



STATE OF RHODE ISLAND

DIVISION OF PUBLIC UTILITIES & CARRIERS

Legal Section

89 Jefferson Boulevard

Warwick, Rhode Island 02888

(401) 941-4500

(401) 941-9207 - Fax

November 27, 2023

VIA ELECTRONIC MAIL

Luly Massaro, Commission Clerk

Rhode Island Public Utilities Commission

89 Jefferson Boulevard

Warwick, RI 02888

RE: Docket 22-05-EE

Dear Ms. Massaro:

The Division of Public Utilities & Carriers has concluded its review of the report dated and filed on March 1, 2023 by National Grid, as the prior owner of the Narragansett Electric Company.¹

As discussed in detail in the accompanying prefiled testimony of Michael R. Ballaban and Jacob Van Reen, the Division recommends that the Commission disallow a portion of the Performance Incentive Mechanism (PIM) awarded between the period of 2012 through 2021. The recommended disallowance to filing date is \$10,592,634, plus \$1,767,174 in interest for a total of \$12,359,808. The Division notes that the final figure to be credited to ratepayers should include interest accumulated to the date of the crediting.

According to National Grid's report, the inappropriate out-of-period invoicing occurred in the Energy Efficiency Programs from 2012 through 2021, across all sectors of the program: Residential, Income Eligible, and C&I. A primary purpose for the invoice manipulation was to enhance and maximize National Grid's PIM. National Grid's conduct constituted a deliberate, calculated, and wholesale abandonment of the National Grid's fiduciary obligation to implement

¹ On July 11, 2022, the Commission issued Order No. 24441, opening the above-captioned docket, entitled "In Re: Investigation of Utility Misconduct or Fraud by The Narragansett Electric Company Relating to Past Payment of Shareholder Incentive." Order No. 24441 announced that "the Commission will investigate [The Narragansett Electric Company's] actions and the actions of its employees during the time it was a National Grid affiliate, relating to the alleged manipulation of the reporting of invoices affecting the calculation of past energy efficiency shareholder incentives and the resulting impact on customers. On July 14, 2022, National Grid voluntarily intervened in this docket to continue its participation in the Commission and Division of Public Utilities and Carriers' investigatory process.

these programs consistent with the parameters imposed by the Commission, including the need for accurate reporting during the time period in question. The effect of these actions enhanced National Grid's profits year after year- all at the expense of ratepayers.

In addition to the PIM disallowance, the Division seeks an order requiring an annual audit of the energy efficiency program, paid for by the current distribution Company's shareholders. Additionally, the Division recommends that Rhode Island Energy, be ordered to store all records for the energy efficiency programs indefinitely.

The Division recognizes that Rhode Island Energy was not the perpetrator of these offenses and that the misconduct occurred under National Grid. The issue of which entity should divest funds is not of any real concern to the Division which is concerned only with making ratepayers whole and preventing any such conduct in the future.

Thank you for your attention to this matter.

Very Truly Yours,

/s/Margaret L. Hogan

cc: Service List

**JOINT TESTIMONY OF
MICHAEL R. BALLABAN AND JACOB VAN REEN**

**ON BEHALF OF
THE RHODE ISLAND DIVISION OF PUBLIC UTILITIES AND CARRIERS**

November 27, 2023

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1 **JOINT TESTIMONY OF MICHAEL R. BALLABAN AND JAKE VAN REEN**

2
3 **I. STATEMENT OF QUALIFICATIONS**

4 **II. MICHAEL R. BALLABAN**

5 **Q. MR. BALLABAN, PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

6 A. My name is Michael R. Ballaban. My business address is 370 Main Street, Suite 325,
7 Worcester, Massachusetts, 01608.

8 **Q. MR. BALLABAN, WHAT IS YOUR PRESENT OCCUPATION?**

9 A. I am a Senior Advisor for Daymark Energy Advisors (“Daymark”) specializing in advising utility
10 stakeholders in regard to revenue requirements, regulatory accounting, cost of service,
11 pricing, regulatory strategy, and financial forecasting.

12 **Q. MR. BALLABAN, PLEASE SUMMARIZE YOUR PROFESSIONAL EXPERIENCE.**

13 A. Prior to working with Daymark, my professional experience includes employment with both
14 New England Electric System (now National Grid USA) and Boston Edison (“Eversource
15 Energy”) where I gained extensive experience assisting utilities with all phases of rate filings
16 before state commissions and at the Federal Regulatory Energy Commission (“FERC”),
17 including preparation, discovery, litigation, settlement, and implementation. Most recently I
18 was Senior Manager in the Power & Utility Advisory Services practice at Ernst & Young. In this
19 role I advised electric and gas utility clients on a wide variety of financial and regulatory issues.
20 Prior to assuming my current position, I was a Managing Consultant at Daymark. While in that
21 position, I testified before the Rhode Island Public Utilities Commission (“RIPUC” or “PUC”)
22 on the reasonableness of Narragansett Electric’s revenue requirement in RIPUC Docket No.

1 4770 and I advised a number of Daymark clients with regard to cost of service, revenue
2 requirements, tariff reviews, and power supply planning and procurement. I also testified
3 before the RIPUC on behalf of the Advocacy Section of the Rhode Island Division of Public
4 Utilities and Carriers with regards to the Petition of PPL Corporation, PPL Rhode Island
5 Holdings, LLC, National Grid USA, and The Narragansett Electric Company for Authority to
6 Transfer Ownership of The Narragansett Electric Company to PPL Rhode Island Holdings, LLC
7 and Related Approvals in RIPUC Docket No. D-21-09. The purpose of that testimony was to
8 examine the effects of the proposed transfer of ownership on customer rates.

9 **Q. MR. BALLABAN, WHAT EXPERIENCE DO YOU HAVE THAT IS RELEVANT TO THIS PROCEEDING?**

10 A. I have extensive experience assisting utilities with all phases of rate filings before state
11 commissions and at the Federal Regulatory Energy Commission, including preparation,
12 discovery, litigation, settlement, and implementation. In addition, while I was employed by
13 New England Electric System for more than twelve years, I developed financial forecasts and
14 revenue requirements for the company's subsidiary New England Power Company. I also
15 testified regarding the FERC-jurisdictional generation and transmission revenue requirements
16 in the W-92 rate case before FERC. Consequently, I have substantial financial and ratemaking
17 knowledge of Narragansett Electric Company that is directly applicable to this proceeding.
18 Other recent experience includes leading a review of a utility's allocation of certain service
19 company costs to its operating companies, co-leading a study to verify that the electric and
20 gas distribution assets in a utility's rate base were appropriate to support upcoming base rate
21 filings, leading a review of significant deferred storm costs to verify that it was appropriate for
22 a utility to include those costs in cost recovery submissions, reviewing elements of a utility's

1 cost accounting structure and associated compliance program, and leading a regulatory
2 transformation initiative to establish a regulatory organization within the finance function for
3 a large multi-state utility. I also advised the Division in regard to an Earnings Investigation and
4 Block Island Transmission System Prudency Matter in RIPUC Docket No. 4770. Finally, recently,
5 I was a regulatory financial advisor to a team assisting the staff of a New England Commission
6 in conducting prudency reviews of jurisdictional investor-owned utilities' annual rate
7 adjustment mechanism filings. My professional resume is Exhibit A to this testimony.

8 **Q. MR. BALLABAN, PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND.**

9 A. I received my Bachelor of Science in Transportation and Public Utilities from Indiana University
10 and my M.B.A. in Finance from Babson College.

11 **JACOB VAN REEN**

12 **Q. MR. VAN REEN, PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

13 A. My name is Jacob Van Reen. My business address is 360 Thames St., Unit 3B, Newport, Rhode
14 Island, 02840.

15 **Q. MR. VAN REEN, WHAT IS YOUR PRESENT OCCUPATION?**

16 A. I am a Certified Public Accountant (CPA) and the owner of Van Reen Accounting LLC. In this
17 capacity I advise utility stakeholders on investigations as well as rate and regulatory matters.

18 **Q. MR. VAN REEN, PLEASE SUMMARIZE YOUR PROFESSIONAL EXPERIENCE?**

19 A. Prior to forming Van Reen Accounting LLC, I was a Senior Manager in Ernst & Young's Forensic
20 Accounting practice. For over 10 years I specialized in assisting utility stakeholders with
21 investigations as well as rate and regulatory matters. Furthermore, while at Ernst & Young I
22 evaluated dozens of investigations performed by our audit clients to consider whether the

1 investigations were sufficient such that the conclusion could be relied upon for the issuance
2 of an audit opinion. Prior to Ernst & Young I was a Senior Associate with
3 PricewaterhouseCoopers in their audit practice.

4 **Q. MR. VAN REEN, WHAT EXPERIENCE DO YOU HAVE THAT IS RELEVANT TO THIS PROCEEDING?**

5 A. I have extensive experience assisting utilities with investigations as well as rate and regulatory
6 matters. I have been engaged by dozens of utilities and/or regulators to assist with these
7 types of matters. In addition to my utility specific experience, while at Ernst & Young I worked
8 on dozens of engagements across many industries evaluating the sufficiency of investigations
9 performed by firm clients. Specifically, I would assist in these matters by considering whether
10 the scope of the investigation was adequate, whether the electronic discovery was
11 comprehensive, whether search terms were appropriate given the nature of the allegation,
12 whether the interview list was adequate, and whether appropriate other documentation was
13 reviewed given the specifics of the investigation. Furthermore, I would assist in evaluating
14 whether the conclusion reached by the investigation were reasonable given the scope of the
15 investigation and relevant findings. My professional resume is Exhibit B to this testimony.

16 **Q. MR. VAN REEN, PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND.**

17 A. I received my Bachelor of Science in Accounting and Finance from the University of Rhode
18 Island. I am a Certified Public Accountant.

19

1 reported in the June 7, 2022 filing. On November 1, 2022, the Division’s Consulting Team
2 issued an Investigation Sufficiency Memo (“November 1, 2022 Memo”) to the Division in
3 regard to its preliminary findings. Subsequently, Van Reen Accounting was engaged by the
4 RIDPUC to evaluate whether National Grid’s updated investigation as summarized in its March
5 10, 2023 report was sufficient, such that the conclusions can be relied upon to correct the
6 Rhode Island energy efficiency fund. In June of 2023 Van Reen Accounting issued an
7 Addendum to the November 1, 2022 Investigation Sufficiency Memo (“June 2023 Memo”).

8 **Q. PLEASE SUMMARIZE YOUR RECOMMENDATION.**

9 A. We recommend a disallowance of the Performance Incentive Mechanism (PIM) awarded and
10 previously charged to Rhode Island customers for the Review Period of \$10,592,634 before
11 interest. Inclusive of \$1,767,174 in interest, the total amount we recommend be credited to
12 customers is \$12,359,808.

13 **Q. PLEASE SUMMARIZE YOUR PRIMARY FINDINGS.**

14 A. Our primary findings are:

- 15 • For the June 7, 2022 Report, we determined that the investigation was insufficient
16 such that the conclusions cannot be relied upon.
- 17 • For the March 10, 2023 Updated Report, we determined the investigation procedures
18 for email review, employee interviews, and analysis of program filings were
19 reasonable; however, the investigation conclusion of the customer impact is
20 insufficient.
- 21 • Given that Company appears to be unable to submit sufficient evidence that out-of-
22 period invoicing was not a widespread practice across all of its energy efficiency

1 programs, we believe the Company's failure to meet its critical obligation of financial
2 accuracy to the Rhode Island customers should result in a disallowance of a portion of
3 the performance incentive mechanism.

4 5 **III. JUNE 7, 2022 REPORT**

6 **Q. PLEASE SUMMARIZE YOUR APPROACH TO EVALUATE THE JUNE 7, 2022 REPORT.**

7 A. In evaluating the sufficiency of the Company's investigation, the Division's Consulting Team
8 considered the investigation scope, including email review, interviews, analysis of program
9 filings, and the methodology used by the Company to quantify the impact to customers. The
10 RIPUC and RIDPUC were provided several reports, narrative descriptions, documents, and
11 responses to data requests within Docket No. 22-05-EE and, where relevant, Docket No.
12 5189². The information provided within these dockets was the basis for the Division's
13 Consulting Team's analysis.

14 The Division's Consulting Team evaluated the investigative steps described within the
15 Company's June 7, 2022 Report. The investigative steps included in the Report were:

- 16 1) Email review of program managers responsible for the energy efficiency programs,
- 17 2) Interviews of program managers and customer energy management team
- 18 members,
- 19 3) Analysis of program filings to determine the extent to which similar conduct or
- 20 practices, if any, occurred within other Rhode Island energy efficiency programs, and
- 21 4) Estimate of the impact to customers.

² Docket No. 5189 - The Narragansett Electric d/b/a National Grid - Annual Energy Efficiency Plan for 2022

1 **Q. PLEASE SUMMARIZE THE COMPANY’S EMAIL REVIEW PROCESS.**

2 A. As described in the Company’s June 7, 2022 Report, the investigation team performed an
3 email review of program managers responsible for the energy efficiency programs. According
4 to the Company:

5 “the investigation developed a roster of all National Grid employees who worked as
6 program managers in New England Energy Efficiency programs. A list of the programs they
7 managed in each year of the study was compiled. The available email for the program
8 managers for every year of the review period (2012-2020) was collected. The collection
9 set included approximate 500,000 emails.”³

10 The Company engaged a forensic consultant to assist with the email review. The investigation
11 team applied search terms and key words specific to Rhode Island energy efficiency, as well
12 as terms designed to identify potential misconduct or fraud.

13 The investigation team identified several responsive email sets. These emails
14 corroborated the general allegations that invoice payments were being manipulated to
15 achieve advantageous financial outcomes related to the Rhode Island Energy Efficiency
16 Programs. The investigation team found program managers openly discussing holding off on
17 the receipt of payment of invoices at the end of program years. The Company provided a list
18 of search terms, custodian, and responsive emails.

19 **Q. WAS THE COMPANY’S EMAIL REVIEW PROCESS EFFECTIVE?**

20 The Division’s Consulting Team found that the email review process was only partially
21 effective. The investigation team’s process of collecting custodians’ data, applying search

³ Attachment PUC 3-10-1, page 3 of 10 [22-05-EE – PUC Set 3, DIV Sets 1 thru 4 (PUC 8-1-22)].

1 terms and review of responsive documents did identify several email sets relevant to the
2 allegations. However, the Division’s Consulting Team found that the email review process was
3 limited in scope and did not address several risk factors identified as part of the investigation:

4 1) The email review process identified several Directors and Vice Presidents within the
5 responsive email sets. Despite this fact, it appears the investigation team limited their
6 email review to program managers and did not collect and search the email accounts
7 of Directors and Vice Presidents. Included in the Division’s Eighth Set of Post-
8 Decisional Data Requests (8-2) was a question regarding the awareness of Directors
9 and Vice Presidents about the out-of-period invoicing practice. In response the
10 Company stated:

11 “There is not yet sufficient information to conclude what the referenced
12 management employees knew or did not know about the practice of out-of-period
13 invoicing that was occurring during the time-period 2012 through June 2021...
14 National Grid’s internal investigation is continuing and National Grid plans to
15 provide the results of its further investigation to the Public Utilities Commission as
16 soon as it is complete.”⁴

17 As a result, the Division’s Consulting Team found that the investigation did not fully
18 address the involvement of management (Directors, Vice Presidents, Executives, etc.)
19 in the out-of-period invoicing practice.

20 2) As described in the Company’s June 7, 2022 Report, the:

⁴ Division data request 8-2, pdf page 11. [Docket 22-05—E - Division Post-Decisional Set—8 - Batch—1 - PUC 09-09-2022].

1 “Company also examined emails in which the holding of invoices was discussed,
2 but the particular program could not be identified.”⁵

3 After reviewing available information provided by the Company, it does not appear
4 that the Company expanded its email review or performed supplemental procedures
5 to identify the programs referenced in these email sets.

6 As a result, the Division’s Consulting Team found the investigation did not fully
7 address which programs were involved in the out-of-period invoicing practice, nor the
8 scale of such involvement.

9 3) There were email sets identified as part of the investigation which demonstrate that
10 the out-of-period invoicing practice was being directed by individuals within the
11 Company. Specifically, one email states:

12 “Hold everything... just got another email. We may be ok with the 2% but I have to
13 wait to hear back for confirmation. Sheesh, wish they would make up their
14 minds...”⁶

15 The Division submitted data requests on this email set, seeking to understand who
16 sent this email directing the out-of-period invoicing practice. The Company stated they
17 were unable to locate the email referenced and that the employee who received the
18 directive has left the company.

19 As a result, the Division’s Consulting Team found that the email review did not
20 identify all relevant emails and potentially missed emails identifying the individuals

⁵ Rhode Island Energy June 7, 2022 report to the Rhode Island Public Utilities Commission in Docket 5189, page 11.

⁶ Division data request 8-14, pdf page 42 [Docket 22-05-EE - Division Post-Decisional Set 8 - Batch 1 - PUC 09-09-2022].

1 directing this practice. As such, there are unresolved concerns about who at the
2 Company was involved and whether higher levels of management were aware of the
3 invoice manipulation and, therefore, the full scale of the out-of-period invoicing
4 practice across the Company's energy efficiency programs.

5 **Q. PLEASE SUMMARIZE THE COMPANY'S EMPLOYEE INTERVIEW PROCEDURES.**

6 A. As described in the Company's June 7, 2022, the investigation included interviews of program
7 managers and customer energy management ("CEM") team members. Based on interviews
8 performed the Company stated:

9 "It was quickly confirmed that the out-of-period invoice strategy was widely known,
10 frequently discussed, and many times was implemented and used by program managers
11 to stay within budget and savings targets.

12 Program Managers were aware of what was described as a "sweet spot" - a combination
13 of performance against budget targets and savings targets – which they understood
14 represented the best influence on the Performance Incentives earned by the Company at
15 the end of the program year.

16 Program managers also were aware that once "savings" reached the caps in a given
17 program year, they no longer served to increase performance incentives. This was
18 described by program managers as "wasting" savings."⁷

19 Throughout the Docket, the Company has provided information regarding their interview
20 process and results.

⁷ Attachment PUC 3-10-1 in Docket 22-05-EE, Investigation of Misconduct by the Narragansett Electric Company Relating to Past Payments of EE Program Shareholder Incentives Responses to PUC Set 3 and Divisions Sets 1, 2, 3 and 4 (Batch 2) page 4 of 10.

1 **Q. WAS THE COMPANY'S EMPLOYEE INTERVIEW PROCESS EFFECTIVE?**

2 A. The Division's Consulting Team found that the interview process was only partially effective.

3 The investigation team did identify a clear pattern of manipulating invoice payments to
4 achieve financial outcomes. However, similar to the email review, the Division's Consulting
5 Team found that the interview process was limited in scope and did not address several risk
6 factors identified as part of the investigation:

7 1) The investigation team did not interview Directors, Vice Presidents, or other
8 Executives despite evidence of their involvement in the out-of-period invoicing
9 practice.

10 2) The interview process did not fully determine which programs were manipulated.
11 Rather the interviews identified a pattern of discussing strategies to delay invoice
12 payments, but the investigation did not conclude the extent to which these strategies
13 were implemented.

14 **Q. PLEASE DESCRIBE THE COMPANY'S ANALYSIS OF PROGRAM FILINGS.**

15 A. As stated in the Company's June 7, 2022 Report, the investigation team performed an:

16 "analysis of program filings to determine the extent to which similar conduct or practices,
17 if any, occurred within other Rhode Island energy efficiency programs."⁸

18 The Company describes the steps involved in analyzing program filings as: 1) analyzing
19 program filings to understand how the calculation affected performance incentives earned by
20 the Company, 2) evaluating regulatory filings to understand levers in each program that linked

⁸ Rhode Island Energy June 7, 2022 report to the Rhode Island Public Utilities Commission in Docket 5189, page 4.

1 budget dollars/units of savings to realized performance incentive dollars, and 3) recalculating
2 performance incentives once specific programs were identified.

3 Subsequently the Company stated:

4 “The investigation attempted to include the additional programs in the calculations
5 however, the inability to determine what program, if any, was actually subjected to the
6 out-of-period invoice strategy, and the inability to confirm in a number of instances
7 whether the strategy was actually implemented, rather than simply discussed, injected a
8 significant amount of inaccuracy and lack of certainty into the calculations.”⁹

9 **Q. WAS THE COMPANY’S ANALYSIS OF PROGRAM FILINGS ADEQUATE?**

10 A. No. The investigation team did not perform a key investigative step: *to determine the extent*
11 *to which similar conduct or practices, if any, occurred within other Rhode Island energy*
12 *efficiency programs*. It is not clear from the information provided how, if at all, the Company’s
13 analysis of program filings addressed the risk of similar conduct or practices occurring in other
14 programs.

15

⁹ Attachment PUC 3-10-1, page 8 of 10 [22-05-EE - PUC Set 3, DIV Sets 1 thru 4 (R) (PUC 8-1-22)].

1 **Q. PLEASE SUMMARIZE THE COMPANY’S ANALYSIS OF THE IMPACT ON CUSTOMERS.**

2 In its June 7, 2022 Report to the RIPUC, the Company estimated the cumulative impact on
3 PIM awards relating to this behavior for the period 2012-2020 to be an overstatement of
4 approximately \$1.56 million¹⁰. The Company attributes the PIM award overstatement to out-
5 of-period invoice payments for 48¹¹ program “instances”. In order to calculate the impact on
6 customers of booking invoice payments in the wrong year, the Company estimated the impact
7 of moving dollars associated with the 48 instances they identified into the correct period and
8 then, recalculating the PIM awards for the impacted years.

9 The Company undertook its prior investigation¹² in two Phases. Phase I reviewed specific
10 invoices relating only to the Upstream Lighting Residential Program for the period 2016-
11 2021¹³. Phase II was a broader but much higher-level review that encompassed electronic
12 media, mostly in the form of internal Company emails for energy efficiency personnel. No
13 specific invoices were reviewed during Phase II. Both Phase I and Phase II investigations were
14 performed at the direction of the Company by an outside consultant, PwC.

15

¹⁰ Excel file in Docket 22-05-EE Post Decisional Attachment PUC 3-1.

¹¹Rhode Island Energy June 7, 2022 report to the Rhode Island Public Utilities Commission in Docket 5189, page 1 .

¹² On several occasions during response to discovery, the Company indicated its investigation was ongoing but did not provide further evidence of scope, status or results found until filing the March 10, 2023 Updated Report.

¹³ The Company stated on page 4 in its June 7,2022 filing to the RIPUC in Docket 5189 that the Phase I Residential Upstream Lighting program vendor data selection period was March 1, 2012 to June 30, 2021. However, the report states in footnote 12 on page 4 that “invoices for these selected transactions were only available back to program year 2016”.

1 **Q. WHAT ARE YOUR OBSERVATIONS OF THE COMPANY'S ANALYSIS OF THE IMPACT ON**
2 **CUSTOMERS?**

3 A. After reviewing the Company's filed evidence of its investigation to date¹⁴ in Docket Nos. 22-
4 05-EE and 5189 and performing further discovery, the Division's Consulting Team observes
5 the following:

6 1) The Phase I investigation that directly sampled vendor invoices is a very small subset
7 of the entire 2012-2021 period under review. In fact, it appears the dollar value of the
8 Residential Upstream Lighting program is about \$61.9M¹⁵ of a total Energy Efficiency
9 spending during the review period that approaches \$1 Billion.¹⁶

10 2) Further, based on the risk profile the investigation team utilized for selecting invoices¹⁷
11 and lack of data availability before 2016, the \$61.9M comprises only a subset of
12 vendor invoices for 2016-2021 for certain manufacturers, and for only certain months,
13 at least with respect to the Phase I investigation. The net result is that it appears the
14 1,859¹⁸ vendor invoices sampled amount to \$24,091,230¹⁹ in costs, which only
15 represents approximately 2.5% of the total spend across all energy efficiency
16 programs. While it remains unclear regarding the full number of energy efficiency

¹⁴ Evidence available to the Division's Consulting Team in both Dockets 22-05-EE and 5189 in support of Investigation Sufficiency Memo, November 1, 2022.

¹⁵ Division data request 6-1 (a) in Docket 22-05-EE, pdf page 18.

¹⁶ Division data request 6-2 (b) in Docket 22-05-EE, pdf page 19.

¹⁷ The vendor selection process used by the Company was described in its June 7, 2022 filing to the RIPUC in Docket 5189, pages 4 - 6.

¹⁸ PUC Post Decisional 3-3 in Docket 22-05-EE, pdf page 25.

¹⁹ Division data request 6-5 (b) in Docket 22-05-EE, pdf page 23.

1 invoices generated over the entire 10-year period, it is likely that the set reviewed
2 comprised only a small fraction of the total.²⁰

3 3) The out-of-period dollars found in this small Phase I direct invoice sample provide the
4 sole basis for Rhode Island Energy's conclusion regarding the scale of the problem
5 across other programs. In Phase II, the investigation team's forensic approach utilized
6 an email review combined with interviews and some regulatory filing analysis
7 (unspecified) to flag programs suspected of suffering the same fate as did the
8 Residential Upstream Lighting program. No direct invoice sampling was done for these
9 other flagged programs to verify that the investigation team's approach was
10 reasonable.

11 4) The out-of-period invoices found in the Phase I investigation were extrapolated to the
12 results found in the Phase II investigation. No statistically valid basis for this
13 extrapolation was provided.

- 14 • For example, the Phase I investigation of the Residential Upstream Lighting
15 program found that 14.29% of the sampled invoices were out of period in
16 2016²¹ (that is, costs booked in 2016 but were likely related to activity that
17 really occurred in 2015). In Phase II, for any program found to contain
18 electronic media indicating that manipulation of invoice timing was likely to

²⁰ Division data requests 6-1, 6-2 and 6-4 in Docket 22-05-EE asked the Company for the total invoices generated for the 10-year period 2012-2020. However, in its response, the Company indicated that it does not know the total as some invoices were combined by an invoice processor who would have aggregated invoices from multiple manufacturers and sent it to the Company as one request for payment and data before 2016 is likely not available (pdf page 18 for Division data request 6-1 response, pdf page 19 for Division data request 6-2 response, and pdf page 22 for Division data request 6-4).

²¹ Excel file in Docket 22-05-EE Post Decisional Attachment PUC 3-1.

1 have occurred in 2015 (that is, communications indicate that certain vendor
2 activity was deliberately delayed for invoicing purposes until 2016), it was
3 imputed that of the total spending recorded for that program in 2016, 14.29%
4 was related to activity that occurred in 2015. No specific invoice sampling of
5 the program in question occurred to confirm this theory.

6 5) The analysis presented by the Company was performed on a rolling basis. That is, to
7 the extent a program was flagged, spending may have both been adjusted into and
8 out of any given year. Dollars adjusted into a year represent spending booked in a
9 subsequent period but actually relate to activity in the current period. Dollars adjusted
10 out represent spending booked in the current year, but actually relate to a prior
11 period. Thus, results are presented on a net basis. While efforts to capture the rolling
12 impact may be sufficient for adjusting financial reporting, this approach does not
13 capture the behavioral patterns observed by program managers.²²

14 6) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

²² The Division's Consulting Team believes it is more appropriate to view impacts on the PIM exclusively through the lens of information available to program managers at the time the decision was made to delay invoicing until the next year. Therefore, only the impacts in the current year of moving spending forward to the next year should be considered in assessing how the incentives were manipulated to optimize results. The collateral impacts on the new year are not relevant since the decision-making process to delay invoicing likely did not take these into account.

[REDACTED]

8 Q. PLEASE FURTHER EXPLAIN THE ROLLING BASIS VS. STAND-ALONE INCENTIVE AWARD
9 ANALYSIS.

10 A. As indicated earlier, the Company's Excel spreadsheet analysis was used to determine the
11 customer impact of booking the out-of-period payments into the correct year. The Company
12 represented both the movement of out-of-period dollars from a subsequent year into the
13 study year and the movement of dollars into a preceding year from the study year, i.e., a
14 rolling analysis, resulting in a customer impact of \$1.56M. For example, if \$100 was incorrectly
15 booked in 2017 and \$50 was incorrectly booked in 2016, the Company's analysis moved \$100
16 from 2017 into 2016 and \$50 from 2016 into 2015, resulting in a net impact on 2016 of \$50.

17 The Division's Consulting Team believes the window of opportunity for program managers
18 to optimize incentive award outcomes happens towards the end of each calendar year and
19 occurs on a stand-alone basis from any future or past like-minded behaviors. That is, these

[REDACTED]

1 individuals are more likely to consider whether delaying invoice recognition into the new year
2 maximizes awarded incentives in the current year and are much less focused (if at all) on their
3 action's collateral impacts on that future year.

4 **Q. WHAT IS YOUR CONCLUSION ON THE SUFFICIENCY OF THE COMPANY'S**
5 **INVESTIGATIVE PROCEDURES AND REASONABLENESS OF CONCLUSIONS IN**
6 **THE JUNE 7, 2022 REPORT?**

7 A. The Division's Consulting Team determined the Company's investigation as presented in the
8 June 7, 2022 Report is insufficient such that the investigation conclusions cannot be relied
9 upon. Several factors influenced this conclusion:

10 1) The investigation scope was limited and did not include email review or interviews of
11 Directors, Vice Presidents, or Executives. The investigation should evaluate if the out-
12 of-period invoicing practice was directed by upper management and consider the
13 implications and scope of any involvement.

14 2) The investigation did not fully determine the impact on other programs. In fact, in
15 several instances the investigation noted it could not draw conclusions on
16 manipulation of other programs. The investigation did not expand the investigation
17 scope to address this risk, nor did it describe how it addressed the obvious risk that
18 manipulation did happen in other programs.

19 [REDACTED]

20 [REDACTED]

21 3) In calculating the financial impact to customers, the investigation relied on a small
22 number of transactions and extrapolated those results across years and programs. The

1 investigation did not provide a statistically valid basis for the extrapolation
2 methodology, nor did it provide a statistically valid justification for the sampling
3 process.

- 4 • The Phase I invoices sampled used to calculate the impact on energy efficiency
5 performance incentives comprise a very small portion of total Energy Efficiency
6 spending over the 10-year period and likely do not reflect a fair representation
7 of the population.
- 8 • The Phase II investigation reviewed only electronic media and not a single
9 invoice.
- 10 • The combined Phase I and II investigations captured a relatively small portion
11 of total spending.

12 Given these factors, the Division's Consulting Team cannot independently verify Rhode Island
13 Energy's estimate of impacts on PIM awards over the period 2012-2020 due to out-of-period
14 invoicing. Therefore, the Division's Consulting Team cannot conclude that they are reasonable
15 and can be relied upon for any future course of action, including as a basis to correct the
16 Rhode Island Energy Efficiency Fund.

18 **IV. MARCH 10, 2023 UPDATED REPORT**

19 **Q. PLEASE SUMMARIZE YOUR APPROACH TO EVALUATE THE MARCH 10, 2023 UPDATED REPORT.**

20 A. In evaluating the sufficiency of National Grid's additional investigation, we considered the
21 investigation scope, including email review, interviews, analysis of program filings, and the

1 methodology used by National Grid to quantify the impact to customers. We also evaluated
2 the investigative steps described within the Updated Report:

- 3 1) Email review of program managers, management-level and other relevant employees,
- 4 2) Employee interviews,
- 5 3) Analysis of program filings to determine the extent to which similar conduct or
6 practices, if any, occurred within other Rhode Island energy efficiency programs, and
- 7 4) Quantifying the customer impact.

8 **Q. PLEASE SUMMARIZE THE COMPANY'S EMAIL REVIEW PROCESS.**

9 A. As described in National Grid's March 10, 2023 Updated Report, the investigation team, which
10 consisted of in-house counsel, forensic consultants, and outside counsel, began the email
11 review:

12 "by collecting all data from the e-mail inboxes of all program managers who oversaw EEPs
13 in New England between January 1, 2012, the first year for which InDemand²⁶ contains
14 invoicing data, and August 18, 2021, the date the e-mail review began."²⁷

15 This collection included approximately 5.3 million²⁸ emails and attachments from 27²⁹
16 program managers. As stated in the Updated Report:

17 "The investigation team applied 148 search terms to the 5.3 million documents to identify
18 documents relating to out-of-period invoicing in Narragansett's EEPs. Applying the search

²⁶ National Grid's online invoice processing system.

²⁷ National Grid March 10, 2023 report to the Rhode Island Public Utilities Commission in Docket 22-05-EE, pdf page 20.

²⁸ National Grid March 10, 2023 report to the Rhode Island Public Utilities Commission in Docket 22-05-EE, pdf page 21.

²⁹ National Grid March 10, 2023 report to the Rhode Island Public Utilities Commission in Docket 22-05-EE, pdf page 21.

1 terms and email threading yielded approximately 173,000 documents. The investigation
2 team reviewed each of the 173,000 documents for relevance. The team defined
3 “relevance” as any document related to shifting invoices out of period, delaying invoices,
4 or project movement to meet budgeting goals. Through this review process, the
5 investigation team identified approximately 2,700 relevant documents from the 27
6 program managers in the New England EE groups.”³⁰

7 After the review of the program manager emails, the investigation team expanded the email
8 review to include “27 additional employees”³¹. As stated in the Updated Report:

9 “This selection included all management-level employees in the EEPs, as well as
10 management-level employees from related groups, who had written or responded to
11 emails that could potentially be construed as related to out-of-period invoicing. It also
12 included management-level employees who received (but did not respond to) emails that
13 potentially related to out-of-period invoicing. Additionally, the investigation team
14 reviewed emails of management-level employees who supervised employees who might
15 have been involved in or aware of out-of-period invoicing – even if those supervisors were
16 not themselves copied on any emails relating to out-of-period invoicing. This category
17 included two Senior Vice Presidents who were Chief Customer Officers; two Vice
18 Presidents (of Strategy and Product Growth respectively); a Vice President of Revenue,
19 Reporting & Analysis; a Manager of Customer & Markets Metrics and Reporting; and a

³⁰ National Grid March 10, 2023 report to the Rhode Island Public Utilities Commission in Docket 22-05-EE, pdf page 21.

³¹ National Grid March 10, 2023 report to the Rhode Island Public Utilities Commission in Docket 22-05-EE, pdf pages 21.

1 Delivery Manager who focused on the Residential sector of EEPs. Lastly, the investigation
2 team also reviewed emails for three employees who sent or received emails identified as
3 relevant to out-of-period invoicing and who worked in the EEP Strategy and Accounting
4 groups in New England.”³²

5 The review of the additional employees resulted in the collection of 8.7 million³³ emails and
6 attachments. The Updated Report states:

7 “The team then narrowed this set of documents using the same 148 search terms and
8 emailing threading described above [in the Updated Report], which produced
9 approximately 316,725 documents. Next, the team reviewed each of these documents for
10 relevance to out-of-period invoicing, identifying an additional 1,125 documents as
11 relevant to its investigation.”³⁴

12 **Q. IS THE COMPANY’S EMAIL REVIEW PROCESS EFFECTIVE?**

13 A. Yes. The Company provided a list of employees (also referred to as custodians) whose emails
14 were reviewed using a list of search terms. We considered the information provided in our
15 evaluation of the email review process. We found that the email review process was effective.
16 The investigation team’s process of collecting data, applying search terms, and reviewing
17 documents did identify email sets relevant to the allegations. We found that the email review

³² National Grid March 10, 2023 report to the Rhode Island Public Utilities Commission in Docket 22-05-EE, pdf pages 21-22.

³³ National Grid March 10, 2023 report to the Rhode Island Public Utilities Commission in Docket 22-05-EE, pdf page 22.

³⁴ National Grid March 10, 2023 report to the Rhode Island Public Utilities Commission in Docket 22-05-EE, pdf page 22.

1 process was expanded from the June 7, 2022 Report and addressed the findings documented
2 in our testimony above. Specifically:

3 1) The email review process included the management-level custodians (Directors, Vice
4 Presidents, and Chief Customer Officers), and the Update Report addressed the
5 involvement of management in the out-of-period invoicing practice. The Updated
6 Report states:

7 “The investigation showed that employees at the Senior Vice President level (and
8 above) were not aware of or part of these discussions and did not direct, endorse,
9 or condone the practice. The investigation found no emails to Senior Vice
10 Presidents that discussed the practice –either implicitly or explicitly – and only a
11 few e-mails over ten years sent to Vice Presidents (out of thousands reviewed)
12 suggesting they could have been aware of the practice.”³⁵

13 2) The investigation identified that the out-of-period invoicing practice did occur across
14 the three energy efficiency program sectors: Residential, Low-Income, and C&I.

15 **Q. PLEASE SUMMARIZE THE COMPANY’S EMPLOYEE INTERVIEW PROCEDURES.**

16 A. As described in National Grid’s March 10, 2023 Updated Report, the updated investigation
17 included interviews of 28³⁶ current or former employees on all teams that worked with the
18 energy efficiency programs, including employees on the Execution, Strategy, Energy Efficiency
19 Reporting, and Energy Efficiency Accounting teams. The interviews in the Updated Report

³⁵ National Grid March 10, 2023 report to the Rhode Island Public Utilities Commission in Docket 22-05-EE, pdf page 25.

³⁶ National Grid March 10, 2023 report to the Rhode Island Public Utilities Commission in Docket 22-05-EE, pdf page 22.

1 were expanded to include management level employees, including 5 directors, 4 vice
2 presidents and one senior vice president. Consistent with the email review, the investigation
3 team did identify an awareness of manipulating invoice payments to achieve financial
4 outcomes at the program manager, analyst, manager, and director levels; however, no
5 awareness was identified at the senior vice president level or above. The Updated Report
6 states:

7 “This documentary record [emails] aligned with the information gathered during
8 interviews. Employees at the program manager, analyst, manager, and director levels who
9 were aware of or engaged in out-of-period invoicing also reported that they did not recall
10 specific discussions about the practice with Senior Leaders. In turn, Senior Leaders who
11 were interviewed reported that they had not known about, supported, or approved of the
12 practice. They all acknowledged, based on their current understanding and their
13 understanding at the time, that the practice was improper.”³⁷

14 **Q. IS THE COMPANY’S EMPLOYEE INTERVIEW PROCESS REASONABLE?**

15 A. Yes. We considered the information provided in the Updated Report in our evaluation of the
16 employee interview process. We found that the interview process was reasonable. We found
17 that the interview process was expanded from the June 7, 2022 Report and addressed the
18 findings documented in our testimony above. Specifically:

19 1) The investigation team did interview Directors, Vice Presidents, and other Executives.

³⁷ National Grid March 10, 2023 report to the Rhode Island Public Utilities Commission in Docket 22-05-EE, pdf page 25.

1 2) The investigation identified that out-of-period invoicing practice did occur across the
2 three energy efficiency program sectors: Residential, Low-Income, and C&I.

3 **Q. DID THE INVESTIGATION TEAM FIND EVIDENCE IN THE EMAIL REVIEW THAT OUT-OF-PERIOD**
4 **INVOICING OCCURRED IN RHODE ISLAND EEPS BEYOND THE RESIDENTIAL UPSTREAM**
5 **LIGHTING (RUL) PROGRAM?**

6 A. Yes, it did. As stated in National Grid’s Updated Report, the:

7 “investigation revealed that out-of-period invoicing occurred in Rhode Island EEPs from
8 2012 to 2021 across the three EEP sectors (Residential, Low-Income, and C&I).”³⁸

9

10 **Q. WHAT DID THE INVESTIGATION TEAM CONCLUDE IN THIS REGARD?**

11 A. The investigation team stated that:

12 “Employees engaged in out-of-period invoicing for two principal reasons, which were to
13 avoid harm to customers from shutting down program availability for the rest of the year
14 due to budgetary constraints, and to maximize Narragansett’s performance incentive.”³⁹

15 **Q. GIVEN THIS EVIDENCE, WHAT FURTHER ANALYSIS DID THE INVESTIGATION TEAM**
16 **UNDERTAKE TO QUANTIFY THE IMPACT OF OUT-OF-PERIOD INVOICING ON OTHER RHODE**
17 **ISLAND EEPS BEYOND THE RUL PROGRAM?**

18 A. Since the email review and interviews provided evidence that the out-of-invoice practices
19 occurred across the three energy efficiency sectors, the investigation team did consider the

³⁸ National Grid March 10, 2023 report to the Rhode Island Public Utilities Commission in Docket 22-05-EE, pdf page 12.

³⁹ National Grid March 10, 2023 report to the Rhode Island Public Utilities Commission in Docket 22-05-EE, pdf page 26.

1 ability to quantify the impact out-of-period invoicing had on other energy efficiency programs
2 (beyond the RUL program) by evaluating the documentation and data available for the Large
3 Commercial Retrofit program (C&I sector), which is the largest energy efficiency program
4 between 2012 and 2021. The Updated Report states:

5 “Through the review of the Large Commercial Retrofit program, and the understanding
6 that other EEPs include the same review challenges, National Grid determined that other
7 EEPs are more complex as compared to the RUL program. As explained above [in the
8 Updated Report], the RUL program involves the sale of lightbulbs through point of sale at
9 various retail locations, such as grocery stores or hardware stores. The RUL program’s
10 trigger for payment was objective: the point of sale (i.e., sales activity). Therefore, the out-
11 of-period analysis for the RUL program simply involved comparing sales activity to the
12 payment date to determine whether the payment was out-of-period.

13 In contrast, other EEPs included multiple triggers, and various milestones, for accruals,
14 invoicing, and payment, which render these programs complex and subjective. The
15 subjectivity of these programs makes systematic testing for out-of-period invoicing
16 challenging and the results inaccurate.”⁴⁰

17 **Q. DID THE INVESTIGATION TEAM UNDERTAKE ANY TESTING FOR OUT-OF-PERIOD INVOICING**
18 **FOR ENERGY EFFICIENCY PROGRAMS OTHER THAN THE RUL PROGRAM?**

19 A. No, it did not. The investigation team stated:

20 “the data and supporting documentation for these other energy efficiency programs –

⁴⁰ National Grid March 10, 2023 report to the Rhode Island Public Utilities Commission in Docket 22-05-EE, pdf page 41.

1 when it exists – is voluminous and would take a substantial amount of time to obtain from
2 National Grid’s systems; third-party vendors; and, in some cases, within the local hard
3 drives of the 27 Program Managers. In addition to the data to review, it would be
4 necessary to speak with the involved Program Managers, third-parties, and data
5 custodians, for each and every application, in order to understand the data, supporting
6 documentation, and decisions made. Accordingly, the sequence of milestones that would
7 need to be sampled are encompassed within thousands upon thousands of distinct
8 transactions that occurred several years ago involving numerous individuals, many of
9 whom are no longer employed by National Grid or Narragansett or are third parties who
10 are not employed by National Grid or Narragansett. As a result, it was not reasonably
11 possible to develop a logical and accurate sampling routine to develop an out-of-period
12 percentage for these more intricate programs. Further, the results of any such effort would
13 not be reliable or sufficiently representative and attempts at derivation of a program-
14 specific percentage would ultimately be a futile exercise. Therefore, the expanded
15 transaction analysis was determinative in identifying the RUL program as the most
16 complete and reasonable proxy for the out-of-period invoicing activity.”⁴¹

17 **Q. IS THE COMPANY’S CONCLUSION ON THE ANALYSIS OF PROGRAM FILINGS REASONABLE?**

18 A. Yes. Based on our review of the Update Report, and given that the work to quantify the impact
19 on other energy efficiency programs likely requires a significant level of effort and expense,

⁴¹ National Grid March 10, 2023 report to the Rhode Island Public Utilities Commission in Docket 22-05-EE, pdf page 42.

1 we agree with the Company’s conclusion that RUL program invoice testing results are a
2 “reasonable proxy for the out-of-period invoicing activity” for other Rhode Island EEPs.

3 **Q. THEREFORE, DO YOU ALSO AGREE THAT IT IS REASONABLE TO USE RUL OUT-OF-PERIOD**
4 **INVOICE TESTING RESULTS AS A REASONABLE PROXY FOR DETERMINING RATEPAYER**
5 **IMPACTS ACROSS ALL OTHER RHODE ISLAND EEPS?**

6 A. While we find the general approach to be reasonable, for the reasons we identify below, the
7 investigation team’s conclusion of the customer impacts is inadequate because of National
8 Grid’s demonstrated failures to meet its critical obligations to Rhode Island ratepayers.

9 **Q. PLEASE SUMMARIZE THE COMPANY’S ANALYSIS OF THE IMPACT ON CUSTOMERS.**

10 A. As stated in the Updated Report, the investigation team updated the customer impact of the
11 out-of-period invoice processing by expanding the transactional analysis of the RUL program
12 documentation, which included:

13 “Part 1 of the expanded transaction analysis review date (where available) or physical
14 invoices for the manufacturers related to payments from June 1, 2018 through December
15 31, 2021, not previously selected as part of the initial transaction analysis.

16 Part 2 of the expanded analysis reviewed physical invoices (where available) for the
17 manufacturers related to payments from January 1, 2016 through May 31, 2018 not
18 previously selected as part of the initial transaction analysis.”⁴²

19 As illustrated in Table 1 below, the expanded transaction analysis captured approximately 92%
20 of available programs rebate activity data for the RUL program during the 2016 to 2021

⁴² National Grid March 10, 2023 report to the Rhode Island Public Utilities Commission in Docket 22-05-EE, pdf page 33.

1 period.⁴³ As discussed in the June 7, 2022 report, no supporting documentation exists for the
 2 RUL program from 2012 to 2015.

3 **Table 1: Percentage of Total Payments Analyzed**

| Years | Total Payments (92 Manufacturers) | Payments Analyzed | % of Total Payments Analyzed |
|---------------------|--------------------------------------|---------------------|---------------------------------|
| 2012 | \$2,215,406 | | |
| 2013 | \$3,665,946 | | |
| 2014 | \$4,475,472 | | |
| 2015 | \$5,757,681 | | |
| 2016 | \$6,211,308 | \$5,261,029 | 84.70% |
| 2017 | \$8,118,590 | \$6,575,049 | 80.99% |
| 2018 | \$9,696,319 | \$9,400,267 | 96.95% |
| 2019 | \$11,673,697 | \$10,940,452 | 93.72% |
| 2020 | \$7,200,148 | \$7,017,506 | 97.46% |
| 2021 | \$4,079,127 | \$4,079,127 | 100.00 |
| Grand Total | \$63,093,694 | \$43,273,431 | |
| | | | |
| Subtotal: 2012-2015 | \$16,114,504 | \$0 | 0.00% |
| Subtotal: 2016-2021 | \$46,979,190 | \$43,273,431 | 92.11% |

4
 5 The results of the expanded transaction analysis allowed for a calculation of a revised
 6 percentage of out-of-period invoicing for the RUL program. As shown in Table 2 below, the
 7 average out-of-period percentages for 2012 to 2021 were revised to 21.73%, up from the
 8 16.58% calculated in the June 7, 2022 report.

9 **Table 2: Revised Out-of-Period Percentages**

⁴³ National Grid March 10, 2023 report to the Rhode Island Public Utilities Commission in Docket 22-05-EE, pdf page 35.

| Program Year | Initial Out-of-Period Percentage (June 7 Report) | Revised Out-of-Period Percentage (Current) |
|----------------|--|--|
| 2012 | 16.58% | 21.73% |
| 2013 | 16.58% | 21.73% |
| 2014 | 16.58% | 21.73% |
| 2015 | 16.58% | 21.73% |
| 2016 | 14.29% | 24.01% |
| 2017 | 8.11% | 12.45% |
| 2018 | 23.94% | 28.98% |
| 2019 | 19.59% | 22.04% |
| 2020 | 12.64% | 17.14% |
| 2021 | 16.58% | 22.23% |
| Average | 16.58% | 21.73% |

1

2 As stated in the Updated Report, the out-of-period percentages for the RUL program were
3 used as a proxy to determine PIM impacts to other energy efficiency programs. This was
4 accomplished by applying the revised percentages in Table 2 to all other programs in a
5 customer impact model to determine the impact on the PIM. This resulted in a net impact of
6 the out-of-period invoicing activity claimed by the Company of \$322,660⁴⁴ for 2012 to 2021.
7 This is a decrease from the estimated impact in the June 7, 2022 report, which was \$1.56
8 million⁴⁵.

9 The Updated Report does acknowledge that:

10 “it may seem counter-intuitive that the net impact of the out-of-period invoicing practice
11 **decreased** from \$1,564,423 to \$322,660 when including **more** customer facing energy
12 efficiency programs in the customer impact model.”⁴⁶

⁴⁴ National Grid March 10, 2023 report to the Rhode Island Public Utilities Commission in Docket 22-05-EE, pdf page 39.

⁴⁵ Excel file in Docket 22-05-EE Post Decisional Attachment PUC 3-1.

⁴⁶ National Grid March 10, 2023 report to the Rhode Island Public Utilities Commission in Docket 22-05-EE, pdf page 39.

1 The investigation team explains this as the “domino effects,” which is essentially the rolling
2 basis analysis explained above in our testimony on the June 7, 2022 Initial Report. The
3 investigation team is including both the movement of out-of-period dollars from a subsequent
4 year into the study year and the movement of dollars into a preceding year from the study
5 year. The Updated Report does calculate the performance incentive impact when using the
6 stand-alone analysis, which results in a \$2,418,488 decrease in the performance incentive for
7 2012 to 2021; however, investigation team describes this calculation as the ‘most
8 conservative scenario.’

9 **Q. DO YOU AGREE WITH THE COMPANY’S CONCLUSION OF THE CUSTOMER IMPACT?**

10 A. No. After reviewing the customer impact analysis described in the Updated Report, we find
11 that the investigation team’s conclusion of the customer impact is insufficient as it has not
12 considered the Company’s critical obligations to the Rhode Island customers. As stated in the
13 Annual Program Delivery Compliance Training presentation:

14 “As the trusted managers of ratepayer funds, in order to improve the reach and the cost
15 effectiveness of our programs, we have an obligation to our customers, stakeholders, and
16 the Company to ensure accuracy and compliance with our financials and the amount of
17 savings we claim in our programs. Our obligations:

18 1. Savings accuracy

- 19 • EM&V ensures the energy savings on a per unit basis is accurately defined
20 and reported.

- 1 • It is the obligation of the Delivery teams to account for the correct number
2 of widgets that are installed in our customers homes or facilities and
3 savings are allocated appropriately.
- 4 • We need do the right thing and accurately QC those widgets and ensure
5 the appropriate savings as deemed by EM&V, are claimed. If something
6 doesn't look right, question it.

7 2. Financial Accuracy

- 8 • Ensuring that the amount of money invoiced for product or services is
9 aligned with the number of widgets installed.
- 10 • Diligence with accrual processes. We must adhere to our regulatory
11 obligations and our liabilities are recorded accurately.”⁴⁷

12 As stated above, one of the critical obligations is “financial accuracy,” which includes diligence
13 in the invoice accrual process. National Grid’s March 10, 2023 Updated Report acknowledges
14 there was widespread manipulation of the invoice accrual process through the out-of-period
15 invoicing practice. The Company’s customer impact analysis appears to conclude that the
16 Company earned their PIM despite not meeting their critical obligations.

17
18

19 **Q. GIVEN THE COMPANY’S DEMONSTRATED VIOLATION OF ITS OBLIGATIONS TO RHODE**
20 **ISLAND CUSTOMERS, WHAT DO YOU RECOMMEND?**

⁴⁷ National Grid March 10, 2023 report to the Rhode Island Public Utilities Commission in Docket 22-05-EE, pdf page 106

1 A. We believe the Company’s failure to meet its critical obligation to the Rhode Island customers
2 should result in a disallowance of a portion of the PIM. The Company appears to be unable to
3 submit sufficient evidence that out-of-period invoicing was not widespread across other
4 energy efficiency programs. Absent evidence to the contrary, we believe it is reasonable to
5 impute the impacts identified by the Company to the residential upstream lighting program
6 to PIM awards across the entirety of energy efficiency programs. The burden of proof rests
7 with the Company to demonstrate otherwise.

8 **Q. HOW DO YOU ESTIMATE THE APPROPRIATE PIM DISALLOWANCE?**

9 A. The PIM disallowance is derived by applying the annual out-of-period percentages from the
10 Updated Report to the annual PIM National Grid indicated the Company achieved prior to any
11 adjustments identified in the out-of-period invoice investigation. We believe this approach is
12 reasonable based directly on the Company’s own findings that in the absence of an efficient
13 means to review invoices from other energy efficiency programs, the RUL findings are an
14 appropriate proxy to apply to all Rhode Island customer funded energy efficiency initiatives.
15 And, given the Company’s admitted failure to meet its own stated financial standards, it is
16 correspondingly reasonable to apply these same percentages to determine the disallowance
17 of previously awarded PIM dollars. The Table 3 below illustrates the analysis:

18 **Table 3: Impact of Disallowing the PIM for Invoice Manipulation**

| Year | Out of Period % | Total PIM | Unearned PIM |
|---------------------------|-----------------|----------------------|------------------------------|
| 2012 | 21.73% A | \$3,055,447 B | \$ 663,949 C |
| 2013 | 21.73% | 3,965,910 | 861,792 |
| 2014 | 21.73% | 5,585,429 | 1,213,714 |
| 2015 | 21.73% | 5,920,439 | 1,286,511 |
| 2016 | 24.01% | 5,624,903 | 1,350,539 |
| 2017 | 12.45% | 6,463,378 | 804,691 |
| 2018 | 28.98% | 6,481,657 | 1,878,384 |
| 2019 | 22.04% | 4,870,356 | 1,073,426 |
| 2020 | 17.14% | 3,590,407 | 615,396 |
| 2021 | 22.23% | 3,797,714 | 844,232 |
| Total Unearned PIM | | | \$10,592,634 |
| Interest | | | \$ 1,767,174 D |
| Total | | | <u>\$12,359,808</u> |

A Out of Period Percentages from Table 4 (pdf page 36) from the Updated Report
B Total Performance Incentive achieved (pdf page 55) from the Updated Report
C = A x B
D Interest at the rate in effect for customer deposits

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Q. BASED ON YOUR ANALYSIS, WHAT PIM DISALLOWANCE DO YOU RECOMMEND?

A. As shown in Table 3, before interest, the recommended PIM disallowance due to invoice manipulation is \$10,592,634 for the period 2012 to 2021. Inclusive of \$1,767,174 in interest, the total recommended PIM disallowance is \$12,359,808.

V. CONCLUSION

Q. PLEASE SUMMARIZE YOUR RECOMMENDATIONS

A. Based on the work performed, we determined the investigation procedures for email review, employee interviews, and analysis of program filings were reasonable; however, the investigation conclusion of the customer impact is insufficient. The conclusion of the customer impact did not take into consideration the Company’s failure to perform its critical obligation of financial accuracy as a result of the widespread manipulation of the invoice accrual process through the out-of-period invoicing practice. We believe the Company’s failure to meet its critical obligation to the Rhode Island customers should result in a disallowance of a portion of the PIM. As described further above, our calculation of the

1 customer impact results in a disallowance of \$10,592,634 of the PIM for the period 2012 to
2 2021, plus interest of \$1,767,174 for a total of \$12,359,808.

3 **Q. DOES THIS CONCLUDE YOUR JOINT TESTIMONY?**

4 A. Yes.

Exhibit A

Resume of Michael R. Ballaban

Contact information

Mobile: +1 781 248 4045

Email: michael.ballaban@yahoo.com

Mailing Address: PH02N Fort Lauderdale, FL 33308

Education

Babson College, M.B.A. Finance

Indiana University, B. S. Transportation and Public Utilities

Publications

The Storm After the Storm: Utility Cost Recovery, May 2014, Co-Author

Cloud Computing Offers Benefits and Challenges to Power & Utility Companies, March 2017, Co-Author

Professional experience summary

Michael has wide-ranging experience serving electric and gas industry stakeholders performing financial advisory, pricing, cost-of-service, cost allocation, competitive market development, resource procurement and financial forecasting services.

He has worked for two of the largest investor-owned utilities in New England — New England Electric System (National Grid USA) and Boston Edison (Eversource Energy) — and has served electric, gas and water investor-owned and municipal clients throughout the United States and Canada and outside North America.

In the United States, Michael has worked at both the state and federal levels. He has testified at the Federal Energy Regulatory Commission (FERC) and the Rhode Island Public Utilities Commission (the “RIPUC”). He has also participated in the restructuring of retail electric markets in the Northeast.

Recent experience includes advising the Rhode Island Division of Public Utilities and Carriers (the “Division”) in regards to a Narragansett Electric Company (“Narragansett Electric”) prudency matter, testifying on behalf of the Division in a proceeding to evaluate sale of Narragansett Electric from National Grid USA to PPL Corp., leading a review of a utility’s allocation of certain service company costs to operating companies, co-leading a study to verify the electric and gas distribution assets in a utility’s rate base were appropriate to support upcoming base rate filings, leading a review of significant deferred storm costs to verify that there were appropriate for a utility to include in cost recovery submissions, and reviewing elements of utility’s cost accounting structure and associated compliance program.

Michael also has extensive experience assisting utilities with all phases of rate filings before state commissions and at FERC, including preparation, discovery, litigation, settlement and implementation.

Selected engagement experience

Rate and Regulatory

- Assisting the Rhode Island Division of Public Utilities and Carriers (the “Division”) in an ongoing Investigation of certain financial irregularities by The Narragansett Electric Company relating to past payments of energy efficiency program shareholder Incentives in Rhode Island Public Utilities Commission (“RIPUC”) Docket 22-05-EE.
- Expert regulatory financial advisor to a team assisting the staff of a New England Commission in conducting prudency reviews of jurisdictional investor-owned utilities’ annual rate adjustment mechanism filings. Additionally, advised the team and client in assessing the efficacy of existing state review standards by identifying national best practices for such standards and providing recommendations for modifications with supporting rationale.
- Expert advisor to a team conducting an independent operational efficiency review of a large southwestern municipal electric and gas utility. Specific areas of focus include financial planning processes and financial reporting to the utility’s board of trustees.

- Testified in December 2021 on behalf of the Division in Docket No. 2109 in regard to assessing the impact on customer rates associated with the transfer of ownership of Narragansett Electric from National Grid USA to PPL Corp.
- Assisted an investor-owned utility in developing a regulatory strategy use case to guide the Company in crafting filings seeking Commission approval to provide new products/services to C&I customers across their multi-jurisdictional footprint with a focus on affiliate transaction rules that support crafting of a code of conduct, cost allocation manual and affiliate service agreements. Tasks included reviewing and evaluating relevant regulatory submissions for selected utilities that can serve as a benchmark group to guide development of the use case and developing an informational repository that can be applied to various products and customized for different jurisdictions.
- Expert advisor to a New York gas utility preparing to file a multi-year base rate case. Assisted in development of revenue requirement model, gathering and reviewing of key inputs, assessing accuracy and appropriateness of base case results, crafting alternative solutions to minimize annual rate increases and preparing of the filing.
- Managed a project team assisting a large state power authority with the assessment and redesign of the government customer segment electric rate structure and pricing. The customer segment comprised more than 100 entities and generated \$1.3 billion in revenue to the authority. The project scope included the analysis and redesign of the utility's production and delivery rates so that the rates charged to the customers are aligned with costs, all on a basis that is revenue neutral to utility. The project was undertaken with customers in a collaborative outreach and feedback process to achieve agreement on recommended rate redesign solutions.
- Performed a review of the revenue requirement to support a rate case filing for an electric utility with revenues more than \$3 billion. Reviewed each of the expense and capital components of the study to confirm that results are reasonable, underlying assumptions are verifiable and defensible, appropriate levels of documentation are established and elements are appropriately linked to the files reporting summary results.
- Participated in an assessment of a financial model for a private equity client intended as support when they sought financing in the market for a major FERC regulated transmission investment. The model estimated the income and cash flow that the investment was forecasted to generate over its useful life based on FERC Section 205 revenue requirement methodology.
- Led a review of several hundred million in deferred storm costs for a major multi-state Northeast utility to confirm charges as captured in the Company's financial systems by regulatory jurisdiction were reasonable and appropriate to include in cost recovery submissions to state regulatory agencies. The Company filed to seek recovery of all eligible reviewed costs at the conclusion of the engagement.
- Managed project teams that prepared the revenue requirements, allocated cost-of-service and rate design, and coordinated the post-filing discovery activities for five rate cases across multiple jurisdictions for a western gas utility.
- Performed a comprehensive review of a major Asian investor-owned utility's existing rate structure and recommended tariff redesign strategies that addressed key marketing and financial goals considering an evolving competitive environment. Recommended redesign strategies that addressed key customer retention and profitability goals. Also introduced an enhanced rate modeling package that allowed the client to better evaluate functionalization and allocation methods for developing alternative rate plans.

- Managed a project team that prepared multiyear natural gas rate studies for a city-owned gas utility. The comprehensive studies included a five-year projection of the utility's financial position, a cost-of-service analysis to evaluate the cost responsibility for each of the various classes of customers served, and the development of recommended rate charges to recover the costs of providing service from the respective classes of customers.
- Reviewed the revenue requirement model for a major Midwestern utility intended to support an upcoming state-level rate filing to verify consistency and completeness of information spanning data input, model compilation, scenario analysis and reporting; identified source system data requirements and verified information was retrieved in optimum format utilizing full system functionality; and, identified pain points of the current process and addressed via suggested improvement opportunities.
- Crafted innovative rate structures for a major western utility to meet goals of shifting revenue recovery from weather-and use-sensitive volumetric charges to more stable rate recovery mechanisms. Assisted the firm in developing similar rate requests for two of its other gas utility jurisdictions.
- Reviewed existing affiliate transaction documents, including code of conduct and intra-company marketing agreements, between competitive and regulated utility affiliate companies for a Canadian utility for consistency with industry practice and regulatory principles and recommended changes in advance of filing with the local regulatory authority.

Financial & Valuation

- Led a team to prepare a cost-benefits study for a group of utilities currently receiving transmission service under an existing contract due to expire shortly to assess the merits of extending the agreement for a period of up to twenty years. The purpose of the study was to measure both ratepayer and shareholder impacts by isolating the net benefits that would potentially accrue to the contract holders. In conducting the study, the team worked with the contract holders, legal counsel, and asset owners to gather data, confirm assumptions, structure scenarios, and verify facility-specific operating and cost parameters. At the conclusion of the project, the team issued a comprehensive report documenting cost and benefit analysis approach, assumptions and results and conclusions regarding the net benefits and potential risks of moving forward with the contract renewal.
- Served as project manager on three engineer's reports developed for the utility's bond issuances totaling more than \$500 million. Proceeds from the issuances funded needed capital improvements to the utility's distribution system and refunded existing debt. The reports summarized the findings of studies of the utility's facilities, management, operations, gas supply, rates and marketing, and customer service, and assessed the financial feasibility of the bond issuances.
- Performed due diligence activities for utility asset sell-side transactions with a market value of more than \$5 billion. Worked closely with clients and bidders to facilitate due diligence efforts relating to site visits, administration and response to questions, satisfying documentation needs and preparation of bid responses. Prepared employee asset documents that were used as the primary vehicles for the targeted marketing of employees to bidders. Also assisted in the development of transaction agreements. Participated in bid evaluation teams and performed comparative analyses of bid responses, both in terms of price and terms of sale, in support of selecting the highest value offers. Provided regulatory support to clients in both pre- and post-divestiture filings required to satisfy state regulatory requirements.

- Participated in a due diligence engagement to support a client's bid to acquire a medium-sized electric utility. Evaluated the unbundled rate structure and load profile of the target company to assess potential risks associated with existing power supply arrangements with an affiliated company.
- Led the comprehensive review of bidders' proposals to purchase electric assets from the federal government in a privatization initiative. Factors considered in the evaluations included pricing and other key contract terms, buyers' abilities to meet major service requirements, and the buyers' operating histories and financial capabilities.

Costing

- Co-led a study for a major New England utility to review and verify the electric and gas distribution assets and reserves included in the Company's rate base as well as verify annual returns filed with its Commission. The examination of rate-base accounts included plant-in service, construction work in progress, and depreciation and deferred tax reserves
- Managed a study of the cost accounting structure for a large state power authority's Energy Efficiency organization. Recommended changes/modifications to existing policy, documentation, and compliance efforts and provided an evaluation as to whether existing methods should be the basis for future allocation methods for new programs as the organization gains scale over time
- Led a review of a major utility's allocation of certain Service Company costs to operating companies by determining whether these costs were direct charged or allocated using appropriate procedures. Performed analyses specific to vendor costs, payroll expenses, employee expenses and general ledger journal entries. Calculated any proposed adjustments and confirmed whether there were any other pertinent facts indicating that the cost should be allocated differently or excluded.
- Prepared cost benefit analyses for investments in advanced meter reading and other proposed delivery infrastructure capital programs in support of regulatory submissions made across a utility's multi-state retail jurisdictions.

Regulatory Transformation

- Regulatory work stream leader for a transformation initiative for a large Midwestern multi-state electric and gas utility to develop a 5-year strategy roadmap of prioritized improvement opportunities that enables the client to:
 - collaborate across jurisdictions, financial planning and regulatory functions to better align regulatory objectives to business strategy
 - enhance scenario planning and analytics capability to effectively model and predict the need for rate actions, consider alternative regulatory mechanisms and develop regulatory strategies considering market trends
 - Increase efficiency in development of regulatory filings to allow more emphasis on the content and less on process.

- Rates and Regulatory work stream leader for a focused finance transformation initiative to establish a Rates organization within the Finance function for a large multi-state utility. Advised the client on the design of a new operating model (including the development of a gap analysis and maturity model assessment, creation of an activity taxonomy, identification of delivery locations, and establishment of Centers of Expertise); the development of a roadmap of future initiatives and continuous improvement opportunities; and the design of a future state organization structure.

Exhibit A

Resume of Jacob Van Reen

Jake Van Reen, CPA

+1 401 207 3022

jvanreen@vanreenaccounting.com

Professional experience:

Jake Van Reen is an accountant and CPA focused on the utility industry. Prior to founding Van Reen Accounting LLC, Jake was a Senior Manager in EY's Forensic Accounting practice. Prior to EY, Jake was an auditor with PricewaterhouseCoopers.

Jake has assisted numerous utilities and regulators in rate case proceedings, regulatory investigations or inquiries, whistleblower investigations, program cost recovery proceedings, disputes, and litigations. Jake's projects and testimony have a proven track record of satisfying utilities, regulators, and opposing counsel.

Relevant project experience:

- Assisted numerous utilities and regulators with rate case and regulatory proceedings.
- Reviewed utility books and records to evaluate whether lobbying and political spending charges were included in the revenue requirement. This included evaluating indirect overhead charges.
- Led multiple projects analyzing over \$6 billion of wildfire related costs for a large utility. Projects considered the proper treatment of costs within the Company's Revenue Requirement. An expert report was filed with the public utilities commission upon the completion of the projects.
- Led an engagement for a multi-state utility reviewing approximately \$800 million in costs related to a natural gas disaster. Confirmed that the incident related charges were reasonable and appropriate in preparation for cost recovery submissions to insurers and regulators. Analysis focused on vendor costs, capital costs, internal labor, mutual aid, allocations, and other costs.
- Led numerous engagements related to storm cost recovery. Projects included examining costs to verify regulatory submissions include prudently incurred, incident-related charges aligned by jurisdiction and event (storm, wildfire, wind, etc.). Analyzed costs for recovery related to over 20 storm events. These storms resulted in hundreds of millions of dollars of incremental costs for utilities.
- Managed engagement examining a fuel cost allowance claim following price spikes for power generation and rolling blackouts. This included reviewing the source documentation supporting the claim, examining the mathematical accuracy of the claim, and comparing the calculation to the Commission's directive. A report was prepared and filed with FERC.
- Analyzed and tested the reconciliation of Gas Cost Recovery ("GCR") deferral balances following the identification of errors in the calculations. An expert report was filed with the RIPUC.
- Managed projects examining and verifying the assets contained in the distribution rate base, due to merger requirements. Verified the accuracy of: utility plant in service listing, gains and losses from property sales, amortization and the unamortized goodwill balance, accumulated

depreciation balances, and accumulated deferred income taxes (ADIT).

- Led multiple engagements related to investigations by State Department of Public Utilities. This work included supporting large scale data requests and data reconciliations, as well as help facilitating the regulatory compliance team/general counsel in their responses to commission and third-party auditor inquiries.
- Project lead on other forensic investigations including whistleblower investigations, internal investigations, SEC investigations, DOJ inquiries, FCPA violations, and FERC enforcement and audit findings.
- Industry Conference Presentations:
 - EEI Accounting Conference, Fall 2022; Topic – Utility Fraud Risks
 - NARUC Finance and Accounting Conference, Spring 2021; Topic - Winter Storm Uri
 - NARUC Finance and Accounting Conference, Fall 2021; Topic - Pathways to Net Zero
 - EEI Plant Accounting Committee, Fall 2015; Topic - Reconciling Mass Property Records

Professional Qualifications:

- Certified Public Accountant (CPA)
- University of Rhode Island, B.S. Accounting/Finance