

**STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION**

**IN RE: The Narragansett Electric Company :
 d/b/a Rhode Island Energy (“RIE” or :
 “Company”) Proposed FY 2027 : DOCKET: 25-54-EL
 Electric Infrastructure, Safety and :
 Reliability (ISR) Plan :**

**DIVISION OF PUBLIC UTILITIES AND CARRIERS’ RESPONSE TO
RHODE ISLAND ENERGY’S REBUTTAL LEGAL MEMORANDUM**

The Division of Public Utility and Carrier’s (“Division”) hereby responds to the *Legal Memorandum of The Narragansett Electric Company’s d/b/a Rhode Island Energy in Response to Pre-Filed Direct Testimony Submitted on Behalf of the Division of Public Utilities and Carriers* (“RI Energy’s Legal Memorandum”).

I. INTRODUCTION

This matter involves The Narragansett Electric Company d/b/a Rhode Island Energy’s (“RI Energy” or “Company”) fiscal year (“FY”) 2027 Electric Infrastructure, Safety, and Reliability (“ISR”) Plan (the “FY 2027 Electric ISR Plan”), which was filed with the Public Utilities Commission (“Commission”) pursuant to R.I. Gen. Laws § 39-1-27.7.1(d) (the “ISR Statute”). RI Energy’s Legal Memorandum claims four legal flaws with the Division’s position in this matter. Specifically, RI Energy claims that the Division is legally incorrect regarding:

- (1) whether the Company can make safety and reliability investments separate from an ISR budget; (2) whether the Company provided sufficiently fulsome information regarding its FY 2027 Electric ISR Plan for Division review; (3) [the Division’s] recommendation for a consolidated soft budget cap; and (4)

whether customers face additional potential costs because the Company is investing separate from the ISR Plan budget.¹

Accordingly, the Division's legal memorandum responds to the Company's claims and supports the Division's position that, although traditional ratemaking principles still apply in this matter and were not affected by the enactment of the ISR statute in 2010, the Company failed to provide sufficient information regarding its proposed FY 2027 Electric ISR Plan for a full Division review. The Company's failure to provide sufficient information to the Division about the Company's FY 2027 ISR-related capital expenditures outside of the ISR, especially on need, scope, engineering, and cost, supports the Division's recommendation for a reduction to the FY 2027 Electric ISR Plan's consolidated soft budget cap established by the Commission.

Specifically, the Division recommends that the FY 2027 ISR Plan approval be limited to only non-discretionary spend of \$59.2 million. Of this, the Division supports separately tracking and reconciling \$4.3 million for Third-Party Attachments subject to the Company meeting Recommendation No. 1 in the report of the Division's expert, Gregory Booth. The resulting Consolidated Soft Budget Limit would be \$54.9 million excluding the Third-Party Attachment budget. The Division also supports the proposed FY 2027 Vegetation Management Program budget of \$12.9 million.

II. RELEVANT FACTS

As stated by the Division at the evidentiary hearing for this matter, the Division acknowledges that traditional ratemaking principles regarding the Company's capital spending on safety and reliability still apply in this matter and were not affected by the enactment of the ISR statute in 2010. However, as confirmed by the cross-examination testimony of Ryan Constable, since the inception of the Commission's first Electric ISR docket in 2012, the Company has

¹ RIE Legal Memorandum at 2.

presented a comprehensive ISR Plan concerning its ISR-related capital expenditures in its annual ISR filing. This allowed the Division to review the Company’s proposed discretionary capital spending holistically.² Mr. Constable also testified that in FY 2027 the Company would be making substantial ISR-related capital expenditures outside of the ISR process.³

As part of its review of the proposed FY 2027 ISR Plan, the Division sought additional information from the Company on its capital spending on electric distribution safety and reliability projects outside of the ISR docket (“Non-ISR projects”).⁴ Prior to the filing of the Company’s proposed FY 2027 ISR Plan, the Company did not provide details or budgetary information on the planned Non-ISR projects to the Division other than the general timing.⁵ The only information provided in the Company’s December 22, 2025, filing with the Commission was a general reference and a footnote listing the Non-ISR projects.⁶ The Company had also not included this information in its Long-Range Plan that was filed as part of the Company’s FY 2027 ISR Plan.⁷ Although the Company provided some data on its Non-ISR projects for FY 2027 and beyond, it only did so in response to data requests by the Division and Commission.⁸ The Company explained that it was only providing this limited information on Non-ISR projects because the ISR Statute consultation and review process only applied to capital investments that are included in the Company’s proposed ISR plan for the prospective fiscal year and are eligible for prospective cost recovery through the ISR mechanism.⁹ The Company stated that “any investment decisions it has made to advance projects outside of the ISR are unrelated to whether projects it has proposed

² See Booth Test. at 6.

³ See e.g., Cross-exam. Test. of Constable.

⁴ See DIV 1-5 and 1-6.

⁵ Booth Test. at 6.

⁶ *Id.*

⁷ See e.g., Cross-exam. Test. of Constable.

⁸ See Booth Test. at 5; RIE Responses to DIV 1-5, DIV 1-6, and PUC 1-5.

⁹ RIE Responses to DIV 1-5, DIV 1-6, and PUC 1-5.

within the ISR meet the standard for inclusion and should be approved.”¹⁰ The Company further stated:

Investments made outside of the ISR process, including Phillipsdale and Auburn, therefore, are not subject to the same review process and standard as ISR projects under the Revenue Decoupling law and will be presented to the Division and Commission for review when the Company seeks cost recovery for such investments, as appropriate – most likely as part of its rate base in future base distribution rate cases. Accordingly, although stakeholders will get a complete view of the expected utility investments that are reasonably needed to maintain safe and reliable distribution service over the short and long term through the inclusion of projects in the LRP, they will not get the same level of real-time detailed analysis of these projects.¹¹

The Company’s proposed FY 2027 ISR Plan does not represent its comprehensive capital spending on utility infrastructure for FY 2027.¹² In addition to proposing capital projects through the FY 2027 ISR, the Company also is undertaking significant additional discretionary capital spending on Non-ISR projects outside of the ISR, in excess of \$40 million in FY 2027 and approximately \$200 million over the next five years.¹³ The Company has not provided the same level of detail about these Non-ISR project capital expenditures as it did for projects in the proposed FY 2027 ISR plan, especially information on need, scope, engineering, and cost.¹⁴

The Division requested that the Company bring all of its Non-ISR projects for FY 2027 into this ISR so the plan could be assessed in a transparent and unified manner. The Company declined to do so.¹⁵

III. THE ISR STATUTE

A. ISR Statutory Language

The ISR Statute, R.I. Gen. Laws § 39-1-27.7.1(d) states:

¹⁰ RIE Response to DIV 1-5.

¹¹ *Id.* See also RIE Response to PUC 1-5.

¹² See e.g., Cross-exam. Test. of LaFond (the Company’s proposed FY 2027 ISR Plan is a part of its total capital spending plan on ISR-related projects).

¹³ See RIE Responses to PUC DR 1-5 and Division DR 1-6; see also Booth testimony at 9-10.

¹⁴ See Booth Test. at 6.

¹⁵ Hearing Test. of Booth.

(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;

(2) For electric distribution companies, operation and maintenance expenses on vegetation management;

(3) For electric distribution companies, operation and maintenance expenses on system inspection, including expenses from expected resulting repairs; and

(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. To the extent that the company and the division mutually agree on a plan, such plan shall be filed with the commission for review and approval within ninety (90) 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.

IV. ARGUMENT

- a. **Because the Company Has Not Provided a Comprehensive ISR Plan Concerning All of its ISR-related Capital Expenditures for FY 2027, including Non-ISR Projects, the Division Cannot Determine Whether the Company's Proposed FY 2027 ISR Capital Spending Plan Meets the ISR-Statutory Requirement That it is "Reasonably Needed to Maintain Safe and Reliable Distribution Service Over the Short and Long Term."**

Although the Division acknowledges that traditional ratemaking principles still apply in this matter and were not affected by the enactment of the ISR Statute, the Company must still comply with the requirements of the statute if it wishes to take advantage of the accelerated cost recovery. The ISR Statute is clear that the Division is required to review the Company's proposed "infrastructure, safety, and reliability spending plan" for the FY 2027 ISR and "cooperate in good

faith to reach an agreement on a proposed plan.”¹⁶ The purpose of the Division’s review is to determine “whether the proposed plan investments and spending are found to be reasonably needed to maintain safe and reliable distribution service over the short and long term.”¹⁷

The Company has not provided a comprehensive ISR Plan concerning all of its ISR-related capital expenditures for FY 2027, including information on need, scope, engineering, and cost for Non-ISR projects. Although the Company has provided some information on its capital spending on Non-ISR projects in FY 2027, that information is significantly different and much more limited as to need, scope, engineering, and cost, than information provided on proposed FY 2027 ISR Plan projects.

If the Company withholds any planned project work being advanced for reliability and safety purposes from the Division and the Commission, a comprehensive picture of the solution set for safety and reliability and capital budget impact being presented within an ISR Plan is incomplete. That means the solutions presented within the ISR Plan may be unnecessary based on work outside of the ISR Plan that may very well be solving existing needs of safety and reliability. An ISR Plan review and concurrence simply cannot occur with incomplete information.¹⁸

Because of this, the Division does not have sufficient information to determine whether the Company’s proposed FY 2027 ISR Capital Spending plan meets the ISR-Statutory requirement that it is “reasonably needed to maintain safe and reliable distribution service over the short and long term.”

¹⁶ R.I. Gen. Laws § 39-1-27.7.1(d).

¹⁷ *Id.*

¹⁸ Booth Test. at 9.

V. **CONCLUSION**

Because of the lack of information provided about the Company's additional capital spending on Non-ISR projects in FY 2027, the Division is unable to complete a comprehensive review for compliance with the ISR Statute. Therefore, the Division does not support the Company's FY 2027 ISR Plan as proposed.

As stated at the evidentiary hearing, the Division recommends that the FY 2027 ISR Plan approval be limited to only non-discretionary spend of \$59.2 million. Of this, the Division supports separately tracking and reconciling \$4.3 million for Third-Party Attachments subject to the Company meeting Recommendation No. 1 in the report of the Division's expert, Gregory L. Booth, P.E. The resulting Consolidated Soft Budget Limit would be \$54.9 million excluding the Third-Party Attachment budget. The Division also supports the proposed FY 2027 Vegetation Management Program budget of \$12.9 million.

The Division's recommendation would allow the Company to recover its ongoing non-discretionary costs to meet its statutory and regulatory obligations within the ISR Plan. This is not the Division's preference but is the only alternative the Division believes is practical, as we consider it to be a better alternative than attempting to review a partial plan.

STATE OF RHODE ISLAND,
DIVISION OF PUBLIC UTILITIES AND
CARRIERS

By its attorney,

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CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of March, 2026, a copy of the *Division of Public Utilities and Carriers’ Response to Rhode Island Energy’s Rebuttal Legal Memorandum* was electronically transmitted to the individuals listed below. Paper copies of this filing are being hand delivered to the Rhode Island Public Utilities Commission and to Rhode Island Energy.

/s/ Gregory S. Schultz
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**Docket No. 25-54-EL – RI Energy’s Electric ISR Plan FY 2027
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