

February 23, 2024

VIA ELECTRONIC MAIL

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

**RE: Docket No. 23-49-NG – The Narragansett Electric Company d/b/a
Rhode Island Energy’s Proposed FY 2025 Gas Infrastructure, Safety, and
Reliability Plan
Rebuttal Testimony and Response to Attorney General’s Position Statement**

Dear Ms. Massaro:

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

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

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

Very truly yours,



Jennifer Brooks Hutchinson

Enclosure

cc: Docket No. 23-49-NG Service List

¹ The Narragansett Electric Company d/b/a Rhode Island Energy (“Rhode Island Energy” or the “Company”).

JOINT PREFILED REBUTTAL TESTIMONY

OF

LAEYENG HUNT

NATHAN KOCON

AND

PHILIP LAFOND

Table of Contents

I.	Introduction and Qualifications	1
II.	Purpose of Rebuttal Testimony	3
III.	Company Response to the Division and Division’s Consultant	5
	(1) General Areas of Agreement	5
	(2) Proactive Main Replacement Program	7
IV.	Company Response to the Attorney General and CLF	15
	(1) Revenue Requirement Issue	15
	(2) Attorney General’s Assertion That Investments Are Not “Reasonably Needed”	16
	(3) Proactive Main Replacement	18
	(4) Act on Climate	22
V.	Conclusion	27

1 **I. Introduction and Qualifications**

2 **Nathan Kocon**

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

4 A. My name is Nathan Kocon. My business address is 477 Dexter Street, Providence, RI
5 02907.

6
7 **Q. Mr. Kocon, by whom are you employed and in what capacity?**

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

19

1 **Q. Have you previously submitted testimony in this proceeding?**

2 A. Yes, I previously submitted joint pre-filed direct testimony in this proceeding on
3 December 21, 2023.

4

5 **Philip Lafond**

6 **Q. Mr. Lafond, please state your name and business address.**

7 A. My business address is 477 Dexter Street, Providence, RI 02907.

8

9 **Q. Mr. Lafond, by whom are you employed and in what capacity?**

10 A. I am employed by Rhode Island Energy as the Manager of Resource and Investment
11 Planning for the Rhode Island Gas Division. My group creates the gas business
12 investment plan and creates work plans to align human and material resources to the
13 Company's strategic and mandated capital plans. The group manages the work during
14 the investment plan year, directing executing groups on prioritization and work volumes.
15 In my role, I work closely with the Rhode Island Jurisdictional President, the Vice
16 President - Gas, and jurisdiction staff on all local gas issues related to the natural gas
17 distribution system in the Rhode Island service territory.

18

19 **Q. Have you previously submitted testimony in this proceeding?**

20 A. Yes, I previously submitted joint pre-filed direct testimony in this proceeding on
21 December 21, 2023.

1 **Laeyeng Hunt**

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

3 A. My name is Laeyeng Hunt. My business address is 477 Dexter St, Providence, RI
4 02907.

5
6 **Q. Mrs. Hunt, by whom are you employed and in what capacity?**

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

10

11 **Q. Have you previously submitted testimony in this proceeding?**

12 A. Yes, I previously submitted joint pre-filed direct testimony in this proceeding on
13 December 21, 2023.

14

15 **II. Purpose of Rebuttal Testimony**

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

17 A. The purpose of our joint rebuttal testimony is to respond to the pre-filed direct testimony
18 of Alberico Mancini, Chief Regulatory Analyst for the Rhode Island Division of Public
19 Utilities and Carriers (the “Division”), David B. Berger, principle of David Berger
20 Associates (referred to as “Mr. Berger”), and Jeff D. Makhholm, Ph.D (referred to as “Dr.
21 Makhholm”, and collectively with Mr. Berger, the “Division’s Consultants”), Senior
22 Managing Director at National Economic Research Associates, Inc. (“NERA”), which

1 was concurrently filed in this proceeding on behalf of the Division on February 9, 2024,
2 as well as the joint pre-filed direct testimony of Michael J. Walsh, Ph.D and Dorie
3 Seavey, Ph.D, of Groundwork Data, consultants to the Conservation Law Foundation
4 (referred to collectively as “CLF” or “CLF’s Consultants”), which was also filed in this
5 proceeding on February 9, 2024. In addition, our joint rebuttal testimony responds to
6 certain factual allegations set forth in the Statement of Position by Peter F. Neronha,
7 Attorney General of the State of Rhode Island (referred to as the “Attorney General”)
8 which was filed by counsel for the Attorney General, and on his behalf, on February 9,
9 2024.¹

10
11 **Q. How is your testimony organized?**

12 A. Section I comprises the Introduction and Qualifications of Company Witnesses
13 Nathan Kocon, Philip LaFond, and Laeyeng Hunt. Section II is the Purpose of Rebuttal
14 Testimony. In Section III, we respond to several observations and recommendations
15 made by the Division and Mr. Berger. In Section IV, we respond several factual
16 allegations made by the Attorney General, as well as to several observations and
17 recommendations of CLF’s Consultants. Section V is the Conclusion.

18

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

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

2 (1) General Areas of Agreement

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

5 A. Yes. Based on the Company's discussions with the Division to date, and except for the
6 limited categories discussed in this joint rebuttal testimony, the Division has not
7 expressed any objection to the overall scope of work to be completed through the
8 Gas ISR Plan in FY 2025, or the overall budget. With respect to the Proactive Main
9 Replacement Program, specifically, the Company does not disagree with a 65-mile
10 abandonment target, as recommended by the Division and its consultant, Mr. Berger;
11 however, as discussed in more detail in this joint rebuttal testimony, by concentrating on
12 the highest risk segments of pipe, the complexity of the work increases, which coupled
13 with budgetary constraints, results in a lower number of miles that can be achieved in a
14 given fiscal year. While this may reduce the pace of miles in any one fiscal year, the
15 Company is nonetheless reducing an equivalent amount of risk on its gas distribution
16 system. Also, this approach may enable the Company to accelerate leak prone pipe
17 replacement in the later years to continue to keep pace with an overall 20-year
18 replacement schedule.

19
20 In addition, with respect to street paving costs, Dr. Makhholm concurs with the
21 Company's proposal to continue to treat such costs as capital. As Dr. Makhholm

1 discusses in his testimony, such treatment is consistent with generally accepted
2 ratemaking and accounting principles and established precedent.

3
4 **Q. Does the Company agree with the Division’s proposed reduction of \$2.3 million to**
5 **the budget for the Reliability & Pressure Regulation Investment category?**

6 A. Yes, the Company concurs with the reduction in the budget for the Reliability & Pressure
7 Regulation Investment sub-category. This reduction aligns with the Company’s updated
8 forecast and planned work for FY 2025, as explained in the Company’s response to Data
9 Request Division 2-11 submitted in this docket. The initial engineering for the LNG –
10 Exeter Tank Switchback Stairs project is taking longer than was originally forecasted.
11 Although the Company has now accepted a bid from an engineering design contractor, it
12 is likely that the remaining design work and some prefabrication work will occur in
13 FY2025 at a cost of \$0.5 million and most of the construction will be deferred into
14 FY2026, thus reducing the FY2025 budget need for the LNG category by \$2.3 million.
15 That remaining \$2.3 million is now anticipated to be spent in FY2026 to construct the
16 Switchback Stairs. Please note, if the Public Utilities Commission (“Commission”)
17 accepts the Division’s recommendation that the Company increase its abandonment
18 mileage to 65 miles for FY2025, the reduction in the Reliability & Pressure Regulation
19 Investment Category could be reallocated to the Main Replacement & Rehabilitation
20 Investment Category to help offset the costs of abandoning additional leak-prone pipe.

21

1 (2) Proactive Main Replacement Program

2 **Q. Do you agree with the Division’s recommendation that the Company’s leak prone**
3 **pipe (sometimes, “LPP”) abandonment target should be increased to 65 miles from**
4 **the 61.5 miles proposed? Why or why not?**

5 A. The Company agrees with the Division’s recommendation that the leak prone pipe
6 abandonment target be increased to the greatest extent possible. The replacement of leak
7 prone pipe is among the Company’s highest priorities. Each day that leak prone pipe
8 remains in the ground its integrity continues to decline, perpetuating a risk to safety and
9 property. Through January, the Company has already responded to and repaired 427
10 individual Grade 1 leaks, each of which posed a tangible and immediate threat to safety.
11 Abandoning leak prone pipe from the system reduces leak likelihood of all grades,
12 thereby improving safety for Rhode Island residents. The Company has commitments
13 from several resource pools and stands ready to increase its abandonment plan should the
14 Division’s recommendation be accepted by the Commission.

15
16 The Company does not agree, however, with the Division’s assertion that increasing the
17 abandonment target while maintaining the installation target “should not have any
18 material impact on the proposed FY 2025 Gas ISR budget.” The Division posits that the
19 volume of in-progress work the Company will be executing at the outset of FY 2025 will
20 supply a sufficient inventory of projects to abandon to reach the 65 mile target and that
21 this additional abandonment can be achieved at no cost. The “carryover” work that the

1 Company is currently tracking ranges from projects that have just begun and are at the
2 stage of installing new main before any gas is introduced or services connected to
3 projects that are in a ready to abandon stage. Projects in each of these stages, including
4 the ready to abandon stage, will still incur additional cost to execute the abandonment of
5 the main, and the magnitude of these costs will depend on how much of the project
6 remains. The Company has always relied on some amount of carryover work to meet its
7 abandonment targets, and even though several projects are expected to be ready to
8 abandon at the beginning of FY 2025, the Company will still need to advance several
9 additional projects in addition to existing carryover work to reach the 65 mile target that
10 the Division suggests.

11
12 **Q. Why has the Company reduced its proposed leak prone pipe abandonment target as**
13 **compared to prior years' proposals?**

14 A. Consistent with the Commission's directive in Docket No. 22-54-NG, the Company has
15 concentrated its FY2024 work on the leak prone pipe with the highest risk ranking while
16 remaining conscious of the bill impact that the Infrastructure, Safety and Reliability
17 ("ISR") program spending has for the Company's customers. In the past, the Company
18 has sought to balance elimination of the riskiest pipe with the goal of achieving an overall
19 abandonment mileage target. In the Company's estimation, this ensured that high risk
20 pipes were being abandoned in the near-term while moving steadily toward the long-term
21 goal of leak prone pipe elimination from the Company's distribution system.

1 In light of the Commission’s directive to focus abandonment efforts on leak prone pipe
2 with the highest risk ranking, the Company has pursued leak prone pipe abandonment
3 with less of a focus on the total miles abandoned in a given fiscal year. The projects
4 qualifying as high risk at the time of this adjustment in focus included a number of
5 segments of large diameter pipe. Large diameter pipe installation presents certain
6 challenges when compared to small diameter pipe. First, a standard 40-foot length of
7 12-inch plastic main weighs over 700 pounds compared to just 100 pounds for 4-inch
8 pipe and 25 pounds for 2-inch pipe. This difference presents complications in material
9 handling. Larger diameter pipe also requires larger excavations and large fusing
10 equipment to connect segments. Additionally, larger diameter pipe is commonly found in
11 busier roadways rendering in street work more difficult. These and other factors result in
12 slower installation with costs well above the unit cost average of dollars per mile of main
13 installation. When many of these projects are undertaken simultaneously, the total miles
14 of main abandonment achieved falls significantly without a concomitant reduction in
15 cost.

16
17 The Company is currently forecasting an overspend versus budget on all leak prone pipe
18 categories while achieving approximately 60 percent of its original mileage abandonment
19 plan for FY2024. Simultaneously, the Company had under-utilized resources due to the
20 limitation of funding available for the purpose. The aforementioned larger diameter work
21 both functionally reduces the average number of contractor crews per day over the course

1 of the construction season, as well as the overall number of services and connections in
2 the work plan. This reduces the need for in-house field operations and customer meter
3 service crews. This means that with additional capital funding, the Company has
4 capacity to increase its work load.

5
6 **Q. Will the reduction in the number of abandonment miles result in additional safety**
7 **and reliability risks?**

8 A. Not necessarily. The Prioritization Factor (Pr) system used by the Company to assign
9 risk scores to segments of leak prone main is based upon a predictive algorithm. The
10 ranking system does not allow the Company to determine with certainty the particular
11 mix of main abandonment that would maximize the reduction of risks to safety and/or
12 reliability. In other words, it is not possible to calculate whether abandoning fewer miles
13 of higher risk main results in a greater reduction in risk than abandoning a greater amount
14 of lower risk main. However, due to the propensity for all leak prone pipe to leak
15 eventually, the reduction of any leak prone pipe reduces risk, and the reduction of greater
16 amounts of leak prone pipe reduces risk to a greater degree. Based upon the likelihood
17 and anticipated consequences of main failure, which are the main drivers of risk scores, it
18 is assumed for planning purposes that the abandonment of higher risk main generally
19 reduces risk more than the abandonment of lower risk main. Despite that planning
20 assumption, a main that is assumed to have a lower likelihood of failure, due to material
21 or leak activity, could actually be in worse condition than a main that is assumed to have

1 a higher risk of failure based upon the same factors. The Company's dual focus on risk
2 ranking and mileage in prior years was one means of reducing both the risk associated
3 with mains with higher risk ranking and the risk attendant to the fact that the ranking
4 system itself might not accurately capture the condition of deteriorating infrastructure
5 that had not been visually inspected.

6
7 Importantly, the risk ranking system was designed to predict the risks associated with the
8 deterioration and corrosion of mains and joint failures. The Pr system was not designed
9 to take into account other threats to safety and reliability, or the reduction in risk that is
10 possible through the replacement of low-pressure main with high-pressure main. In other
11 words, a low-pressure main may have a low risk ranking due to an absence of prior leak
12 history or because it is a relatively new main for which there is little or no risk of
13 corrosion. However, an overpressurization of a low-pressure main could present serious
14 risks to safety and/or reliability that would not arise in a high-pressure system.

15
16 The safety risks associated with overpressurization are mitigated on high-pressure mains
17 through the installation of pressure control devices at each service connection that do not
18 exist on low pressure mains. Reliability risks are also mitigated on high pressure mains
19 because high-pressure main can tolerate a much larger variance in pressure while
20 continuing to maintain the minimum service pressure. While the overpressurization of a
21 low-pressure main might lead to main failure, or gas being emitted into a customer's

1 premises, the underpressurization of a high-pressure main would not have the same
2 consequences. Similarly, underpressurization becomes an immediate problem for low
3 pressures systems while high pressure systems can drop significantly in pressure while
4 still supplying the correct end pressure to individual customers.

5
6 This additional risk reduction is the basis for Company's plan to approach the
7 replacement of the remainder of its leak prone pipe inventory with a more holistic,
8 neighborhood style approach that allows for maximization of low- to high-pressure
9 conversions. This approach should also reduce: (1) the cost of addressing leaks that
10 would be expected to arise over time in leak prone pipes in a neighborhood of the same
11 vintage, and (2) the disruption caused by road openings in a neighborhood where such
12 leaks might arise.

13
14 **Q. How will the Company achieve the overall objective of eliminating leak prone pipe**
15 **from the distribution system within a reasonable timeframe if it reduces its main**
16 **replacement target as proposed?**

17 A. The Company expects that it will have the capacity to do more leak prone pipe
18 replacement and abandonment going forward, at a faster rate and lower unit cost, by
19 adopting the neighborhood approach described above. This approach relies on a multi-
20 year, planned approach to replacement by laying high pressure backbone trunklines
21 through a central location in a neighborhood, followed by later branch replacements. The

1 installation of high-pressure main is faster and less costly than a like for like replacement
2 of low-pressure main since smaller diameter pipe is required.

3
4 Additionally, by removing the currently higher risk, larger diameter mains from its leak
5 prone inventory in the near term, the remaining leak prone pipe to be replaced will be
6 smaller diameter main that can be replaced more quickly and at lower cost. Ultimately,
7 the achievement of the goal to eliminate leak prone pipe from the distribution system will
8 depend upon the average amount of abandonment over time, rather than the specific
9 amount of abandonment in any particular year. Nonetheless, and as noted above, the
10 Division's recommendation to maximize the mileage of leak prone pipe abandoned is one
11 way to reduce risks that might not be accurately quantified by risk ranking.

12
13 **Q. Mr. Berger observes on page 11 of his testimony that, "cast iron main break rate**
14 **exhibited a significant upward trend in the 2020-2022 time-period despite the**
15 **Company's and the Commission's efforts to address this issue through the ISR**
16 **program. As one would expect, the trend is pronounced in cast iron main that is less**
17 **than 8", and particularly pronounced in cast iron main that is 2-4". These trends**
18 **suggest that the cast iron main that is in the ground is becoming more brittle, and**
19 **thus subject to cracking and/or corrosion at a rate faster than the Company has**
20 **attempted to address the problem through its ISR program thus far." Do you agree**
21 **with Mr. Berger's observation?**

1 A. The main break rate has increased relative to 2020; however, it has fallen by a factor of
2 2.7 since 2014. Due to the many variables contributing to main breakage, it is not
3 unexpected to see local trends in longer term data in both increasing and decreasing
4 directions. The overall trend is the most important factor to consider. It should also be
5 noted that the number of main breaks, despite trending upward, is still small compared to
6 both the overall number of leaks as well as the number of Grade 1 leaks specifically.

7
8 The Company does agree with Mr. Berger's suggestion, however, that a larger main
9 replacement program would help to address both the issues of main breakage as well as
10 the leak rate.

11
12 **Q. Mr. Berger observes on page 12 of this testimony that, "reducing the overall leak-**
13 **prone pipe abandonment rate from the 65 to 61.2 miles per year, when the former**
14 **rate itself is below the generally accepted regulatory standard, cannot be viewed as**
15 **reasonable 'to maintain safe and reliable distribution service over the . . . long**
16 **term.'" Do you agree with Mr. Berger's assessment of the reasonableness of the**
17 **Company's proposed leak prone pipe abandonment target?**

18 A. Not entirely. The objective of the Company's main replacement program is to address
19 threats to safety and reliability. The Company's proposed FY2025 work plan should
20 achieve comparable risk reduction as a higher main abandonment mileage target through
21 a continuing concentration on higher risk mains, as well as the introduction of the holistic

1 neighborhood approach to threat mitigation. Nonetheless, the Company agrees with the
2 Division that the elimination of more leak prone pipe would lead to a greater reduction in
3 risk. The Company is endeavoring to eliminate leak prone pipe from its distribution
4 system as quickly as practicable while remaining mindful of bill impacts to customers
5 and the variety of other system issues that must be addressed to enhance safety and
6 reliability.

7
8 **IV. Company Response to the Attorney General and CLF**

9 (1) Revenue Requirement Issue

10 **Q. Please explain why the revenue requirement for Fiscal Year 2024 ISR projects**
11 **would increase from \$6,096,711 in Fiscal Year 2024 to \$12,028,274 in Fiscal Year**
12 **2025?**

13 A. The Attorney General raises the same issue in this proceeding as he did in the Fiscal Year
14 2024 Gas ISR Plan proceeding with respect to the revenue requirement for ISR capital
15 investments. As the Company explained in last year's proceeding, the Company uses a
16 half-year convention for the first fiscal year when investments are placed into service.
17 Through this convention, it is assumed that any capital projects placed into service in
18 Fiscal Year 2024 were only in service for one-half of the year regardless of whether the
19 project was in service for more or less than one-half of the year. In the following fiscal
20 year, in this case Fiscal Year 2025, the project is fully phased into service for the purpose
21 of calculating the associated revenue requirement. It is, therefore, expected that the

1 revenue requirement for projects placed into service in one fiscal year will approximately
2 double in the following year. This compounding does not continue beyond the first two
3 fiscal years after a project is placed into service. The Attorney General states on page 11
4 of his Position Statement, “[t]his highlights the fact that investments approved now will
5 continue to burden ratepayers in years to come, narrowing the capacity of ratepayers to
6 afford future alternate investments.” This statement conflates the methodology for
7 calculating the revenue requirement for capital investments placed into service with the
8 accounting treatment if, hypothetically, such investments are later abandoned.

9
10 (2) Attorney General’s Assertion That Investments Are Not “Reasonably Needed”

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

14 A. The Company disagrees with the Attorney General’s position. The investments that the
15 Company has proposed are intended to insure the safe and reliable operation of the
16 distribution system, which are needed in the near term, for the benefit of hundreds of
17 thousands of customers that rely on natural gas. The Company does not believe it would
18 be prudent, or consistent with the Company’s federally mandated Distribution Integrity
19 Management Program (“DIMP”) and applicable state and federal regulations to halt
20 distribution system maintenance and improvements at this time.

21

1 **Q. Please elaborate upon the Company’s obligations regarding the development and**
2 **execution of its DIMP.**

3 A. Federal law and Pipeline and Hazardous Materials Safety Administration (“PHMSA”)
4 regulations (see generally 49 C.F.R. Part 192) require that the Company develop, obtain
5 approval of and execute an integrity management plan for its distribution system. Among
6 other things, PHMSA and the Company’s DIMP require that the Company identify
7 threats to the safe and reliable operation of the Company’s distribution system and
8 explain the measures that the Company will implement to address those threats. PHMSA
9 has delegated enforcement authority to the Division, which, in turn, is responsible for
10 auditing the Company for compliance with its own DIMP. Thus, the Company must
11 continue to follow its DIMP even while the State considers the future of the gas
12 distribution system.

13
14 PHMSA regularly reinforces distribution companies’ obligations to update and comply
15 with their integrity management plans through bulletins that it issues regarding threats to
16 distribution system integrity. For example, following the tragic overpressurization event
17 in the Merrimack Valley in 2018, PHMSA issued a bulletin highlighting “the need for
18 operators of low-pressure systems to review thoroughly their current DIMP for the threat
19 of overpressurization and to make any necessary changes or modifications to become
20

1 fully compliant with the Federal Pipeline Safety Regulations.”² More recently, PHMSA
2 has been directed, through the PIPES Act of 2020, to consider, when evaluating integrity
3 management plans, “the extent to which the plan addresses the replacement or
4 remediation of pipelines that are known to leak based on the material (including cast iron,
5 unprotected steel, wrought iron, and historic plastics with known issues), design, or past
6 operating and maintenance history of the pipeline.”³

7
8 (3) Proactive Main Replacement

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

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

16

² Pipeline Safety: Overpressure Protection on Low-Pressure Natural Gas Distribution Systems, 85 Fed. Reg. 61,097, 61,099.

³ 49 U.S.C. § 60108(a)(2)(E).

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

3 A. The Company operates one of the oldest gas distribution systems in the country with
4 higher-than-average inventories of LPP including cast iron and bare steel. These pipes
5 suffer from a number of problems including cracking, in the case of cast iron mains, and
6 persistent corrosion of bare and non-cathodically protected steel mains. Left
7 unaddressed, these LPP will inevitably develop leaks. While not all leaks present
8 immediate threats to health, safety and reliability, there is no good way to predict whether
9 a particular segment of LPP will develop such a leak. In order to minimize the risk of
10 dangerous conditions occasioned by significant leaks, and the attendant service outages
11 that repairs might entail, the Company has been working for several years to reduce its
12 inventory of LPP. As described in the PreFiled Direct Testimony of the Division’s
13 consultant, Mr. Berger, the primary objective of the Leak-Prone Pipe Replacement
14 Program is “to improve the safety and reliability of the RIE gas system to protect the
15 general public and customers from injury or property damage.” (Page 6). In fact, Mr.
16 Berger advocates for a higher rate of leak-prone pipe abandonment than the Company’s
17 proposal as reasonable and necessary to “to maintain safe and reliable distribution service
18 over . . . the long term.”⁴

⁴ Berger Prefiled Direct Testimony at 4-5, 12 (citing R.I. Gen. Laws § 39-1-27.7.1(d)(4)).

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

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

10

11 For example, bare and unprotected steel mains corrode at a reasonably constant and
12 predictable rate. The Company's distribution system contains approximately 300 miles
13 of bare and bare/unprotected steel main. Deferral of proposed replacement of these pipes
14 would lead to continuing and known corrosion of the mains which will, if left
15 unaddressed, eventually manifest as leaks. Since certain materials were in common
16 usage as gas main during discrete periods of time, it is possible, if not likely, that the
17 Company's inventory of bare and bare/unprotected steel main would reach the point of
18 failure in a relatively short window of time. The Company's ability to replace these
19 mains or address the rapid proliferation of leaks across its system would necessitate
20 resources and investments far beyond what the Company has proposed in its ISR Plan.

1 Even if the Company were able to marshal the resources to undertake this main
2 replacement or reactive leak repair work, in a relatively short window of time, it would
3 require that the Company leave unaddressed the lingering vulnerability presented by over
4 six hundred miles of cast iron main in the Company's system which present similar levels
5 of risk.

6
7 Due to these concerns, the Company has been engaged in the methodical elimination of
8 LPP from its system so that no particular subset of LPP within its system becomes such
9 an overwhelming issue that the Company is unable to marshal the resources to address it.

10 This proactive main replacement program is incorporated into the Company's DIMP as a
11 part of its risk identification and mitigation plan required by PHMSA regulations. The
12 Division's consultant, Mr. Berger, states a similar opinion throughout his PreFiled Direct
13 Testimony. Specifically on page 13, Mr. Berger notes, "the longer the leak prone pipe
14 remains in the ground, the more deterioration occurs, which accelerates the safety risk to
15 the public. The Commission has recognized the importance of ensuring the public's
16 health and safety in assessing the pace of the Company's proactive pipe replacement
17 program."

18

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

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

12
13 (4) Act on Climate

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

16 A. Yes. The proactive main replacement program, and most notably the replacement of
17 LPP, is an important contributor to the reduction of methane emissions as explained in
18 the Prefiled Joint Direct Testimony of Company witnesses Nathan Kocon, Philip LaFond,
19 and Laeyeng Hunt, and the Prefiled Direct Testimony of Division’s Consultant,
20 Mr. Berger, and the investment is consistent with the greenhouse gas reduction mandates
21 of the Act on Climate (sometimes referred to as the “Act”). Furthermore,

1 decarbonization strategies such as hydrogen blending will not be possible until the leaks
2 in the natural gas distribution system are addressed.

3
4 **Q. Does the Company agree with CLF’s recommendation to begin to identify potential**
5 **segments for decommissioning rather than pipeline replacement?**

6 A. No. Rhode Island Energy is committed to partnering with the State and stakeholders to
7 advance the Act on Climate’s net-zero mandates by 2050. The Company also supports,
8 and is actively engaged in, the effort that is currently underway to develop a framework
9 for implementing the Act’s requirements with respect to the gas distribution business
10 through the Commission’s Investigation Into the Future of the Regulated Gas
11 Distribution Business in Rhode Island in Light of the Act on Climate,
12 Docket No. 22-01-NG (“Future of Gas Docket”).

13
14 In parallel with these efforts, however, the Company has an obligation to ensure natural
15 gas customers can safely, reliably, and cost-effectively heat their homes and businesses
16 during the winter months, especially when severe weather events occur. The Company’s
17 Gas ISR Plan, and specifically the Proactive Main Replacement Program, are designed to
18 meet these objectives. As the CLF Consultants acknowledge on page 10 of their Prefiled
19 Direct Testimony, the draft results from the technical consultant in the Future of Gas
20 Docket are preliminary and still pending feedback from the Stakeholder Committee.

21 There has been no determination to permanently abandon all or any portion or segment of

1 gas mains and services as a viable pathway to meeting the Act’s mandates, either in
2 practical or financial terms. Thus, it would be premature and would risk the safety of the
3 public to dedicate resources to evaluating the decommissioning of segments of the gas
4 distribution system at this stage when those resources and efforts should be focused on
5 eliminating the riskiest pipe from the gas distribution system.

6
7 The Company’s FY2025 proposed investments to replace leak prone pipe within the
8 Proactive Main Replacement Program will address pipe that is ranked amongst the
9 highest priority score across the Company’s gas distribution system. One of the primary
10 reasons that a segment of leak prone pipe is assigned a high priority score is because the
11 segment has experienced a Grade 1 or Grade 2 gas leak in recent years. One or more
12 recent gas leaks on a segment can be one of the strongest statistical indicators available to
13 the Company that indicate additional gas leaks on that segment or neighboring segments
14 of the same vintage have a higher likelihood of occurring in the nearer future. In other
15 words, once a segment of leak prone pipe begins to exhibit leak activity and is assigned a
16 higher priority score, it should be abandoned as soon as feasible. Replacing the leak
17 prone pipe is currently the best method to provide safe and reliable service to Rhode
18 Island gas customers.

19

1 **Q. Does the Company agree with CLF that it should delay proposed safety and**
2 **reliability investments pending an evaluation of non-pipe alternatives (“NPAs”)?**

3 A. While the Company does explore NPAs to address system reliability needs when
4 circumstances permit, the safety and reliability pipes-based investments that it has
5 proposed should not be delayed. As explained above, the Company has an obligation to
6 provide safe and reliable gas distribution service to its customers, and nothing in the Act
7 on Climate or the Future of Gas Docket supersedes or alters this requirement. While the
8 Company supports NPAs that defer, reduce, or remove the need for distribution pipes
9 investments, there are many factors for the State of Rhode Island and the Company to
10 consider to reasonably and reliably offer customers the option (or mandating them) to
11 abandon their existing gas service, gas heating equipment, hot water heaters, gas cooking
12 appliances, gas clothes dryers, gas generator backups, gas industrial and manufacturing
13 equipment, etc. in favor of seeking electrification of an NPA option. Much of this work
14 is currently underway through the Future of Gas docket and it would be premature and
15 inappropriate for the Commission to direct the Company to delay or halt safety and
16 reliability investments that otherwise meet the requirements of the Revenue Decoupling
17 statute, R.I. Gen. Laws § 39-1-27.7.1(d).

18
19 In addition, delaying the replacement and abandonment of the leak prone pipe segments
20 included within the Company’s FY2025 Gas ISR plan would prolong the risk of
21 additional gas leaks while customers transitioned off leak prone pipe segments. Forcing

1 existing gas customers to leave the gas distribution system with little to no advanced
2 notice also presents a significant risk of customers having stranded costs/investments
3 related to their existing gas equipment that have not reached the end of their useful life.

4
5 So, for example, CLF’s suggestion that a FY2025 low pressure elimination project should
6 be delayed while the Company evaluates the feasibility of abandonment of the main and,
7 for example, electrify heating, hot water, cooking equipment, etc., is simply too
8 premature to be practical or feasible in the near term. Delaying the proposed project
9 would interfere with planned upstream work to eliminate a larger low-pressure portion of
10 the distribution system, thus preventing the installation of additional overpressure
11 protection for many more customers than those directly adjacent to the segment
12 mentioned by CLF and could compromise the safety of those other customers.

13 Moreover, such a delay is inconsistent with the Company’s NPA screening criteria,
14 which requires that for an NPA to be considered, the gas asset being replaced must not
15 pose immediate, local, and system-wide and/or reliability impacts; an NPA cannot
16 resolve such a critical safety or reliability issue.⁵ Additionally, the pipes-based solution
17 against which NPAs are compared must have an implementation date of at least 24
18

⁵ 2024-2026 System Reliability Procurement Three-Year Plan at 48 available at <https://ripuc.ri.gov/Docket-23-47-EE>.

1 months in the future.⁶ The Company has identified the low-pressure elimination project
2 as a solution that must be implemented in fewer than 24 months to maintain system
3 integrity.

4
5 Additionally, the delay could be significant because at this stage it is unclear how
6 mandated electrification could be achieved without imposing a significant financial
7 burden on individual gas customers, who may be asked to pay for a mandated transition
8 at least in part on their own. CLF also ignores the policy and legal implications of taking
9 away gas service to which these existing customers are entitled under the Company's
10 tariff.

11
12 **V. Conclusion**

13 **Q. Does this conclude your joint rebuttal testimony?**

14 **A. Yes.**

⁶ See 2024-2026 System Reliability Procurement Three-Year Plan at 48.

**STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION**

In Re: The Narragansett Electric Company)	
d/b/a Rhode Island Energy)	
FY 2025 Gas Infrastructure, Safety)	Docket No. 23-49-NG
and Reliability Plan Proposal)	
)	
)	

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

I. Introduction

The Attorney General’s position with respect to Rhode Island Energy’s¹ Fiscal Year (“FY”) 2025 Gas Infrastructure, Safety, and Reliability (“ISR”) Plan (the “ISR Plan”), as set forth in his memorandum of February 9, 2024, incorrectly argues that the investments proposed by the Company are not reasonably needed to maintain the safe and reliable natural gas distribution service over the short and long term as required by R.I. Gen. Laws § 39-1-27.7.1(d). The facts demonstrating the reasonableness of the Company’s proposed investments are set forth in the Pre-filed Direct Joint Testimony of Company Witnesses Nathan Kocon, Phil LaFond and Laeyeng Hunt and in their Pre-filed Joint Rebuttal Testimony that accompanies this memorandum. The legal errors contained in the Attorney General’s filing are addressed in this memorandum.

¹ The Narragansett Electric Company d/b/a Rhode Island Energy (“Rhode Island Energy” or the “Company”).

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

The Attorney General’s memorandum is replete with factual assertions, such as unsupported allegations of imprudence, unreasonableness, and presuppositions about the time in which the natural gas system could be abandoned, that are without evidentiary basis. These conclusory opinions are not evidence, and they cannot form any part of the foundation of the factual determinations to be made by the Commission in this docket. *See Newbay Corp. v. Annarummo*, 587 A.2d 63, 66 (R.I. 1991) (noting that public comments of physicians regarding health risks were not evidence upon which an agency may rely in rulemaking); *Rhode Island Consumers Council v. Smith*, 302 A.2d 757, 774-75 (R.I. 1973) (holding that public comment “does not qualify as legal evidence”). For example, in the face of unrefuted testimony of Company witnesses² and the consultant to the Division of Public Utilities and Carriers (the “Division”)³ that the abandonment of leaking gas distribution infrastructure is an important safety measure that also reduces greenhouse gas emissions, the Attorney General’s assertion that leak prone gas mains should be left as is⁴ cannot be accepted. The Attorney General is entitled to his opinion about the prudence of replacing corroding gas mains in streets and neighborhoods throughout the State, but the Commission’s decision making must be based upon evidence, not an unsworn opinion. The Administrative Procedures Act is unequivocal that “[f]indings of fact shall be based *exclusively* on the evidence and matters officially noticed.” *See* R.I. Gen. Laws § 42-35-9(g) (emphasis added); *see also R.I. Consumers’ Council*, 302 A.2d at 774-75.

² ISR Plan, Bates pp. 28-29; Testimony of David B. Berger on Behalf of the Division of Public Utilities and Carriers dated Feb. 9, 2025 (“Berger Testimony”), pp. 6-7.

³ Berger Testimony, p. 6 (explaining the reduction in risk to health and safety achieved through leak prone pipe abandonment) and 8 (concluding that the Company should continue the replacement of leak prone pipe to reduce methane emissions).

⁴ The Attorney General of the State of Rhode Island’s Statement of Position (“A.G. Mem.”), p. 10 (characterizing the replacement of gas mains prone to leakage as “imprudent”).

III. The Act on Climate⁵ Does Not Excuse the Company’s Obligation to Plan for Safe and Reliable Distribution for the Short and Long Term

The Attorney General contends that the Company should not be permitted to recover the cost of planned investments for the short- and long-term reliability of the gas system that are required to be presented to the Commission for review pursuant to R.I. Gen. Laws § 39-1-27.7.1(d). Specifically, advancing the same argument made with respect to the Company’s fiscal year 2024 Gas ISR Plan, the Attorney General states “*only* those proposals that are clearly shown to be reasonably needed in the *short-term* to ensure safe and reliable gas service should be approved.”⁶ (Emphasis added.) The Attorney General argues that the Company’s plans for maintaining the safety and reliability of the gas distribution system, as is required under R.I. Gen. Laws § 39-1-27.7.1(d), are imprudent.⁷ The Attorney General implicitly urges the Commission to reject the testimony of Company engineers, and the engineer retained by the Division, that the abandonment of leak prone pipe is critical to the safety and reliability of the distribution system.⁸ Indeed, the Attorney General is so eager to stop the replacement of leaking gas mains that he urges the Commission to “slow or halt,” leak prone pipe abandonment *without waiting* for “the conclusions of other dockets [i.e. Docket No. 22-01-NG⁹] before acting.”¹⁰

The Company understands that the mandates of the Act on Climate and the eventual outcome of the Future of Gas Docket may lead to alternative pathways for the delivery of energy to Rhode Island customers. Even with the progress made to date in the Future of Gas Docket, uncertain time horizons for implementation of alternative energy pathways coupled with existing

⁵ R.I. Gen. Laws § 42-6.2-1, *et seq.* (the “Act on Climate”).

⁶ A.G. Mem., p. 14.

⁷ A.G. Mem., p. 9.

⁸ A.G. Mem., pp. 10-11.

⁹ *Investigation Into the Future of the Regulated Gas Distribution Business in Rhode Island in Light of the Act on Climate*, Docket No. 22-01-NG (the “Future of Gas Docket”).

¹⁰ A.G. Mem., pp. 10-11.

safety and reliability risks inherent in an ageing gas distribution system require that the Company continue to make prudent investments in its gas distribution system. This obligation is firmly established in state law and federal regulations.

R.I. Gen. Laws § 39-2-1(a) provides that, “[e]very public utility is required to furnish safe, reasonable, and adequate services and facilities.” In furtherance of that fundamental requirement, the Company has a statutory obligation to plan for the short- *and* long-term safety and reliability of the gas distribution system. *See* R.I. Gen. Laws § 39-1-27.7.1. It would be irresponsible and contrary to the Company’s legal obligations to ignore long-term reliability until a viable alternative to natural gas is understood and is reasonably in prospect.

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

(d) Prior to the beginning of each fiscal year, gas and electric distribution companies shall consult with the division of public utilities and carriers regarding their infrastructure, safety, and reliability spending plan for the following fiscal year, addressing the following categories:

(1) Capital spending on utility infrastructure;...

(4) Any other costs relating to maintaining safety and reliability that are mutually agreed upon by the division and the company.

The distribution company shall submit a plan to the division and the division shall cooperate in good faith to reach an agreement on a proposed plan for these categories of costs for the prospective fiscal year within sixty (60) days...If the company and the division cannot agree on a plan, the company shall file a proposed plan with the commission and the commission shall review and, ***if the investments and spending are found to be reasonably needed to maintain safe and reliable distribution service over the short and long term, approve the plan within ninety (90) days.*** (Emphasis added.)

The Company’s statutory obligation to file the ISR Plan is critical to fulfilling its legal duty to “furnish safe, reasonable, and adequate services and facilities.” *See* R.I. Gen. Laws § 39-2-1(a). Indeed, it is through the investments proposed in the ISR Plan that the Company ensures its natural gas distribution system is safe and reliable.

In addition to the Company's obligations under Rhode Island law, the Company must comply with regulations promulgated by the Pipeline and Hazardous Materials Safety Administration ("PHMSA"). PHMSA regulations require that the Company adopt *and execute* a written integrity management plan that: a) demonstrates the Company's understanding of its distribution system; b) identifies the threats to the integrity of the system including materials, corrosion and potential for outside force damage; c) evaluates and ranks the risks posed to the Company's system taking into account the likelihood and consequences of the potential system failure; and d) identifies *and implements* measures to address the identified risks. *See* 49 C.F.R. § 192.1007(a)-(d). The Company must also track the effectiveness of its plan. *See* 49 C.F.R. § 192.1007(e). To fulfill its obligations under federal law, the Company has adopted its Distribution Integrity Management Plan ("DIMP"). In compliance with 49 C.F.R. § 192.1007(b), the DIMP identifies the risks associated with the materials present in its distribution system, including unprotected steel, cast and wrought iron and pre-1985 Aldyl-A plastic (collectively referred to as leak prone pipe, or "LPP"). To address the risks posed by LPP, the Company's DIMP indicates that it will address corrosion, and pipe, weld and joint failure risks through its proactive LPP replacement program. The DIMP has been reviewed and approved by PHMSA and the Division, and the Company's compliance with its DIMP is

audited periodically. The Company is not free to cast aside its federally mandated DIMP and allow known threats to safety and reliability to linger in the ground.¹¹

The Attorney General opines that the elimination of LPP from the Company’s distribution system is incompatible with state efforts to reduce greenhouse gas emissions,¹² while Congress, taking a polar opposite view, has enacted the PIPES Act of 2020 requiring the promulgation of leak detection and repair regulations for the purpose of protecting the environment. *See* 49 U.S.C. § 60102(q). Congress has also specifically required that leak detection and repair plans provide for “the replacement or remediation of pipelines that are known to leak based on the material (including cast iron, unprotected steel, wrought iron, and historic plastics with known issues).” 49. U.S.C. § 60108(a)(2)(E).

In short, the Attorney General’s opinion about the abandonment of LPP notwithstanding, the Company is obligated by federal regulations and Rhode Island law to assess and address the risks that threaten the safety and reliability of its distribution system and to propose a capital spending plan for its efforts. *See* 49 C.F.R. § 192.1007; R.I. Gen. Laws §§ 39-2-1(a) and 39-1-27.7.1. Congress, PHMSA, the Division and the Company recognize that the ageing leak prone materials that comprise a significant portion of the Rhode Island gas distribution system pose

¹¹ While the Attorney General’s criticism of the ISR plan is focused upon the Company’s LPP replacement efforts, the Conservation Law Foundation lodges similar criticisms of the Company’s low pressure system elimination efforts. *See* Testimony of Michael J. Walsh Ph.D. and Dorie Seavey Ph.D. (“CLF Testimony”), pp. 29, *et seq.* In the aftermath of the tragic events in the Merrimack Valley in 2018, PHMSA issued a bulletin reminding operators of gas distribution systems with low-pressure segments of their obligations, under 49 C.F.R. § 192.1007(f), to periodically evaluate and improve their integrity management plans. *See* Pipeline Safety: Overpressure Protection on Low-Pressure Natural Gas Distribution Systems, 85 Fed. Reg. 61,097, 61,099 (Sep. 29, 2020) (stating, “[the Merrimack Valley] accident in Massachusetts highlights the need for operators of low-pressure systems to review thoroughly their current DIMP for the threat of overpressurization and to make any necessary changes or modifications to become fully compliant with the Federal Pipeline Safety Regulations...”) CLF would have the Company leave the risks of low-pressure systems unaddressed. CLF Testimony, p. 45. Consistent with that position, in 45 pages of testimony CLF mentions safety just seven times—twice when referring to the Company’s “Infrastructure, Safety and Reliability” plan.

¹² A.G. Mem., p. 10.

risks to safety, reliability and to the environment. These are risks that the Company is committed to addressing. Until it is determined if, how, and when hundreds of thousands of homes, business, hospitals, government offices, and factories can transition to an alternative to natural gas, the Company must continue to maintain the system upon which these customers rely.

The Attorney General would have the Company ignore its DIMP, the PIPES Act and its inherent obligation to safely operate its gas distribution system due to the passage of the Act on Climate. Unlike the federal laws and regulations that specifically identify the importance of addressing LPP for safety *and* environmental reasons, the Act on Climate does not mention natural gas distribution or utilities at all. Despite this, the Attorney General calls upon the Commission to “slow or halt” the Company’s investment in the elimination of LPP because of the Act on Climate.¹³ The Attorney General’s position is illogical and contrary to law. R.I. Gen. Laws § 39-1-27.7.1(d) provides that the Commission shall approve the ISR Plan if the investments provided for are “reasonably needed to maintain safe and reliable distribution service over the *short and long term*.” (Emphasis added.) As clear as the statute is, the Attorney General urges the Commission to approve only that spending that is “clearly shown to be reasonably needed in the short-term to ensure safe and reliable gas service.”¹⁴ Without saying so, the Attorney General is arguing that the Act on Climate implicitly partially repealed R.I. Gen. Laws § 39-1-27.7.1(d) insofar as he asks the Commission to ignore the statutory mandate that reasonably needed investments for the long-term reliability of the gas distribution system be approved.

¹³ A.G. Mem., p. 10.

¹⁴ A.G. Mem., p. 14.

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

pave the way for emissions reductions that the Act on Climate requires. *See Tiernan*, 270 A.3d at 30.¹⁵

Although the Act on Climate requires that the “state” achieve incremental reductions in greenhouse gas emissions over the coming decades (R.I. Gen. Laws § 42-6.2-9), it does not mandate the cessation of investment in a natural gas distribution system that will continue to heat the homes and businesses of Rhode Island for the foreseeable future. Understandably, the interpretation of what “long term” investment is reasonably needed for safety and reliability may evolve as the future of the gas distribution system comes into clearer focus. Regardless, as it stands today, there is no reasonable way to interpret “long term” as the Attorney General does, i.e., that the phrase “short and long term” in R.I. Gen. Laws § 39-1-27-7-1(d) could mean only “short-term.” *See* A.G. Mem., p. 14.

IV. Conclusion

To the extent that the Attorney General’s February 9, 2024 position statement contains unfounded factual assertions, it is not evidence and should not be considered. The Attorney General’s position that the Commission can approve only those investments that are reasonably necessary to address the short-term safety and reliability of the natural gas distribution system is contrary to the plain and unambiguous language of R.I. Gen. Laws § 39-1-27.7.1(d). The Attorney General’s suggestion that the Company should not proactively address safety and reliability issues because the future of the gas system is being examined is not supported by law or facts and is not prudent.

¹⁵ The ISR Plan explains how the proactive main replacement program in the Gas ISR Plan, specifically the replacement of leak prone pipe, is consistent with the greenhouse gas reduction mandates of the Act on Climate. *See* ISR Plan, Bates pp. 30-31.

Respectfully submitted,

**The Narragansett Electric Company
d/b/a Rhode Island Energy**

By its attorneys,



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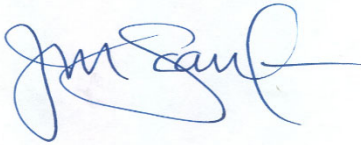
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February 23, 2024

Certificate of Service

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

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



Joanne M. Scanlon

February 23, 2024

Date

Docket No. 23-49-NG- RI Energy's Gas Infrastructure, Safety and Reliability (ISR) Plan 2025 - Service List 1/23/2024

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