totaling $67,240). The Company maintains that these tools will enhance safety and reliability and are appropriate for inclusion in the Gas ISR Plan; the various needs and benefits of each of these tools and equipment are explained further, below.

Notwithstanding the above, when the Company pre-ordered pieces of certain tools and equipment, they were not expected to be available or delivered until FY 2024; however, the Company received some of the tools and equipment in February 2023. These tools and equipment include the T.D. Williamson ProStopp equipment and a specialty saw. Combined, these tools and equipment purchases total $583,050; therefore, the Company is proposing to reduce the Tools and Equipment budget by this amount for a new budget proposal of $1.034 million. This results in a $209,950 budget increase compared to FY 2023 ($1.034 million minus $824,000). The four Ground Penetrating Radar units, totaling $67,240, remain in the FY 2024 budget proposal.

Q. Please describe the FY 2024 budget associated with four GPR System units and the functions and benefits of the systems.

A. The GPR Systems cost approximately $16,810 per unit. The Company is in the process of purchasing four of these units for a total of $67,240 in FY 2024. These units will help enhance damage prevention and should reduce instances of needing to interrupt a customer's gas service to locate an unmarked service. As explained in the Company's response to Data Request PUC 1-11(d) in this docket, the GPR Systems perform the following functions:

- Minimizes the risk of damaging unknown underground utilities.
- Helps to locate untraceable plastic and cast-iron pipe that is deep in the ground.

- Can be used to locate a customer's service and keep the service live instead of shutting off the service to e-line (method of disconnecting the service and inserting a tracer wire to locate gas pipe) if there are insufficient records available.

- Can help with rectifying records issues if there are any discrepancies with records which helps to reduce both labor and material costs.

This functionality benefits the Company and its customers by enhancing Company field crews' ability to locate pipe in a more efficient manner and to potentially keep a customer's service live versus incurring a service interruption (if the e-line tracer wire method were required). The Company still proposes to purchase four GPR Systems in FY 2024.

Q. Why did the Company purchase or take receipt of the T.D. Williamson ProStopp equipment and other tools and equipment in FY 2023 instead of FY 2024, as was originally included in the FY 2024 Gas ISR Proposal?

A. The T.D. Williamson ProStopp tool and specialty saw had long lead times and were originally expected to arrive in FY 2024. When the Company originally placed the order for the T.D. Williamson ProStopp, the equipment had a 23-week lead time, which would have resulted in a delivery date of two or three months into FY 2024. Given the long lead time, the Company did not want to risk the availability of the equipment by waiting until FY 2024 to place the order; however, this equipment was delivered to the Company in February 2023 and will now be used in FY 2023. The Company intends to seek recovery of this equipment purchase during the FY 2023 ISR Reconciliation process.

Additionally, the Company had plans to purchase a specialty saw that had an eight-month delivery lead time and was expected to arrive in FY 2024. However, in February 2023, the saw became available for purchase because another utility provider cancelled their order with the supplier. Because of the immediate need, the Company proceeded with the purchase of the saw, which is already being used by the Company. The Company will also seek recovery of this tool purchase during the FY 2023 ISR Reconciliation process.

Q. Please explain why the Company believes the T.D. Williamson ProStopp equipment is eligible for inclusion in the ISR Plan and the functions and benefits of this tool.

A. The T.D. Williamson ProStopp equipment is state of the art equipment that has not previously been used on the Rhode Island gas distribution system. This tool enables the Company to achieve redundant gas stops, the interruption of gas flow in a pipe for maintenance or construction purposes, for all pipe sizes from 4” to 12”, required by federal regulations during certain live gas operations, through a single pipe tap. The Company previously met this requirement by drilling a separate tap for each stop. This reduces the footprint and subsequent restoration required to perform these stops, the time it takes to execute the work, and also reduces the risk involved in tapping live gas pipes by eliminating taps altogether. As a result, this tool will enhance the safety and reliability of the gas distribution system and is appropriate for inclusion in the Gas ISR Plan. As noted above, the Company intends to seek recovery of the cost of this equipment as part of the FY 2023 Gas ISR reconciliation, instead of in the FY 2024 budget.

As explained in the Company's response to Data Request PUC 1-11(d) and (e) in this docket, the T.D. Williamson ProStopp performs several functions. First, this tool is capable of achieving a double stop through one fitting to safely work in a gas free environment, which allows for smaller excavations, and, in turn helps keep labor and material costs down.[2] In addition, using only a single fitting minimizes the fittings needed, which could be a potential leak point in the future. When used on low pressure pipe, the ProStopp stoppers are more durable than using the industry standard of canvas bags for stops as the canvas bags can pop or deflate which could possibly cause a situation of blowing gas or a potential gas outage. Additionally, this tool provides significant enhancement to current capabilities by increasing operational efficiency, in terms of speed and footprint requirements. Finally, this equipment appreciably reduces operational risk by eliminating the need to tap multiple holes in a pipeline to achieve multiple stop defense-in-depth. Tapping live gas pipelines carries with it inherent risk and having the ability to reduce the number of taps required for gas construction is valuable for the Company and its customers.

[2] Link to video illustration of the equipment. https://www.tdwilliamson.com/resources/videos/prostoppr-ds-isolation-tool

Q. How does the Company respond to the Division's statements on page 22-24 of its testimony that the incremental costs associated with the Company's need to purchase tools and equipment in FY 2024 are transition costs related to the sale of the Company from National Grid USA ("National Grid") to PPL Rhode Island Holdings, LLC ("PPL Rhode Island") and excluded from recovery.

A. The Company disagrees that the costs to purchase the T.D. Williamson ProStopp and GPR Systems are transition costs. The Company did not identify these tools as transition costs as part of the acquisition because these costs do not arise because of the acquisition. As explained in the Company's response to Data Request PUC 2-4 in this docket, the defined transition costs are costs that the Company will incur to replace or create facilities and systems that are necessary to continue to safely and reliably operate the electric and gas distribution businesses because of the transition of Company ownership from National Grid to PPL Rhode Island. As further explained in the Company's response to Data Request PUC 1-11(e) in this docket, the T.D. Williamson ProStopp equipment was not used (owned or borrowed) on the Rhode Island gas distribution system prior to PPL Rhode Island's acquisition of the Company; therefore, the costs associated with the T.D. Williamson ProStopp equipment did not become necessary because of the acquisition. Instead, the Company became aware of this state-of-the-art gas equipment and has pursued purchasing the equipment based on the operational and capital efficiencies along with the risk reduction and safety benefits, as described above.

Similarly, the costs for an additional four GPR Systems did not become necessary because of the acquisition. As explained in Data Request PUC 1-11(e), prior to PPL Rhode Island's acquisition of the Company, the Company owned and continues to retain ownership of several GPR systems. In the interest of gas system infrastructure, safety, reliability, and crew efficiency, the Company determined that it required four additional units in FY 2024.

(4) The Weld Shop

Q. How does the Company respond to the Division's concerns on pages 17-18 of its testimony regarding the inclusion of the Weld Shop in the FY 2024 Gas ISR Plan.

A. The Company maintains the need for the Weld Shop to support its Capital Portfolio and believes the Weld Shop is appropriate for inclusion within the FY 2024 Gas ISR Plan because it will support more than 99 percent of capital work within the Gas ISR Plan that is needed to maintain safety and reliability of the gas distribution system in the short and long term. This differentiates the Weld Shop from other Company facilities, as explained in the Company's response to Data Request PUC 1-5 in this docket. Nonetheless, the Company acknowledges that there could be more than one interpretation of what constitutes "capital spending on utility infrastructure" within the meaning of the ISR statute, R.I. Gen. Laws §39-1-27.7.1(d) and based on the types of spending that have historically been included in the Gas ISR; therefore, the Company withdraws the Weld Shop from the FY 2024 Gas ISR Plan and agrees not to seek recovery of any FY 2023 spending as part of the reconciliation process. The Company reserves its rights to seek recovery of the costs for the Weld Shop as part of its next general base distribution rate case.[3]

(5) Process for New ISR Categories

Q. How does the Company respond to the Division's recommendation on page 26 of its testimony that the Company submit a written notification to the Division and the Public Utilities Commission (the "Commission") if it wishes to make a significant capital investment, i.e., greater than $2 million, mid-plan in what amounts to a new ISR category that has not been reviewed previously by the Commission?

A. The Company does not oppose providing notice to the Division and the Commission of significant capital investments greater than $2 million mid-plan; however, the Company submits that a process already exists through the quarterly reports to notify the Commission and the Division of the status of programs, year-to-date spending, and any variances in such spending. The Company notes that the Division's example concern was with respect to the purchase of portable Cumberland LNG equipment, which the Division did not oppose but stated that it was unaware whether the Company had notified the Commission of its intent to purchase the equipment. The Company included its intent

[3] The Company notes that the Division does not object to the Company's recovery of costs for the Weld Shop under traditional ratemaking principles. *See* Division Testimony at 21.

to purchase the portable LNG equipment for Cumberland in its second and third quarter reports for FY 2023 Quarterly Update.

In lieu of an additional formal filing requirement, the Company proposes to include a separate sub-section in any future quarterly reports to specifically identify significant capital investments greater than $2 million for a "new" ISR category that was not previously reviewed and approved by the Commission, and which the Company intends to move forward with as ISR eligible spending. Doing so balances transparency of mid-plan investments that were not previously identified as a category in the approved ISR Plan with the flexibility for the Company to make decisions in real-time that are necessary to provide safe and reliable gas distribution service and are in the best interests of customers. The Company still retains the burden to demonstrate that such costs were appropriate for inclusion in the ISR and prudently incurred as part of the annual reconciliation process.

(6) <u>Leak-Prone Pipe</u>

Q. How does the Company respond to Mr. Walker's recommendation on page 5 of his testimony that the Company monitor its uptick in leaks and closely scrutinize any continued future trend in this direction.

A. The Company does not disagree with the general concept expressed by Mr. Walker; however, the Company submits that monitoring leak receipts rather than leak repairs is a better indicator of the effect the LPP replacement program is having on the gas distribution system because the choice of when to repair a leak is relatively discretionary and can artificially skew results. The Company will continue to closely monitor its leak activity in relation to progress in the LPP replacement program to ensure its continued efficacy.

Q. What is the Company's basis for using leak receipts instead of leak repairs as the appropriate metric for evaluating the LPP replacement program?

A. The System Integrity Report ("SIR") filed with the ISR Proposal for FY 2024 shows a decrease in leak receipts in 2021 versus the prior 2 years. The Company performed an unusually large number of Type 3 leak repairs during 2021 due to the self-imposed customer restrictions during the early stages of the Covid-19 Pandemic. These Type 3 repair numbers are included in the overall number of repairs reported for 2021 in the SIR, but not in the workable leak backlog metric. Inflating the repair number compared to leak receipts makes it seem, paradoxically, that leak receipts fell and leak repairs rose. In actuality, the workable backlog grew at the end of 2021 relative to previous years because of Covid-19 work restrictions and the choice to repair Type 3 leaks rather than Type 2/2A; however, the backlog for all non-emergency leaks has fallen considerably since the end of 2021 and was 97 for workable leaks at the end of Calendar 2022. The Company believes that the recent leak receipt data, which shows a reduction of 24.2% since 2017 when using the same analysis the Division performed on leak repairs, is evidence that the LPP replacement program is having the effect intended of reducing leaks overall and, by extension, methane emissions.

Q. How does the Company respond to Mr. Walker's recommendation on page 5 of his testimony that "the Company continues to re-evaluate the effectiveness of its replacement programs to ensure the riskiest leak prone aging mains and services are being replaced so the metrics around leak rates (and especially hazardous, Grade 1 leaks), trend downward?"

A. The Company follows its established Distribution Integrity Management Program ("DIMP") to prioritize the riskiest LPP for replacement. It continually reviews and re-prioritizes its workplan as necessary to meet the goal of removing the riskiest pipe at the earliest opportunity. For example, many cast iron encroachments occur on pipe segments that are already in the queue for replacement. When an Encroachment occurs on one of the segments, these replacement projects are prioritized and accelerated to remediate the encroachment as quickly as possible. The prioritization of the riskiest LPP has led to an overall reduction in leak receipts year-over-year.

Q. How does the Company respond to Mr. Walker's recommendation "[t]hat the ongoing discrepancies found in data presented by the Company during this proceeding and in previous years concerning quantities of leak prone infrastructure and leaks be continually addressed to ensure that the Company maintains sufficient knowledge of its system to perform integrity management functions as required by regulations?"

A. The Company acknowledges there have been discrepancies in data concerning leak prone infrastructure and leaks and is working to standardize its reporting processes and timing to ensure consistency in the future.

IV. <u>Company Response to the Attorney General</u>

(1) <u>Revenue Requirement Issue</u>

Q. Please explain why the revenue requirement for Fiscal Year 2023 ISR projects would increase from $6,439,207 in Fiscal year 2023 to $12,827,683 in Fiscal Year 2024?

A. With respect to ISR capital investments, the Company uses a half-year convention for the first fiscal year when investments are placed into service. Through this convention, it is assumed that any capital projects placed into service in Fiscal Year 2023 were only in service for one-half of the year regardless of whether the project was in service for more or less than one-half of the year. In the following fiscal year, in this case Fiscal Year 2024, the project is fully phased into service for the purpose of calculating the associated revenue requirement. It is, therefore, expected that the revenue requirement for projects placed into service in one fiscal year will approximately double in the following year. This compounding does not continue beyond the first two fiscal years after a project is placed into service.

(2) <u>Attorney General's Assertion That Investments Are Not "Reasonably Needed"</u>

Q. What is the Company's general assessment of the Attorney General's position that investments in safety and reliability should await a determination about the future of the natural gas distribution system in Rhode Island?

A. The Company disagrees with the Attorney General's position. The investments that the Company has proposed are intended to insure the safe and reliable operation of the distribution system, which are needed in the near term, for the benefit of hundreds of thousands of customers that rely on natural gas. The Company does not believe it would be prudent, or consistent with the Company's DIMP and applicable state and federal regulations to halt distribution system maintenance and improvements at this time.

(3) <u>Investments in Reliability Category</u>

Q. Please explain why the Company does not believe it is reasonable to delay the other Discretionary Reliability investments proposed in the ISR Plan generally.

A. As confirmed in the testimony of the Division's Consultant, Rod Walker, the Company operates one of the oldest gas distribution systems in the country with aging infrastructure and equipment. There are many components of the distribution system, and at the Company's pressure regulating stations, that have remained in service past their assumed useful life. Additionally, the Company's system relies upon interstate transmission pipelines that are capacity constrained such that the Company must rely upon on-system gas storage and injection to maintain reliable service to customers.

The threats to reliability and safety that the Company seeks to address through its Discretionary Reliability investments are not hypothetical. Within the span of the past several years, the Company has had to address a significant 2019 outage on Aquidneck Island, overpressurization events at its take stations and gas demands beyond the capacity of the interstate gas transmission system. The failure to make needed investments, as suggested by the Attorney General, could lead to similar events in the future or exacerbate the consequences of such events.

(a) <u>On System LNG Investments</u>

Q. Please explain the justifications for the investments in portable LNG equipment in the Company's ISR Plan.

A. In order to fulfill the natural gas requirements of customers on cold days, the Company relies upon on system LNG assets at Cumberland, Exeter and Portsmouth (Old Mill Lane). These facilities have been used repeatedly during this current heating season (November 1, 2022-April 1, 2023) to address potential shortfalls between the gas supply available to the Company under its contracts with pipeline operators and the demands of the Company's customers. If the Company did not have the ability to vaporize and inject LNG into the distribution system, low pressure could have led to outages. Since cold weather is the largest factor driving customer demand, the Company anticipates that threats to reliability due to a lack of LNG injection capability could occur on the coldest days of the year when the health and safety risks associated with a gas outage are the most significant.

Q. Please explain why the Company proposes to purchase portable LNG storage and vaporization equipment that it had previously rented and why those investments are consistent with the Act on Climate.

A. The Company has rented portable LNG equipment for Cumberland and Portsmouth (Old Mill Lane) for several years. At Cumberland, the Company has relied upon portable vaporization equipment since the decommissioning of the Cumberland LNG tank in December 2016, and rented storage and vaporization equipment since December 2017. At Old Mill Lane, the Company has relied upon rental equipment to back up the supply of natural gas to Aquidneck Island during discrete pipeline inspection activities and, beginning in 2019, has mobilized seasonally to ensure that there is a supplemental supply of natural gas to satisfy customer demands during periods of cold weather.

The Company's LNG storage and vaporization equipment rental agreements are set to expire in March 2023 (the Company has an option to renew the Cumberland and/or Old Mill Lane contracts by June 1, 2023, which would then have contract expiration dates of March 2024). Indicative pricing for continued rental of equipment suggests that the cost of renting portable equipment, and contracted personnel to operate it, will rise significantly if the Company were to enter into new rental agreements. Due to this pricing, and the desire to have equipment more suited to the particular needs of the Company's gas system, the Company explored the potential to purchase portable LNG storage and vaporization equipment. The Company's analysis indicates that the cost of purchasing portable LNG equipment for Cumberland will be fully recouped, through the avoidance of rental costs, in seven years. The Company estimates that the recoupment period for the purchase of portable LNG equipment for Old Mill Lane will be approximately ten years. The purchase of equipment also permits the Company to enhance reliability by tailoring portable LNG equipment to the particular needs of the Company's system and makes the equipment available for deployment throughout the Company's service territory in the event that it is needed elsewhere to support customer requirements due to some unforeseen event or emergency.

The Company's proposed investments in portable LNG equipment are consistent with the mandates of the Act on Climate because portable LNG represents a flexible and scalable solution to known capacity shortfalls on the pipelines serving Rhode Island. Until alternative sources of heating are available and implemented for thousands, if not hundreds of thousands, of the Company's gas customers, the gas demands on the distribution system will need to be met by some combination of on-system assets and pipeline supply. Avoidance of on-system LNG investments would necessitate costly and more permanent investments in pipeline infrastructure to ensure reliable delivery of gas.

In short, the Company's proposed purchase of portable LNG equipment enhances system reliability at a lower cost and with more flexibility than alternatives.

Q. Is the Company proposing to make investments in the proposed portable LNG facility at Old Mill Lane prior to obtaining Energy Facility Siting Board approval for operations at that site?

A. No. The Company's ISR Plan describes the anticipated budget for the site improvements and equipment purchases necessary for completion of the work at its portable LNG facility on Old Mill Lane in Portsmouth. However, no spending in that category would occur unless and until the Company is granted a license by the Energy Facility Siting Board ("EFSB") to operate the Old Mill Lane facility in the future. The Attorney General's criticism of the ISR Plan in this regard is an apparent misunderstanding. Had the Company not identified the necessary spending for site improvements and equipment purchases for Old Mill Lane in the ISR Plan, and EFSB approval were later obtained, the work necessary to complete the facility would not have been provided for in the ISR Plan and stakeholders would not have been provided an opportunity to review the anticipated expenditures.

(b) Other Reliability Investments

Q. Does the Company agree with the Attorney General that other reliability investments contained in the Company's ISR Plan should be deferred at this time.

A. The Company does not agree with the Attorney General and his recommended deferral of these investments would pose significant and unjustified risks. While not specifically identified in the Attorney General's memorandum, as described in the Company's ISR plan and in the Company's response to Data Request PUC 1-3 in this docket, there are a number of other investments in reliability that are intended to address existing system vulnerabilities that must be rectified in the short term. These include heaters, valves, pressure regulation facilities, take station refurbishment and overpressure regulation. These investments are critical for the safe and reliable operation of the gas distribution system *today* and should not be deferred.

Q. Please explain the importance of the Company's investment in heater replacements and upgrades to the reliability of the gas system.

A. Heaters ensure that that the gas taken from the Company's gas suppliers' transmission systems is of a suitable temperature for injection into the distribution system. Malfunctioning heaters can result in serious threats to safety and reliability as pressure regulation devices can freeze if the gas passing through them is not maintained at suitable temperatures. The freezing of a pressure regulation device can lead to an overpressurization of the distribution system. Erratic performance of heaters at the Wampanoag Trail take station has previously resulted in gas being below acceptable temperatures during periods of high flow in the recent past and further examination of heater conditions and configurations at other facilities have led the Company to pursue a wider heater replacement effort due to the fact that many heaters are now beyond their useful life. The Company's proposed investments in heaters are needed to address these issues.

Q. Please explain the importance of the Company's investment in valve installation to the reliability and safety of the gas system.

A. When significant system events occur, the ability to segment the gas distribution system is critical to minimize supply disruptions. The inability to segment the system can prolong outages when events do occur since much larger portions of the system need to be repressurized, and much larger numbers of customers need to be relit, in the event of an outage. The ability to segment the gas distribution system allows the Company to manage low pressure events by shedding load when necessary, to maintain service to other segments of the system, and facilitates the methodical restoration of service to minimize outage times.

Q. Please explain the importance of the Company's proposed investments in Take Station Refurbishment, Pressure Regulating Facilities and System Overpressure Protection.

A. In response to the Columbia Gas Overpressurization Event of 2018, and overpressurization events in 2017 and 2019, at the Company's Dey Street and Wampanoag Trail take stations respectively, the Company has increased focus on pressure regulation assets that are essential to the safe operation of the gas system. These events and new industry standards for design enhance the safety of the system and help to mitigate the risk of potentially catastrophic events. These investments are intended to replace aging equipment that, in light of recent events, should be considered critical assets. The types of events that these systems protect against could present significant safety risks as illustrated tragically in the Merrimack Valley.

The Company believes it would be irresponsible to delay these investments any longer given the age and condition of pressure regulation equipment throughout the distribution system. Advances in system automation, redundancy, design standards and other areas provide opportunities to enhance safety and reliability and mitigate the risk of serious events that could present safety risks. The Company's proposed investments in these areas are intended to address immediate issues that confront the Company and the distribution system.

(4) Proactive Main Replacement

Q. Does the Company agree with the Attorney General's suggestion that the proactive main replacement program should be slowed or halted?

A. No. The Attorney General's suggestion that the proactive main replacement program should be slowed or halted is inimical to the safety and reliability of the gas distribution system and the Act on Climate mandates and would run contrary to federal regulatory requirements that mandate the development and implementation of the Company's DIMP.

Q. Please explain the importance of the Company's proactive main replacement program to the safety and reliability of the gas distribution system.

A. The Company operates one of the oldest gas distribution systems in the country with higher-than-average inventories of LPP including cast iron and bare steel. These pipes suffer from a number of problems including cracking, in the case of cast iron mains, and persistent corrosion of bare and non-cathodically protected steel mains. Left unaddressed, these LPP will inevitably develop leaks. While not all leaks present immediate threats to health, safety and reliability, there is no good way to predict whether a particular segment of LPP will develop such a leak. In order to minimize the risk of dangerous conditions occasioned by significant leaks, and the attendant service outages that repairs might entail, the Company has been working for several years to reduce its inventory of LPP. As described succinctly in the Direct Testimony of Mr. Walker, the

Company's efforts have led to a significant reduction in LPP in the Company's distribution system and significant reductions in the number of leaks reported.

Q. Please explain why it is important for the Company to proactively address LPP as opposed to addressing leaks reactively.

A. The Attorney General does not explain why leaving leak prone gas mains in neighborhood streets is reasonable. He appears to suggest the *proactive* replacement of leak prone mains should not continue at the current pace. The Company believes that it must continue to eliminate LPP from its distribution system in accordance with its long-term plans because the presence of LPP presents known risks that might be beyond the resources of the Company to address if LPP were all left in place until such time that they become actively leaking pipes.

For example, bare and unprotected steel mains corrode at a reasonably constant and predictable rate. The Company's distribution system contains approximately 300 miles of bare and bare/unprotected steel main. Deferral of proposed replacement of these pipes would lead to continuing and known corrosion of the mains which will, if left unaddressed, eventually manifest as leaks. Since certain materials were in common usage as gas main during discrete periods of time, it is possible, if not likely, that the Company's inventory of bare and bare/unprotected steel main would reach the point of failure in a relatively short window of time. The Company's ability to replace these mains or address the rapid proliferation of leaks across its system would necessitate resources and investments far beyond what the Company has proposed in its ISR Plan. Even if the Company were able to marshal the resources to undertake this main replacement or reactive leak repair work, in a relatively short window of time, it would require that the Company leave unaddressed the lingering vulnerability presented by over six hundred miles of cast iron main in the Company's system which present similar levels of risk.

Due to these concerns, the Company has been engaged in the methodical elimination of LPP from its system so that no particular subset of LPP within its system becomes such an overwhelming issue that the Company is unable to marshal the resources to address it. This proactive main replacement program is incorporated into the Company's DIMP as a part of its risk identification and mitigation plan required under Pipeline Hazardous Materials Safety Administration ("PHMSA") regulations (49 C.F.R. Part 192).

Q. Does the Company believe there are economic reasons to address LPP proactively as opposed to reactively when leaks occur?

A. Yes. Aside from the regulatory and safety reasons for continuing efforts to increase the rate of LPP abandonment, there are economic reasons to continue this work as well. The Company believes that the replacement of LPP is ultimately a lower cost solution to addressing actual and potential leaks than repeatedly addressing leaks on a segment of leak prone pipe reactively. Additionally, the proactive replacement of LPP allows the Company to plan work in cooperation with public works departments throughout the state so that LPP can be abandoned in connection with repaving and similar projects thereby avoiding the potential need for multiple road openings of newly paved streets to address leaks that could have been addressed in advance of a paving project.

Q. Does the Company believe that the proactive main replacement program is consistent with the mandates of the Act on Climate?

A. Yes. The proactive main replacement program, and most notably the replacement of LPP, is an important contributor to the reduction of methane emissions as explained in the Prefiled Joint Direct Testimony of Company witnesses Nathan Kocon and Laeyeng Hunt, the Prefiled Direct Testimony of Company witness Michele Leone and the Prefiled Direct Testimony of Division’s Consultant, Rod Walker, and the investment is consistent with the greenhouse gas reduction mandates of the Act on Climate. Furthermore, decarbonization strategies such as hydrogen blending will not be possible until the leaks in the natural gas distribution system are addressed.

(5) <u>Meter Inventory</u>

Q. Is the Company’s proposed investment in purchase meters needed for the operation of the gas distribution system in the near term?

A. Yes, the Company has an obligation to accurately meter the gas that is delivered to its customers that is embodied in service quality metrics and the Division's Standards for Gas Utilities, Master Meter Systems and Jurisdictional Propane Systems, 815-RICR-20-00-1 (the "Division's Gas Regulations") to which the Company is bound. While the Attorney General does not specifically mention meters in his memorandum, he has questioned "purchases expected to increase inventories" which the Company assumes refers to the Company's plan to purchase meters.

The Company's adherence to the Division's testing and accuracy standards[4] results in the need to replace approximately 18,640 gas meters per year. The Company's current meter inventory (as for the last physical inventory on January 3, 2023) was only 5,043. It is important for the Company to maintain an inventory of meters because the Company cannot fully predict which types of meters will need replacing in a given year, and supply chain disruptions have led to extraordinarily long lead times for certain meters. Therefore, to ensure that the Company is able to comply with regulatory requirements for meter accuracy, it needs to order the necessary meters now so that the Company can be sure that it will have the correct meters available when a customer's meter is in need of replacement.

[4] *See* Division's Gas Regulations, Rule 815-RICR-20-00-1.6.

Q. Do meter purchases have any impact on the future adaptation of the gas distribution system consistent with the Act on Climate mandates?

A. No. The Company's investment in this category is not intended to build a long-term inventory of meters; it is intended to meet the present need for meters that might not be available when needed if they are not ordered and received in advance.

V. Conclusion

Q. Does this conclude your joint rebuttal testimony?

A. Yes.

STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION

In re: THE NARRAGANSETT ELECTRIC COMPANY d/b/a RHODE ISLAND ENERGY GAS INFRASTRUCTURE, SAFETY AND RELIABILITY PLAN FISCAL YEAR 2024 PROPOSAL	)	Docket No. 22-54-NG

RESPONSE OF THE NARRAGANSETT ELECTRIC COMPANY d/b/a RHODE ISLAND ENERGY TO POSITION STATEMENT OF ATTORNEY GENERAL PETER F. NERONHA

I. Introduction

The Attorney General's position with respect to Rhode Island Energy's[1] Fiscal Year ("FY") 2024 Gas Infrastructure, Safety, and Reliability ("ISR") Plan (the "ISR Plan"), as set forth in his memorandum of February 14, 2023, incorrectly argues that the investments proposed by the Company are not reasonably needed to maintain the safe and reliable natural gas distribution service over the short and long term as required by R.I. Gen. Laws § 39-1-27.7.1(d). The facts demonstrating the reasonableness of the Company's proposed investments are set forth in the Pre-filed Direct Joint Testimony of Company Witnesses Nathan Kocon and Laeyeng Hunt and in their Pre-filed Joint Rebuttal Testimony that accompanies this memorandum. The legal errors contained in the Attorney General's filing are addressed in this memorandum.[2]

[1] The Narragansett Electric Company d/b/a Rhode Island Energy ("Rhode Island Energy" or the "Company").

[2] The Public Utilities Commission (the "Commission") has not altered the hearing dates or procedural schedule in this matter as a result of its decision that the Company could not propose a 21-month ISR Plan and is proceeding with its review of the ISR Plan within the statutorily required 90-day period. Therefore, for the sake of brevity, this memorandum does not address the Attorney General's arguments regarding the propriety of the Company's initially filed ISR Plan or the time in which the Commission intends to complete its review. The Company disputes the Attorney General's argument that the initially proposed plan was not statutorily compliant.

II. The Attorney General's Memorandum is not Evidence, and His Factual Assertions Must Be Disregarded

The Attorney General's memorandum is replete with factual assertions, such as unsupported allegations of imprudence, unreasonableness, and presuppositions about the time in which the natural gas system could be abandoned, that are without evidentiary basis. These conclusory opinions are not evidence, and they cannot form any part of the foundation of the factual determinations to be made by the Commission in this docket. *See Newbay Corp. v. Annarummo*, 587 A.2d 63, 66 (R.I. 1991) (noting that public comments of physicians regarding health risks were not evidence upon which an agency may rely in rulemaking); *Rhode Island Consumers Council v. Smith*, 302 A.2d 757, 774-75 (R.I. 1973) (holding that public comment "does not qualify as legal evidence"). For example, in the face of unrefuted testimony of Company witnesses[3] and the consultant to the Division of Public Utilities and Carriers[4] that the abandonment of leaking gas distribution infrastructure is an important safety measure that also reduces greenhouse gas emissions, the Attorney General's assertion that leak prone gas mains should be left as is[5] cannot be accepted. The Attorney General is entitled to his opinion about the prudency of replacing corroding gas mains in our communities, but the Commission's decision making must be based upon evidence, not an unsworn opinion.[6] The Administrative

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[3] Pre-filed Direct Testimony of Michele V. Leone, pp. 7-8; Pre-filed Direct Joint Testimony of Nathan Kocon and Laeyeng Hunt, pp. 16-17.

[4] Direct Testimony of Rod Walker, pp. 8-9 (explaining the importance of replacing leak prone pipe to enhance system safety) and 16-18 (concluding that the Company should continue the replacement of leak prone pipe to reduce methane emissions).

[5] The Attorney General of the State of Rhode Island's Statement of Position ("A.G. Mem."), p. 12 (characterizing the replacement of gas mains prone to leakage as "imprudent").

[6] The Attorney General's opinion that the replacement of leak prone pipe is imprudent flies in the face of federal law and Pipeline and Hazardous Materials Safety Administration ("PHMSA") regulations (*see generally* 49 C.F.R. Part 192), which require that the Company develop and execute its Distribution Integrity Management Plan ("DIMP"). Among other things, PHMSA and the DIMP impose requirements with respect to pipe materials that are suitable for

Procedures Act is unequivocal that "[f]indings of fact shall be based *exclusively* on the evidence and matters officially noticed." *See* R.I. Gen. Laws § 42-35-9(g) (emphasis added); *see also R.I. Consumers' Council*, 302 A.2d at 774-75.

III. The Act on Climate[7] Does Not Excuse the Company's Obligation to Plan for Safe and Reliable Distribution for the Short and Long Term

The Attorney General contends that the Company should not be permitted to recover the cost of planned investments for the short- and long-term reliability of the gas system that are required to be presented to the Commission for review pursuant to R.I. Gen. Laws § 39-1-27.7.1(d). Specifically, the Attorney General states "*only* those proposals that are clearly shown to be reasonably needed in the *short-term* to ensure safe and reliable gas service should be approved."[8] (Emphasis added.) The Attorney General suggests that "the cart is being put before the horse,"[9] because the Company is planning to maintain the safety and reliability of the natural gas system while work is underway to understand the future of natural gas distribution in light of the Act on Climate in Docket No. 22-01-NG[10]. On the contrary, it is the Attorney General's position that takes the process out of order. The Company has a statutory obligation to plan for the short- *and* long-term safety and reliability of the gas distribution system, and it would be not only irresponsible but also contrary to the Company's legal obligations to ignore long-term reliability until an emissions-free energy future for Rhode Island has progressed to the point that a viable alternative pathway is understood and is reasonably in prospect.

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use in the Company's distribution system when leak prone pipes are replaced. That those materials might have a useful life of fifty or 100 years, A.G. Mem., p. 11, does not excuse the Company from compliance with its DIMP.

[7] R.I. Gen. Laws § 42-6.2-1, *et seq.* (the "Act on Climate").

[8] A.G. Mem., p. 13.

[9] A.G. Mem., p. 10.

[10] *Investigation Into the Future of the Regulated Gas Distribution Business in Rhode Island in Light of the Act on Climate*, Docket No. 22-01-NG.

R.I. Gen. Laws § 39-1-27.7.1 provides, in part:

> **(d)** Prior to the beginning of each fiscal year, gas and electric distribution companies shall consult with the division of public utilities and carriers regarding their infrastructure, safety, and reliability spending plan for the following fiscal year, addressing the following categories:
>
> **(1)** Capital spending on utility infrastructure;…
>
> **(4)** Any other costs relating to maintaining safety and reliability that are mutually agreed upon by the division and the company.
>
> The distribution company shall submit a plan to the division and the division shall cooperate in good faith to reach an agreement on a proposed plan for these categories of costs for the prospective fiscal year within sixty (60) days…If the company and the division cannot agree on a plan, the company shall file a proposed plan with the commission and the commission shall review and, ***if the investments and spending are found to be reasonably needed to maintain safe and reliable distribution service over the short and long term, approve the plan within ninety (90) days.*** (Emphasis added.)

The Company's statutory obligation to file the ISR Plan is critical to fulfilling its legal duty to "furnish safe, reasonable, and adequate services and facilities." *See* R.I. Gen. Laws § 39-2-1(a). Indeed, it is through the investments proposed in the ISR Plan that the Company ensures its natural gas distribution system is safe and reliable. The Attorney General is effectively urging the Company to neglect an energy distribution system upon which hundreds of thousands of Rhode Islanders still rely while the Commission's consideration of the future of the gas distribution system is in its nascent stage. Until it is determined if, how, and when hundreds of thousands of homes, business, hospitals, government offices, and factories can transition to an alternative to natural gas, the Company must continue to plan to maintain the system upon which these customers rely.

The Attorney General's position is not only illogical; it is contrary to law. R.I. Gen. Laws § 39-1-27.7.1(d) provides that the Commission shall approve the ISR Plan if the investments provided for are "reasonably needed to maintain safe and reliable distribution service over the *short and long term*." (Emphasis added.) As clear as the statute is, the Attorney General urges the Commission to approve only that spending that is "clearly shown to be reasonably needed in the short-term to ensure safe and reliable gas service."[11] Without saying so, the Attorney General is arguing that the Act on Climate implicitly partially repealed R.I. Gen. Laws § 39-1-27.7.1(d) insofar as he asks the Commission to ignore the statutory mandate that reasonably needed investments for the long-term reliability of the gas distribution system be approved.

It is a basic tenet of statutory interpretation that all statutes be read, where possible, in harmony. *Tiernan v. Magaziner*, 270 A.3d 25, 30 (R.I. 2022). When that cannot be done, the more specific statute is given effect over the more general. *Id.* at 31. Only where two statutes are "irreconcilably repugnant" to each other will the later enacted statute be given effect over the earlier. *Id.* Applying these tenets here, it is beyond question that the Act on Climate did not rewrite R.I. Gen. Laws § 39-1-27.7.1(d). The Act on Climate can be harmonized with R.I. Gen. Laws § 39-1-27.7.1(d) without any difficulty as evidenced by unrefuted testimony in this docket that investments in the elimination of leak prone pipe on the gas distribution system reduce greenhouse gas emissions and also enhance the safety and reliability of the natural gas system. For the sake of argument, even if some inconsistency between the Act on Climate and R.I. Gen. Laws § 39-1-27.7.1(d) could be found, the specific provisions governing ISR investments would govern over the more general provision of the Act on Climate, which mandates that the "state" reduce greenhouse gas emissions (R.I. Gen. Laws § 42-6.2-9) and makes no mention of ISR plans, the recovery of the cost of safety and reliability investments in the gas distribution system, natural gas, or utilities in general. *See Tiernan*, 270 A.3d at 30. Finally, even if some conflict between the text of R.I. Gen. Laws § 39-1-27.7.1(d) and the Act on Climate can be found, which it cannot, there is no irreconcilable repugnance between the statutes which would support the

[11] A.G. Mem., p. 13.

Attorney General's arguments. The reduction of greenhouse gas emissions pursuant to the Act on Climate is not irreconcilably repugnant to the ISR Plan's investments in the long-term reliability and safety of the natural gas distribution system, many of which are designed to pave the way for emissions reductions that the Act on Climate requires. *See Tiernan*, 270 A.3d at 30.[12]

Although the Act on Climate requires that the "state" achieve incremental reductions in greenhouse gas emissions over the coming decades (R.I. Gen. Laws § 42-6.2-9), it does not mandate the cessation of investment in a natural gas distribution system that will continue to heat the homes and businesses of Rhode Island for the foreseeable future. Understandably, the interpretation of what "long term" investment is reasonably needed for safety and reliability may evolve as the future of the gas distribution system comes into clearer focus. Regardless, as it stands today, there is no reasonable way to interpret "long term" as the Attorney General does, i.e., that the phrase "short and long term" in R.I. Gen. Laws § 39-1-27-7-1(d) could mean only "short-term". *See* A.G. Mem., p. 13.

IV. Conclusion

To the extent that the Attorney General's February 14, 2023 position statement contains unfounded factual assertions, it is not evidence and should not be considered. The Attorney General's position that the Commission can approve only those investments that are reasonably necessary to address the short-term safety and reliability of the natural gas distribution system is contrary to the plain and unambiguous language of R.I. Gen. Laws § 39-1-27.7.1(d). The Company agrees with the Attorney General that "the need to ensure safe and reliable service is

[12] Company Witnesses Nathan Kocon, Laeyeng Hunt, and Michele Leone explain how the proactive main replacement program in the Gas ISR Plan, specifically the replacement of leak prone pipe, is consistent with the greenhouse gas reduction mandates of the Act on Climate. *See* Pre-filed Direct Testimony of Michele V. Leone, pp. 7-8; Pre-filed Joint Rebuttal Testimony of Nathan Kocon and Laeyeng Hunt, p. 35.

undisputed."[13] That is precisely why the Company's ISR Plan proposes the investments that it does. The Attorney General's suggestion that the Company should not proactively address safety and reliability issues because the future of the gas system is being examined is not supported by law or facts and is not prudent.

Respectfully submitted,

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[13] A.G. Mem., p. 9.