STATE OF RHODE ISLAND
RHODE ISLAND PUBLIC UTILITIES COMMISSION

In re: The Narragansett Electric Company d/b/a Rhode Island Energy's Advanced Metering Functionality Business Case	)	Docket No. 22-49-EL

MEMORANDUM OF THE NARRAGANSETT ELECTRIC COMPANY D/B/A RHODE ISLAND ENERGY IN RESPONSE TO THE ATTORNEY GENERAL OF THE STATE OF RHODE ISLAND'S STATEMENT OF POSITION

The Narragansett Electric Company d/b/a Rhode Island Energy (the "Company") submits this memorandum in response to the Attorney General of the State of Rhode Island's Statement of Position ("AG Position Statement").

I. INTRODUCTION

Although the AG Position Statement does not set forth a clear position on whether the Attorney General favors or opposes the Company's advanced metering functionality ("AMF") Business Case, read in totality, the AG Position Statement suggests support for the implementation of AMF in Rhode Island for the benefits it will bring in achieving the mandates of the Act on Climate and providing greater options for customers to manage their energy use and costs. Specifically, the AG Position Statement acknowledges that investments like AMF should be "undertaken expeditiously" (AG Position Statement at 2) to "increase customer information[,] . . . improve energy efficiency methods[, and] increase the State's ability to produce and use local renewable energy." (AG Position Statement at 5) The Company welcomes this general support for AMF implementation from the Attorney General, which also is consistent with the positions articulated by the other parties in this docket.

In addition to this general support, the AG Position Statement articulates numerous concerns about certain aspects of the Company's proposal that it urges the Public Utilities Commission (the "Commission") to consider carefully, particularly with respect to cost recovery, rate impacts, and timing. Each of these concerns is misplaced.

First, the Attorney General's assertions regarding the Company's proposal for the creation of an AMF Factor for cost recovery mischaracterize the May 19, 2022 Settlement Agreement by and between PPL Corporation, PPL Rhode Island Holdings, LLC and Peter F. Neronha, Attorney General of the State of Rhode Island (the "PPL Settlement"). The proposed AMF Factor is consistent with what the parties agreed to in the PPL Settlement, as well as the conditions set forth in the Report and Order issued in Docket No. D-21-09 (the "Approval Order") by the Rhode Island Division of Public Utilities and Carriers (the "Division") approving the acquisition of 100 percent of the outstanding shares of common stock of The Narragansett Electric Company by PPL Rhode Island Holdings, LLC (the "Acquisition"). Through the Approval Order and the PPL Settlement, the Company cannot file a base distribution rate case seeking a change in base distribution rates for at least three years. The AMF Factor, however, is not a proposed change in base distribution rates. Further, if the Company had chosen to seek a reopener of the multi-year rate plan in Docket No. 4770, that also would not have been a filing for a change in base distribution rates (because it was expressly provided for in the last base distribution rate order). The Attorney General's assertion that the Company's cost recovery proposal for AMF contravenes the Company's commitments in the PPL Settlement reflects a misunderstanding of base distribution rates. Further, the AG Position Statement does not even ask the Commission to reject the Company's cost recovery proposal, but instead acknowledges that it is in the Commission's authority to determine just and reasonable rates, including the

potential approval of the AMF Factor. Accordingly, the AG Position Statement does not provide a basis for rejecting the Company's AMF Factor cost recovery proposal.

Second, the Attorney General's other positions largely relate to timing, and none of them raises any concrete concerns that warrant any changes to the Company's AMF Business Case. On the one hand, the AG Position Statement asserts that the Company caused a delay in AMF implementation because of the Acquisition and now has not proposed moving quickly enough in implementing time varying rates ("TVR"). (AG Position Statement at 2-4.) On the other hand, the AG Position Statement seems to express concern that consideration of the AMF proposal is moving along too quickly because it must be considered in concert with the Company's Grid Modernization Plan in Docket No. 22-56-EL. (AG Position Statement at 9.) Ultimately, the Attorney General's overall position appears to be that the Commission should carefully consider what is before it in this docket and take into account all relevant factors. (*See* AG Position Statement at 10.) That is exactly what is happening, through hundreds of data requests, multiple technical sessions, multiple rounds of pre-filed written testimony, and, eventually, evidentiary hearings. There should be no concern that the issues identified by the Attorney General are not being sufficiently evaluated as part of this proceeding.

II. THE COMPANY'S COST RECOVERY PROPOSAL IS CONSISTENT WITH THE PPL SETTLEMENT AND THE APPROVAL ORDER

The Company filed its AMF Business Case on November 18, 2022. When it made that filing, the Company explained in its transmittal letter that it proposed the creation of an AMF Factor for cost recovery and how that proposal aligned with the terms of the PPL Settlement. Specifically, the Company noted that the PPL Settlement restricted it from filing a base distribution rate case for at least three years from the date of the Acquisition close, but that it did not preclude cost recovery for an AMF proposal – particularly because the PPL Settlement

expressly provided for AMF costs in a separate section and contemplated an AMF filing, including a proposal for cost recovery, that would occur prior to the Company's next base distribution rate case.

A. Either the AMF Factor or a Reopener Are Consistent with the Company's Obligations under the Approval Order and the PPL Settlement.

The language of the Approval Order restricting the Company's ability to file a base distribution rate case is:

> Narragansett will not file a base rate case seeking an increase in base distribution rates for gas and/or electric service sooner than three (3) years from the date that PPL Rhode Island Holdings, LLC's ("PPL RI") acquisition of The Narragansett Electric Company ("Narragansett") from National Grid USA ("Transaction") closes (the "distribution base rate stay-out period").

(Approval Order at 250.) The language from the PPL Settlement concerning the Company's commitment not to file a base distribution rate case is:

> Base Distribution Rates. In combination with its commitment that PPL will not file for a change in base distribution rates before three years after the Transaction's closing, PPL shall not submit a request for a change in base rates unless and until there is at least 12 months of operating experience under PPL's exclusive leadership and after the transition service agreements with National Grid terminate.

(PPL Settlement, Exhibit C, §1(c).) These provisions, by their plain language, address when the Company can make a comprehensive base distribution rate filing seeking an adjustment in those base distribution rates. Such filings are governed by R.I. Gen. Laws § 39-3-11 and require the Company to comply with the filing requirements established by the Commission for Filings of General Rate Schedule Changes set forth in 810-RICR-00-00-5. They are comprehensive rate filings that involve a thorough evaluation of all aspects of the Company's cost of providing distribution service to customers. Base distribution rates do not include the numerous rate

adjustment factors that also are charged to customers for programs, such as for energy efficiency, infrastructure safety and reliability ("ISR") plans, and numerous other programs with associated factors that are adjusted regularly between base distribution rate cases.[1]

The Company's proposal of an AMF Factor for cost recovery is not a filing proposing an adjustment in base distribution rates. The Attorney General's contention to the contrary[2] reflects a misunderstanding of the various rate components. Like other rate adjustment factors, and as explained in greater detail in the Pre-Filed Joint Rebuttal Testimony of Stephanie A. Briggs and Bethany L. Johnson, the proposed AMF Factor is a per-kWh volumetric charge that would be allocated among rate classes using the existing rate design and allocation principles reviewed and approved in the last base distribution rate case. It is not a proposed adjustment to the base distribution rates. Like the ISR factor and the energy efficiency factors, it is a separate rate component. There is nothing in the language of the Approval Order or in the language of the PPL Settlement that precludes seeking the creation of a separate rate component for recovery of AMF implementation costs.[3]

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[1] The Attorney General implicitly acknowledges that these other rate adjustment factors are not subject to the restrictions on seeking an adjustment to base distribution rates because the Attorney General has participated in many of the dockets that set those factors, including the ISR plan dockets, and has not asserted that such factors implicate the Company's obligation not to file to adjust base distribution rates.

[2] The first time that the Company learned that the Attorney General had any concerns that its cost recovery proposal might not be aligned with the PPL Settlement was when it received the AG Position Statement. This docket has now been pending for more than seven months, and the parties to the docket and the Commission have issued hundreds of data requests. The Attorney General, to date, has served the Company with three data requests, none of which raised this issue. Additionally, prior to submitting its AMF Business Case, the Company reached out to the Attorney General inviting a dialogue as to whether the Attorney General had any concerns about the cost recovery proposal's compatibility with the PPL Settlement, but the Attorney General never advised the Company of any such concerns or sought to engage in any such dialogue. The Company, therefore, is surprised to learn now of the Attorney General's concerns. Nevertheless, as explained in this memorandum, the concerns are unfounded.

[3] The Attorney General's suggestion that the AMF Factor might contravene the language from the PPL Settlement that "PPL will not seek recovery through any cost recovery mechanism of the incremental costs of these Additional Commitments, and will hold customers harmless from those incremental costs, both now and in the future" is a red herring. (PPL Settlement, Exhibit C.) This language unambiguously refers to and applies to the costs of performing the Additional Commitments set forth in the PPL Settlement. With respect to AMF, the PPL Settlement provides only the "Additional Commitment" to include certain elements in its promised plan for deployment of AMF. There is no "Additional Commitment" to implement AMF or to delay seeking cost recovery for the costs of implementing

Similarly, if the Company had proposed to seek recovery through the provision in the Amended Settlement Agreement permitting a "reopener" for recovery of AMF implementation costs, which was approved in its last base distribution rate case in Docket No. 4770, that also would have been consistent with the Company's commitments in the Approval Order and the PPL Settlement. That "reopener" provision is part of the existing base distribution rate order and the multi-year rate plan ("MRP") under which the Company is operating today.[4] The Acquisition did not change the MRP. Accordingly, if the Commission "determine[s] . . . that deployment of AMF should move forward and the Company must incur costs during the MRP to begin the deployment process," the corresponding adjustment to the revenue requirement, and therefore rates, is part of existing base distribution rates. The "reopener" would be only for the limited purpose of addressing that additional revenue requirement as expressly contemplated by the existing base distribution rate order; it would not be a comprehensive new base distribution rate filing, which the Company agreed to delay in the Approval Order and the PPL Settlement.

B. The Company's Position on the Cost Recovery Cap is Consistent with its Obligations under the PPL Settlement.

The Company also explained in its transmittal letter that its AMF Business Case complied with its obligation in the PPL Settlement to "**include in its plan for deployment**" (1) costs for AMF implementation that did not exceed what previously had been proposed in Docket No. 5113 and (2) a cost-benefit analysis at least as positive as the Docket No. 5113 cost-benefit analysis. (PPL Settlement, Exhibit C, § 1(f); emphasis added.) The plain language of the PPL Settlement imposed an obligation on the Company only to submit an AMF implementation

AMF. Accordingly, there is no plausible interpretation of this language that supports the conclusion that it would preclude the Company's proposal for an AMF Factor.

[4] The Amended Settlement Agreement was approved by the Commission at its Open Meeting on August 24, 2018 in Docket No. 4770.

proposal *that included* those elements and, to not seek recovery of costs from customers in excess of that amount *as part of that proposal*. The PPL Settlement expressly provides for the possibility that the proposed costs could change as part of the regulatory review process: "costs shall remain subject to regulatory review and approval[.]" (*Id.*)

The Company does not dispute the Attorney General's statement that, "The Company is not the unilateral decisionmaker about what is covered under the 'cap'[.]" (AG Position Statement at 8.) The Attorney General does, however, misunderstand the nature of the Company's position. The Company's AMF Business Case proposes implementation of AMF in Rhode Island in a specific manner at the costs proposed. The Company acknowledges that, if the AMF Business Case implementation proposal is approved as is, then the Company is bound by the costs it presented.[5] But, it strains the language of the PPL Settlement beyond reason to conclude that the costs set forth in the AMF Business Case constitute a hard cap on the Company's ability to seek recovery for costs regardless of how the proposal is altered through the regulatory process.

Rather, as contemplated by the acknowledgement that the costs remain subject to regulatory review and approval, if the regulatory review process mandates changes to the implementation proposal that will result in additional costs, the PPL Settlement does not preclude the Company from seeking recovery for additional costs driven by those mandated changes.[6]

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[5] This fact obviates the Attorney General's assertion that "the Company should be held to assume the risk associated with failing to adhere to its proposed budget." (AG Position Statement at 8.) The Company's budget is tied to its proposal. The cost cap applies to that proposal. The Company will be accountable to meeting that budget if its proposal is approved without material modification. But, if there is a modification that will have an impact on the Company's costs, then it would be unreasonable to hold the Company to a budget that did not include the modification.

[6] For example, if the Commission ultimately determined that it was going to require the Company to install a brand new state-of-the-art AMF meter that cost double the amount per meter compared to the Company's proposal, it would be patently unreasonable to interpret the PPL Settlement to mean that the Company had an obligation to

Additionally, the Company has taken what it expected was the non-controversial position that it can seek recovery of additional costs deemed reasonable and prudent **after** approval of the AMF implementation plan. Such additional costs would, by definition, not be a part of AMF implementation. Nevertheless, the Attorney General asserts that future costs could, or should, be included in the cap – specifically suggesting that the costs of TVR development and implementation might be subject to the cap. (AG Position Statement at 8.)

The Attorney General's position borders on the absurd. The cost cap by its express terms applies only to the Company's proposed AMF implementation plan. Applying the Attorney General's rationale, anything that might relate to AMF in any way in the future could be subject to the cap as well. That is not, and could not be, the language of the PPL Settlement. If AMF is implemented, then it will become an integral part of the electric distribution system that interacts with nearly every aspect of the Company's operations and planning. The PPL Settlement simply never contemplated any limitations on the Company's future operations; it plainly applies only to the Company's proposal to implement AMF. The Commission should ignore the Attorney General's incongruous overreaching assertion. Crediting the Attorney General's suggestion would be an unreasonable interpretation of the contractual language. *See Carney v. Carney*, 89 A.3d 772, 777-78 (R.I. 2014) (applying the "only reasonable interpretation of the contract provision").

implement AMF on the terms dictated by the Commission, but only seek cost recovery for 50 percent of its meter costs. That is why the language in the PPL Settlement is tied to what the Company had an obligation to include in its implementation proposal. If the PPL Settlement had been meant to mandate AMF implementation with a hard cost cap no matter what, it would have said so directly. Similarly, if the Commission issues an order adjusting the implementation timeline from what the Company proposes, if this adjustment resulted in increased costs, the increase would not be subject to the cost cap because it resulted from a modification of the Company's proposal.

III. THE COMPANY'S IMPLEMENTATION TIMELINE ADDRESSES THE TIMING CONCERNS IN THE AG POSITION STATEMENT

The Company filed its AMF Business Case within approximately six months of the Acquisition – nearly six months sooner than it committed to as a condition of the Acquisition. The Company prioritized getting the AMF Business Case before the Commission as soon as possible in direct response to the concerns raised during the Division proceeding for approval of the Acquisition. Specifically, the parties to the Acquisition approval proceeding raised concerns that the Acquisition had delayed AMF implementation and emphasized that moving forward with AMF was a priority for the State. As many of the parties in the Division approval proceeding indicated, and as the Attorney General articulated in the AG Position Statement, implementation of AMF is a priority for them because of the benefits it will bring toward achieving the Climate Mandates and delivering energy management benefits to customers. Accordingly, the AMF Business Case includes an implementation timeline that would result in AMF meters, infrastructure, and capabilities being rolled out throughout Rhode Island expeditiously.

Contrary to the Attorney General's position, there is no basis to assign any weight to the alleged "delay" in AMF implementation from the Acquisition. There is no basis to conclude that there has been any delay. Regardless, any delay cannot form the basis for any penalty, limitation on cost recovery, or any adjustment to the benefit-cost analysis, as the Attorney General suggests. (AG Position Statement at 3.)

First, there was no timeline in place for the implementation of AMF in Rhode Island prior to the Acquisition. The Company had submitted its Updated AMF Business Case on January 21, 2021. By the time the Company announced the proposed Acquisition in March and filed for approval of the Acquisition with the Division on May 4, 2021, no evaluation of that filing had

taken place. It is pure speculation as to what the outcome of that proceeding would have been. Accordingly, it is incorrect to determine that there has been any delay in AMF implementation at all.

Second, even if there was a delay, it could not form the basis for an adjustment to benefit-cost analysis or rate recovery. The Commission must evaluate the proposal before it on that proposal's merits, and the Commission has the Company's AMF Business Case before it now. The timing of when the case was presented to the Commission is not an element of whether the cost recovery proposal itself is fair, just, and reasonable. Nor is it an element of whether the Company's benefit-cost analysis properly analyzes the relationship between the benefits and costs of AMF implementation.[7] Moreover, the Division already vetted whether there was a delay and whether any such delay warranted any consequences when it vetted the Acquisition and issued the Approval Order. And, the Attorney General satisfied any remaining concerns he had following the Approval Order when he entered into the PPL Settlement and dismissed his appeal. As described above, the Company has complied with its obligations under the Approval Order and the PPL Settlement. Thus, for all these reasons the Commission should reject the Attorney General's concerns regarding delay.

Contrastingly, the Attorney General also seems to argue that evaluation of the AMF Business Case is occurring too quickly because review of the AMF must take place concurrently with evaluation of the Grid Modernization Plan. This argument is misplaced for several reasons.

First, the Amended Settlement Agreement provision the Attorney General cites specifically contemplates that the Company would file a Grid Modernization Plan no later than

[7] To the extent that timing of implementation impacts what the benefits and costs are, those timing impacts are included in the Company's analysis. There is no adjustment that should be made because a different proposal might have been evaluated sooner.

six months after filing the AMF Business Case. (AG Position Statement at 9, citing Amended Settlement Agreement, § 15(b) at 48.) The Company filed the Grid Modernization Plan fewer than two months after it filed the AMF Business Case. Thus, the Company complied with its obligations under the Amended Settlement Agreement.

Second, the AMF Business Case expressly discusses its coordination with the Grid Modernization Plan. Section 4.1 of the AMF Business Case is dedicated to discussing how AMF enables grid modernization. The functionality roadmap in Section 6 of the AMF Business Case describes how certain functionalities will result from later Grid Modernization Plan investments. The Benefit-Cost Analysis in the AMF Business Case explicitly severs benefits that will result from AMF implementation only versus those that will be enabled only through later grid modernization investments. Moreover, the AMF Business Case and the Grid Modernization Plan both demonstrate, overall, that they work together, but also provide their own unique and separate benefits. Therefore, the record has been developed that both: (a) demonstrates that AMF in and of itself brings benefits to customers that justify its costs – independent of the Grid Modernization Plan, and (b) implementing AMF will facilitate greater benefits for many of the investments that are described in the Grid Modernization Plan. Therefore, to the extent the Attorney General suggests that the evaluation of the AMF Business Case should be slowed to be considered on the same timeframe as the Grid Modernization Plan, there is no reason to do so.

Finally, the Attorney General's expressed concern about ensuring that all the evidence is being adequately vetted is unfounded. The process afforded for the review of the Company's AMF Business Case has been robust and will continue to be. The volume of the data requests that have been issued to the Company has been substantial and the details sought in those data requests have been comprehensive. Moreover, the technical sessions scheduled in this docket

have provided additional opportunities to dive deeper on the specific topics covered in those technical sessions, including the benefit-cost analysis of the Company.[8] Accordingly, to the extent that the Attorney General is asserting that certain topics have not received sufficient scrutiny, or that there is not sufficient time to properly assess the Company's proposal, that assertion is unfounded.

IV. CONCLUSION

For the reasons set forth in this memorandum, as well as the additional reasons contained the Pre-Filed Joint Rebuttal Testimony of Philip J. Walnock and Wanda E. Reder (the "Walnock/Reder Rebuttal Testimony"), the Pre-Filed Joint Rebuttal Testimony of Stephanie A. Briggs and Bethany L. Johnson, and the Pre-filed Joint Supplemental Direct Testimony of Philip J. Walnock and Stephanie A. Briggs (the "Walnock/Briggs Supplemental Testimony"), nothing set forth in the AG Position Statement demonstrates any basis to reject or otherwise alter the Company's proposed implementation of AMF to its Rhode Island customers.

[8] The Attorney General suggests that there is a need to dive deeper into the costs of implementing TVR. This topic has been thoroughly examined and substantial information has been provided in the AMF Business Case, in supporting testimony, in responses to data requests, and in the technical session that addressed the benefit-cost analysis. There is no risk that this topic has not been sufficiently dissected in this proceeding, or that there will not be an opportunity to do enough analysis on the current schedule.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on June 5, 2023, I sent a copy of the foregoing to the service list by electronic mail.

/s/ Adam M. Ramos