STATE OF RHODE ISLAND
OFFICE OF THE ATTORNEY GENERAL

150 South Main Street • Providence, RI 02903
(401) 274-4400 • www.riag.ri.gov

Peter F. Neronha
Attorney General

August 1, 2025

Rhode Island Public Utilities Commission
c/o Stephanie De La Rosa, Commission Clerk
89 Jefferson Boulevard
Warwick, RI 02888
Stephanie.DeLaRosa@puc.ri.gov

RE: Commission Docket 25-16-NG
IN RE: The Narragansett Electric Company d/b/a Rhode Island Energy's Analysis to Comply with Energy Facility Siting Board's Decision and Order in EFSB Docket No. SB-2021-04

Dear Public Utilities Commission,

The Attorney General offers the following comments concerning The Narragansett Electric Company d/b/a Rhode Island Energy's ("RIE") June 1, 2025 filing in response to Order No. 169 of the Energy Facility Siting Board ("EFSB"), which has since been posted in the above-referenced docket pending before the Public Utilities Commission ("Commission").

As outlined in greater detail below, it is the position of the Attorney General that the filing does not adequately comply with the EFSB's underlying order, as it fails to provide any detailed demand response or energy efficiency programs designed to reduce and eventually eliminate the design-day peak hour capacity gap which has caused the gas capacity constraint on Aquidneck Island. Instead of providing plans that could be vetted and built upon by the Commission and stakeholders, the Company has reviewed three portfolios and drawn the conclusion that any further consideration is unwarranted. That conclusion is not compliant with the EFSB Order. Accordingly, this Commission should require compliance with the EFSB Order 169, or make such further orders as it finds necessary to develop and achieve energy efficiency and demand response goals for Aquidneck Island.

I. Introduction

As the Commission is aware, in January of 2019, Aquidneck Island suffered a prolonged natural gas shortage, unacceptably leaving many without heat in their homes. The emergency response to that outage included mobilization of a liquified natural gas ("LNG") facility at a property on Old Mill Lane in Portsmouth, Rhode Island. Ultimately,

it was determined that several errors led to the 2019 heating crisis.[1] However, notwithstanding these errors, thousands of residential and commercial customers on Aquidneck Island remain vulnerable because of their reliance on natural gas supply and the island's position at the end of the Algonquin Gas Transmission, LLC pipeline (the "Algonquin Pipeline").

In 2021, RIE petitioned the EFSB for a permit to construct and operate an LNG facility at the Old Mill Lane site (the "Facility") each heating season, to address alleged capacity constraints and capacity vulnerabilities. *See generally*, EFSB Docket No. SB-2021-04. Following three years of proceedings before the EFSB, EFSB Order 169 was issued on August 22, 2024, conditionally permitting RIE to construct and operate the Facility. Notably, the EFSB determined that RIE had sufficiently demonstrated *only* a *short-term need* for the Facility to address a capacity constraint in the RIE gas distribution system. EFSB Docket SB-2021-04, *Order 169* at 52. In acknowledgement of the fact that the short-term need may be alleviated over time, the EFSB granted a *temporary* license to operate the facility for a period of five (5) years subject to renewal only if "it be established by [RIE] that there is a continuing need for the facility." *See id.* This decision was in line with the Commission's advisory opinion to the EFSB during its review of the permit application, which considered, among other things, whether Rhode Island Energy had demonstrated a need for the project. *See generally*, EFSB Docket SB-2021-04, Commission Advisory Opinion.

During the EFSB proceedings, the Attorney General and others called for more than a simple acknowledgement that the capacity constraints on Aquidneck Island may be alleviated over time. Specifically, the Attorney General "asserted that if the license [was] approved it [should] be conditioned on the Company submitting a plan to alleviate reliance on fossil fuels in the long term." *Order 169* at 23. Moreover, the Attorney General supported "a condition that the Company [ ] design and propose to the PUC energy efficiency, electric conversion, and demand-side management programs for the island that will address the capacity constraint issue." *Id.* (citing Attorney General Post-Hearing Brief at 7-8).

Accordingly, the EFSB ultimately ordered RIE to:

> [F]ile with the Public Utilities Commission a demand response/energy efficiency plan targeted specifically for Aquidneck Island with the objective of eventually eliminating the design-day peak hour capacity gap which has caused the gas capacity constraint on Aquidneck Island. Such Plan shall include various scenarios and options targeting elimination of the capacity gap over alternative time periods.

Id. at 52. As noted by the EFSB, "[i]t may well be that an extensive cost-effective program can be designed to materially reduce the gap and eventually eliminate the need for the facility." *Id.* at 45. To that end, the EFSB ordered RIE to identify "variations of programs targeted to reduce the capacity gap," with the explicit objective to "propose a cost-effective

[1] The Commission's October 30, 2019 investigation report concerning the outage can be found at: https://ripuc.ri.gov/sites/g/files/xkgbur841/files/eventsactions/AI_Report.pdf.

program that is designed to eliminate the capacity gap over time and, eventually, eliminate the need for the LNG facility." *Id.*

Careful planning is required to meet the State's mandated greenhouse gas emission reductions pursuant to the Act on Climate, and minimizing Rhode Island's reliance on fossil fuel heating will play an essential role. At the same time, electrification and energy efficiency measures stand to ensure greater long-term reliability and safety for the people of Aquidneck Island. Statewide efforts to combat climate change and move Rhode Island towards a cleaner energy future are underway. The Executive Climate Change Coordinating Council ("EC4") is actively working on its 2025 Climate Action Strategy which will help identify ways that Rhode Island must increase energy efficiency and justly transition its energy portfolio away from fossil fuels. See generally, EC4, 2025 Climate Action Strategy, available at: https://climatechange.ri.gov/act-climate/2025-climate-update. Additionally, the Commission's own Future of Gas Docket, Docket No. 22-01-NG, has made great strides towards identifying pathways towards these ends. Although a report on the results of the stakeholders' work to date and recommendations for next steps and additional actions remains pending, the vitally important docket is investigating ways to feasibly transition the State's natural gas distribution system and ensure compliance with the Act on Climate. Though specific outcomes have not yet been decided, these efforts evidence that a targeted plan for Aquidneck Island need not be implemented alone. Instead, it should draw from, build upon, and bolster the State's progress in these and other processes, to better address the unique needs of this particularly vulnerable area in our State.

II. The Company's filing does not comply with the EFSB's order to create a "demand response/energy efficiency plan" and the Commission should require RIE to pursue a feasible and cost-effective plan.

RIE's filing largely dismisses demand-side alternatives to reduce and eventually eliminate the Old Mill Lane LNG facility on Aquidneck Island. Rather than present a range of plans and options, RIE takes it upon itself to determine that: "[i]t is unlikely that the highly-speculative levels of customer adoption [Energy + Environmental Economics ("E3")]'s analysis suggests are required to achieve the demand reduction necessary to eliminate the capacity constraint by 2035 are achievable." *See* Gresham Test. at 6. Instead of examining or soliciting strategies to achieve adoption, which could include changes or additions to Company-provided rebates, enhanced marketing, community engagement or other efforts, the Company opines that no demand-side alternative program on Aquidneck Island should be pursued. Accepting this assessment on its face would essentially ensure long-term reliance on the Facility, while threatening the State's ability to meet its obligations under the Act on Climate. Accordingly, there is need for more meaningful consideration of programs for Aquidneck Island that are in line with the EFSB's clear objectives and requirements set forth in Order 169.

RIE's consultant, E3, identifies and assesses three scenarios in its testimony, namely: (1) a "Lower Cost" scenario relying largely on demand response and gas appliance efficiencies; (2) an "Expanded Electrification" scenario with lower levels of gas demand response and high levels of electrification; and (3) a "No New Fossil Fuel Equipment" scenario that assumes even higher levels of electrification and no incentives for new fossil

fuel appliances. *Id.* at 22. While it does attempt to evaluate costs, including societal costs associated with each scenario, E3's testimony specifically "does not include a recommendation for a specific demand-side alternative portfolio plan or program design to be pursued." *Id.* at 4.

E3 claimed that its analysis of scenarios was meant "to inform the Company's plans." *Id.* at 3. However, no such plans were actually provided. Rather than propose a particular program, RIE's filing indicates that it does not view any of the identified scenarios as feasible based on E3's analysis. *See* Gresham Test. at 6. This determination seemingly largely relies on a self-imposed deadline/time horizon of 2035, despite clear direction from the EFSB to meaningfully consider "elimination of the capacity gap over alternative time periods." Order 169 at 52; *contrast e.g.* Gresham Test. at 6 (citing unlikelihood of eliminating the capacity gap by 2035 as reason for continuing to operate the Facility without targeted demand side efforts for Aquidneck Island); *see also e.g.* Aas Test. at 40 (mentioning that the capacity gap could not be closed until after 2035, with only cursory mention of timeframes in the 2040s and post-2050). Notably, this determination that closing the capacity gap before 2035 was not feasible contradicts prior Company statements, including its own witnesses' assertions to the Commission that, under certain conditions, the capacity constraint could be alleviated as soon as the winter of 2029-2030. *See* EFSB Docket No. SB-2021-04, Commission Advisory Opinion at 7. Similarly, it goes against the testimony of Mr. Jeffrey Loiter for the Town of Middletown, who recommended a pilot program be pursued, and testified that "aggressive and non-infrastructure investments could remove the capacity constraint by the 2030/31 heating season[.]" *Order 169* at 20-21. Moreover, the Company's position does nothing to address the Commission's determination that the Facility is "likely not needed in perpetuity." *Order 169* at 10.

RIE's current filing attempts to present only one path to the EFSB—do nothing. This is simply unacceptable. Specific plans that are in line with the clear objectives set forth by the EFSB are essential for the Commission and participants to analyze the full range of possibilities for Aquidneck Island. This is particularly true in light of the opportunities for other state (and federal) programs and initiatives that could accelerate progress towards the ultimate goal of closing the capacity gap. Given the significant deficiencies in RIE's filing, the Commission should require RIE to identify specific plan(s) with an aim to identify feasible and cost-effective programs that could reduce the capacity gap, even if they would not eliminate it by 2035. The Commission should also require any new filing to include adequate information for the Commission and participating stakeholders to independently assess feasibility and cost-effectiveness, instead of forcing the Commission to take RIE's determination at face value.

III. Implementing demand-side measures will help meet the requirements of the Act on Climate.

The Act on Climate requires the State to reduce greenhouse gas emissions to 45 percent below 1990 levels by 2030, 80 percent below 1990 levels by 2040, and to achieve net zero by 2050. *See* R.I. Gen. Laws § 42-6.2-9. Moreover, it is now within the "powers, duties, and obligations" of all state departments and agencies, including the Board and the Commission, to consider the Act on Climate in their decision-making processes. *See* R.I. Gen. Laws § 42-6.2-8. As laid out in EC4's 2022 Climate Update, the thermal sector

is a major contributor to Rhode Island's greenhouse gas emissions, with heating, industry, and natural gas distribution accounting for some 38.8% of overall emissions.[2] Accordingly, it is imperative that the Board and the Commission ensure that licensed projects for natural gas facilities will be broadly consistent with statewide goals.

It is true that the EFSB determined that it was "satisfied that while the facility itself will not reduce emissions, it will not have a material impact on the ability of the state to achieve the goals set by the Act on Climate." *Order 169* at 38. However, this related-docket requires separate analysis by the Commission with an eye towards the increasingly stringent benchmarks under the Act on Climate. This includes the requirement for the State to reach net zero emissions by 2050. RIE's own reports suggest that a demand-side plan for alleviating capacity constraints on Aquidneck Island could have a significant impact on greenhouse gas emissions. Each of the proposals modeled in RIE's filing would result in emissions reductions of roughly 10 percent compared to 2024 levels by 2035. *See* Aas Test. at 36-37. This would amount to between 10,220 and 11,250 short tons of avoided CO2 emissions in 2035. *Id.* at 36. Moreover, implementation of successful programming for Aquidneck Island could support the State's efforts to comply with the Act on Climate, beyond its local impacts. A successful program on Aquidneck Island could help pave the way for future efforts throughout the State.

Moreover, the modeling in RIE's filing suggests that even very high levels of electrification will not close the capacity gap until 2034 or 2035, and lower, but still ambitious, levels of electrification might only close the gap by the 2040s. *Id.* at 39-40. RIE seemingly sees this as justification for claiming that demand reduction efforts are hopeless. However, this actually highlights the urgency of moving forward on the path toward closing the capacity gap *now*, so that Rhode Island will be better positioned to end its use of the Facility in the future as additional policies and programs demand shifts away from fossil fuels. Unless we begin to implement plans for demand reduction, Aquidneck Island's reliance on a natural gas system that cannot serve it may continue far longer than is necessary.

IV. Implementing demand-side measures will not only reduce emissions, but also alleviate potential harm caused by capacity constraints during emergencies.

The EFSB's order required RIE to submit a plan "with the objective of eventually eliminating the design-day peak hour capacity gap." *Order 169* at 52. This language, on its face, does not exclude plans that would help reduce the capacity gap, even if they do not independently eliminate it, especially in the short term. As discussed above, the Company's determination that no such plan is worth presenting directly contradicts the plain language, and the spirit, of the EFSB's conditional approval.

Moreover, the Company's conclusion fails to acknowledge that each customer that reduces demand for natural gas on Aquidneck Island through electrification and/or energy efficiency reduces the risk related to RIE's distribution system on Aquidneck Island. Reduced reliance on natural gas could mean fewer days when RIE would be forced

[2] *See* EC4, Rhode Island 2022 Climate Update, 4 (available at: https://climatechange.ri.gov/ri-executive-climate-change-coordinating-council-ec4/publications-reports).

to use the Facility, even though there may be need to operate during extreme periods for some time. It could also mean that the "capacity vulnerability" highlighted by RIE throughout the EFSB proceedings would pose less risk over time, as the impacts of constrained supply would be less widespread.

V. Demand-side measures can and must be reconciled with affordability and equity concerns.

Potential issues around affordability and equity may be addressed through additional incentives and deliberate program design. RIE's filing identifies ways in which electrification programs may be inequitable, including lower participation in Environmental Justice areas, limited access for renters, and the uneven cost burden on the remaining gas distribution system. *See* Aas Test. at 47-48. To be sure, these are very important concerns, and these same concerns have been raised by stakeholders in the Commission's Future of Gas Docket when deliberating on similar issues.

However, these challenges do not justify avoidance of program implementation altogether. Incentives for low-income customers and residents of Environmental Justice areas could reduce upfront costs and ensure that electrification is a viable option for all customers. *See id.* at 47. Clean Heat Rhode Island, for example, already provides income-based incentives for heat pumps. *See* Clean Heat Rhode Island, *Incentives*, https://cleanheatri.com/resources/incentives/. Targeted programs for landlords and renters can also help ensure access. By way of example, Massachusetts' Mass Save program offers free energy assessments for landlords, and has published renter-specific informational tools, in addition to income-based incentives.[3] The impact of any increasing costs of natural gas distribution may be offset by ensuring the affordability of electrification. Electrification can also reduce some costs of the natural gas distribution system by minimizing the need for pipeline replacement. *See e.g.* E3, Sean Smillie et al., *Avoiding Gas Distribution Pipeline Replacement Through Targeted Electrification in California*, 1 (2024) (available at: https://www.ethree.com/wp-content/uploads/2024/06/Gas-Decommissioning-Fact-Sheet-2024-06-18.pdf). Accordingly, careful program designs have the potential to *increase* the affordability and equity of Rhode Island's energy distribution systems.

VI. Conclusion

The implementation of demand-side alternatives will facilitate reduction of the capacity gap, and help prevent long-term reliance on LNG for Aquidneck Island. In turn, reducing our reliance on fossil-fuel based heating will aid the State in its fight against climate change and its efforts to comply with its obligations under the Act on Climate.

RIE's filing is not consistent with the EFSB's conditional temporary permitting of the Facility as set forth in Order 169. It fails to put forth any detailed demand response or energy efficiency plan to reduce and eventually eliminate the design-day peak hour capacity gap which has caused the gas capacity constraint on Aquidneck Island. Accordingly, the Commission should make further orders, either requiring RIE to pursue

[3] *See* Mass Save, *No-Cost Home Energy Assessments for Landlords*, https://www.masssave.com/en/residential/programs-and-services/income-based-offers/save-with-enhanced-incentives; Mass Save, *Renters*, https://www.masssave.com/en/residential/for-renters.

one of the scenarios presented as the Commission finds appropriate, or further reporting to the Commission with more detailed plans to help the State and the people of Aquidneck Island guard against continued reliance on fossil fuels and combat the impacts of climate change.

Sincerely,

PETER F. NERONHA
Rhode Island Attorney General

/s/ Nicholas M. Vaz
Nicholas M. Vaz
Special Assistant Attorney General
Environment and Energy Unit Chief
Office of the Attorney General
150 South Main Street
Providence, RI 02903
(401) 274-4400
nvaz@riag.ri.gov