

Jennifer Brooks Hutchinson
Senior Counsel
PPL Services Corporation
JHutchinson@pplweb.com

280 Melrose Street
Providence, RI 02907
Phone 401-316-7429



March 4, 2026

VIA ELECTRONIC MAIL AND HAND DELIVERY

Stephanie De La Rosa, Commission Clerk
Rhode Island Public Utilities Commission
89 Jefferson Boulevard
Warwick, RI 02888

RE: Docket No. 25-54-EL – The Narragansett Electric Company d/b/a Rhode Island Energy Proposed FY 2027 Electric Infrastructure, Safety, and Reliability Plan Rhode Island Energy’s Rebuttal Testimony and Memorandum of Law

Dear Ms. De La Rosa:

On behalf of The Narragansett Electric Company d/b/a Rhode Island Energy (the Company”), enclosed please find the Company’s Prefiled Rebuttal Testimony of Ryan Constable and Phillip LaFond in response to the Prefiled Direct Testimony of Gregory L. Booth, PE, on behalf of the Division of Public Utilities and Carriers (the “Division”) in the above-referenced matter.

The Company’s is also attaching its legal memorandum in response to the Division’s Prefiled Direct Testimony in this docket.

Thank you for your attention to this transmittal. If you have any questions or concerns, please do not hesitate to contact me at 401-316-7429.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jennifer Brooks Hutchinson".

Jennifer Brooks Hutchinson

Enclosures

cc: Docket No. 25-54-EL Service List

PRE-FILED REBUTTAL TESTIMONY

OF

RYAN M. CONSTABLE

March 4, 2026

**THE NARRAGANSETT ELECTRIC COMPANY
d/b/a RHODE ISLAND ENERGY
RIPUC DOCKET NO. 25-54-EL
PROPOSED FY 2027 ELECTRIC INFRASTRUCTURE, SAFETY, AND RELIABILITY PLAN
WITNESS: CONSTABLE
REBUTTAL TESTIMONY**

Table of Contents

I.	Introduction.....	1
II.	Purpose and Structure of Testimony.....	1
III.	Company’s Response to FY 2026 Electric ISR Consolidated Soft Budget Cap	3
IV.	Load-Growth Considerations.....	6
V.	Project Advancement Process.....	7
VI.	Conclusion	9

1 **I. Introduction**

2 **Q. Please state your name and business address.**

3 A. My name is Ryan M. Constable. My business address is 280 Melrose Street, Providence,
4 Rhode Island 02907.

6 **Q. By whom are you employed and in what position?**

7 A. I am employed by The Narragansett Electric Company d/b/a Rhode Island Energy
8 (“Rhode Island Energy” or the “Company”) as an Engineering Manager in the
9 Distribution Planning and Asset Management Department.

10

11 **Q. What are your responsibilities in that position?**

12 A. I am responsible for planning and oversight of projects and programs that ensure a safe
13 and reliable electric distribution system.

14

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

16 A. Yes, I submitted pre-filed direct testimony in this proceeding on December 22, 2025.

17

18 **II. Purpose and Structure of Testimony**

19 **Q. What is the purpose of this testimony?**

20 A. The purpose of my testimony is to respond to the Prefiled Direct Testimony of
21 Gregory L. Booth, PE, on behalf of the Division of Public Utilities and Carriers (the

1 “Division”). I address: (1) the consolidated soft budget cap imposed by the Public
2 Utilities Commission (“PUC”) when it approved the Company’s fiscal year (“FY”) 2026
3 Electric Infrastructure, Safety, and Reliability (“ISR”) Plan, associated project deferrals
4 by the Company, and why the Company decided to progress investment in certain
5 projects separate from its FY 2026 Electric ISR Plan; (2) load-growth assertions; and (3)
6 project management and procurement..
7

8 **Q. How is this rebuttal testimony structured?**

9 A. In addition to the Introduction and Purpose and Structure of Testimony (Sections I and II,
10 respectively), my testimony includes the following sections:

- 11 • Section III discusses how the Company responded to the PUC’s decision
12 approving the FY 2026 Electric ISR Plan with a consolidated soft budget cap with
13 respect to planning future investments.
 - 14 • Section IV discusses how the Company considers load growth projections.
 - 15 • Section V discusses how the Company advances projects and rebuts the
16 Division’s position on how that process should work in the ISR Plan.
 - 17 • Section VI is the Conclusion.
- 18

1 **III. Company’s Response to FY 2026 Electric ISR Consolidated Soft Budget Cap**

2 **Q. Please describe the Company’s response to the PUC’s FY 2026 Electric ISR Plan**
3 **order and its effect on project sequencing.**

4 A. Following the Commission’s order approving the FY 2026 Electric ISR with a
5 consolidated soft budget cap, the Company had to remove projects from the FY 2026
6 Electric ISR Plan to comply with the \$27 million reduction from its proposed budget.
7 Although the Company believes that all projects proposed under the FY 2026 ISR plan
8 met the regulatory standard to be included, the Company deferred several asset-condition
9 projects with the understanding that they would be included in the FY 2027 ISR proposal
10 while still being able to maintain a relatively flat ISR budget—including the Centredale,
11 Apponaug, Hospital, Kingston, and Merton substation projects—but decided that it
12 needed to progress certain others—the Phillipsdale, Auburn, and Division Street
13 substation projects, and procurement of spare transformers and mobile substations—as
14 separate traditional utility investments to meet system need and maintain safe and reliable
15 service. After consultation with various internal stakeholders such as engineering,
16 operations, resource management, and project management, the Company ultimately
17 decided to move forward with these projects to address significant, high-risk reliability
18 concerns, such as gassing transformers, which are indicative of internal faults, and
19 important safety concerns, such as having a flood prone substation causing our operations
20 teams to use a boat to access the control house under certain conditions (at the

1 Sockanosset substation), or crews working within our oldest indoor substations with
2 minimal clearances and complicated layouts that could lead to switching errors.

3
4 **Q. Are there examples of operational events that inform whether the Company made**
5 **the right decision to make separate investments to advance those projects?**

6 A. Yes. There are multiple examples of operational events that demonstrate the risks of
7 further deferring these projects and the wisdom of advancing them to address safety and
8 reliability needs. For example, at the Auburn substation, the Company experienced three
9 equipment failures due to deteriorated asset conditions that the project will address.
10 Because the substation operates as an electrical island, these failures resulted in
11 significant overloading and stressing of distribution assets complicating customer
12 restoration efforts during the June 2025 heat wave. These failures included two circuit
13 breaker failures and one air-break switch failure. The load from the two feeders
14 associated with the failed circuit breakers had to be transferred to other feeders
15 originating from the same substation resulting in the loading on one of the feeders
16 reaching over 100 percent of its rating for an extended period. The Auburn substation
17 and distribution line project that the Company is progressing will rebuild the aged
18 substation and convert the feeders to 13kV, allowing other substations to support loading
19 during a contingency.

20

1 As another example, the Company experienced two switch failures at Phillipsdale
2 substation while attempting to perform maintenance on a circuit breaker. While
3 expanding the work zone to repair the first switch failure, a subsequent failure occurred
4 on the adjacent gang-operated switch. While opening the gang-operated switch, one
5 phase failed to open. Upon further inspection, the linkage between the operating handle
6 and the switch failed. This failure required additional switching to allow the initial repair
7 work to progress, and the switch remains inoperable because the Company is managing
8 risk and affordability by delaying the switch replacement until the substation is rebuilt.

9
10 **Q. Are there operational impacts related to the deferral of projects that the Company**
11 **had proposed for inclusion in the FY 2026 Electric ISR Plan but were deferred to**
12 **meet the consolidated soft budget cap?**

13 A. The deferred projects had multiple events during FY 2026 that impacted system safety
14 and reliability. For example, the Company experienced a failure earlier this year at the
15 Kingston substation where a circuit breaker would not close due to a bad circuit board
16 extending an outage to thousands of customers. During the same outage event, a similar
17 issue occurred when the automatic transfer scheme failed at the Hospital substation,
18 preventing automatic restoration and requiring a crew to travel to the substation to
19 manually close the breaker. This extended an outage to hundreds of customers.

20

1 Although it is not possible to predict with complete precision when assets will fail, the
2 Company seeks to identify asset condition projects based on the potential for failure.
3 These events demonstrate that the Company is advancing work to address asset condition
4 issues in the general timeframe of when the assets will fail.

5
6 **IV. Load-Growth Considerations**

7 **Q. Is the Division’s assertion that “load growth is well below projections” accurate?**

8 A. No. The FY 2027 Long-Range Plan (“LRP”) explains that the June 2025 heat wave
9 produced system peaks above projections. Specifically, in Section 3.6 of the LRP, the
10 Company explains how the recent heat wave resulted in summer peak loads above
11 projections:

12 [A]nalysis shows that the system level heat wave values exceeded the
13 2025 predicted values by approximately 4%. The 2025 predictions were
14 based on a 2024 summer peak of 1,759 megawatts. Weather adjusting the
15 2024 value to an extreme summer 2025 value resulted in a 1,884
16 megawatt predicted system peak, or a 7.1% adjustment. The 2025 heat
17 wave system peak was 1,951 megawatts or an 11% increase over the 2024
18 actual level. This shows that, in addition to it being appropriate for the
19 Company to conduct extreme summer planning, the Company may have
20 to readjust and increase its weather basis as a result of this latest heat
21 wave.
22

23 **Q. What would be the practical effect of tying investment pace to the Division’s lower
24 load-growth assumption?**

25 A. A system built without consideration of extreme weather events would likely face
26 extended outages and potential load-shed actions during heat waves like the one that

1 occurred in 2025. Extremes are when customers need reliability most. Planning to
2 credible extremes is a hallmark of prudent utility practice implemented throughout the
3 industry and by regional operators including ISO-NE.
4

5 **Q. How much of the ISR Plan is actually driven by load growth?**

6 A. Only a small share. Approximately 25 percent of the budget is categorized as System
7 Capacity and Performance. The majority of this work is not driven by load growth but by
8 other factors, such as significant asset condition issues, and programs, such as
9 electromechanical relays. For much of the remainder of the work, the projects address
10 drivers such as voltage performance and contingency loading issues. Load growth alone
11 is the driver in less than 5 percent of the proposed ISR Plan.
12

13 **V. Project Advancement Process**

14 **Q. The Division states that an initial project approval should authorize only
15 engineering, with procurement to follow a subsequent approval. Do you agree?**

16 A. No. Structuring approvals to allow engineering without procurement would increase total
17 cost and schedule risk. The Company advances projects through a defined scope and
18 estimate grounded in area studies and iterative dialogue with the Division, then performs
19 repeated internal reviews that can accelerate, decelerate, or defer work as real-world
20 conditions change.
21

1 As a project is executed, it proceeds through stages involving preliminary and detailed
2 engineering, material and resource procurement, and construction. The most efficient
3 and lowest overall execution cost requires material and resource procurement to occur
4 during engineering phases. Final engineering on a substation project cannot be
5 completed until all large equipment has been ordered and the vendor drawings are
6 received by the Company. The Division is suggesting a process that proceeds through
7 engineering without this critical market information (lead times, contractor pricing,
8 contractor availability) and equipment information and then stops for further approvals.
9 The engineering would then have to be redone on the approved plan after material and
10 resource procurement is completed. The Division also has stated that, after engineering
11 is complete on the preferred alternative, they may require a reevaluation of alternatives.
12 This would require the Company to complete equal engineering tasks on all alternatives,
13 such as bringing each alternative through final design, as was done on the preferred plan
14 at significant additional cost and time.

15
16 In summary, (1) the Division's proposal provides no new information that is not already
17 provided in Area Study consultation and data request responses; (2) the Division's
18 proposal would create no real update in project need; (3) the Division's proposal would
19 substantially increase alternative analysis costs; (4) the Division's proposal would create
20 project execution delays and increase costs for engineering rework; and (5) without the

1 market information obtained by the Company's procurement processes, the Division's
2 proposal would not create any appreciable improvement in scope and costs.

3

4 **Q. Has the Company departed from historic planning practices?**

5 A. No. The Company has used the same planning criteria, area-study process, and
6 asset-condition methodologies employed for more than a decade and since the inception
7 of the ISR. The Company has changed and improved its project sequencing assessment.
8 The previous project sequencing assessment largely prioritized projects based on cost
9 alone whereas the improved process gets real time input from various stakeholders such
10 as field operations, the distribution control center and engineering to allow the planning
11 team to adjust project sequencing based on updated field conditions.

12

13 **VI. Conclusion**

14 **Q. Does this conclude this testimony?**

15 A. Yes, it does.

**THE NARRAGANSETT ELECTRIC COMPANY
d/b/a RHODE ISLAND ENERGY
RIPUC DOCKET NO. 25-54-EL
PROPOSED FY 2027 ELECTRIC INFRASTRUCTURE, SAFETY, AND RELIABILITY PLAN
WITNESS: LAFOND
REBUTTAL TESTIMONY**

PRE-FILED REBUTTAL TESTIMONY

OF

PHILLIP LAFOND

March 4, 2026

THE NARRAGANSETT ELECTRIC COMPANY
d/b/a RHODE ISLAND ENERGY
RIPUC DOCKET NO. 25-54-EL

PROPOSED FY 2027 ELECTRIC INFRASTRUCTURE, SAFETY, AND RELIABILITY PLAN

WITNESS: LAFOND
REBUTTAL TESTIMONY

Table of Contents

I. Introduction and Qualifications	1
II. Purpose of Testimony	2
III. Company Response to the Division’s Position on the FY 2027 Electric ISR Plan Consolidated Soft Budget Cap.....	3
IV. Company’s Participation In The FY 2027 Electric ISR Consultation Process	10
V. The Company’s Third-Party Attachments Budget Properly Accounts for Revenue.....	14
VI. Infrastructure Investment and Jobs Act (“IIJA”) Issues.....	15
VII. Conclusion.....	16

1 **I. Introduction and Qualifications**

2 **Q. Please state your name and business address.**

3 A. My name is Philip LaFond. My business address is 280 Melrose Street, Providence, RI
4 02907.

5

6 **Q. By whom are you employed and in what capacity?**

7 A. I am employed by The Narragansett Electric Company d/b/a Rhode Island Energy (the
8 “Company” or “Rhode Island Energy”) as the Director of Electric and Gas Investment
9 Planning and Management, leading a combined electric and gas investment planning
10 team. I report directly to the Rhode Island Chief Operating Officer, and, in addition, I
11 work closely with the Rhode Island Jurisdictional President, the Vice President – Gas,
12 Vice President – Electric, and their respective staffs. In my role, I create the gas and
13 electric business capital investment plans and create work plans to align human and
14 material resources to the Company’s strategic and mandated capital plans.

15

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

17 A. Yes, I previously submitted joint pre-filed direct testimony in this proceeding dated
18 December 22, 2025.

19

1 **II. Purpose of Testimony**

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

3 A. The purpose of my rebuttal testimony is to respond to the Division of Public Utilities and
4 Carriers' ("Division") Prefiled Direct Testimony of Gregory L. Booth, PE, submitted by
5 the Division in this docket on February 20, 2026, concerning the Company's proposed
6 fiscal year ("FY") 2027 Electric Infrastructure, Safety and Reliability Plan (the "FY 2027
7 Electric ISR Plan" or "Plan").

8
9 **Q. How is your testimony organized?**

10 A. In addition to the Introduction and Purpose (Sections I and II, respectively), Section III of
11 my testimony is organized into four subsections.

- 12 • The first responds to the Division's position that the Company's FY 2027 Electric
13 ISR Plan consolidated soft budget cap should be \$59 million and that the Company's
14 level of proposed capital spending is unjustified.
 - 15 • The second responds to the Division's contention that the Company did not provide
16 an appropriate level of information during the ISR consultation process or cooperate
17 in good faith with the Division in an attempt to achieve a consensus.
 - 18 • The third responds to the Division's contentions regarding pole attachments.
 - 19 • The fourth responds to the Division's contentions regarding IJJA spending.
- 20

1 **III. Company Response to the Division’s Position on the FY 2027 Electric ISR Plan**

2 **Consolidated Soft Budget Cap**

3 **Q. The Company proposed an ISR capital budget of \$136 million. How does that**
4 **compare to prior ISR capital budgets that the Division has supported?**

5 A. The Company’s proposed FY 2027 Electric ISR Plan capital budget (exclusive of AMF)
6 is lower than the proposed capital budget the Company submitted for its FY 2026 Electric
7 ISR Plan – with full Division agreement – by approximately \$28.9 million and is of a
8 similar order of magnitude as compared to the approved capital budgets of \$130.9 million
9 (exclusive of AMF) in FY 2026 Electric ISR Plan and \$131.6 million in FY 2025 Electric
10 ISR Plan.

11
12 **Q. Did the Division indicate during its review and consultation with the Company that**
13 **any of the investments proposed in the FY 2027 Electric ISR Plan were unnecessary**
14 **for the short- and long-term safety and reliability of the electric distribution system?**

15 A. No. Through the course of the consultation, the Division did not dispute the need for any
16 of the investments proposed in the FY 2027 Electric ISR Plan. These projects are the
17 same projects that were included in the FY 2026 Electric ISR Plan with which the
18 Division concurred.

19

1 **Q. Does the fact that the Company is making separate investments other than those it**
2 **has included as part of the Plan justify rejection of all proposed spending on**
3 **discretionary investments within the proposed FY 2027 Electric ISR Plan?**

4 A. No. Neither the Division nor Mr. Booth has provided any basis – to the Company or the
5 Commission – in either this proceeding or prior ISR proceedings that would justify
6 disallowance of all budgeted spending on discretionary investments in the FY 2027
7 Electric ISR Plan. The Company has proposed a plan consisting of those investments
8 that are reasonably needed to maintain safe and reliable electric distribution service in the
9 short and long term in accordance with its statutory requirements. These investments are
10 fully supported by the Company’s Planning Criteria and Area Studies. They are the same
11 projects that were included and approved in the FY 2026 Electric ISR Plan. Although the
12 Company acknowledges that the Division and the Company have had differing views in
13 prior ISR Plans on the pace and level of spending for such investments, the Division has
14 not disputed the overall need for those investments. The Company does not agree with
15 the Division’s recommendation to approve an FY 2027 Electric ISR plan budget that
16 includes only budgeted, forecasted spending on non-discretionary projects.

17

1 **Q. Mr. Booth’s testimony makes reference at page 25, lines 13 through 16, that he “is**
2 **able to demonstrate” how the Company could incorporate all its planned safety and**
3 **reliability capital projects into the current and future ISR plans while meeting the**
4 **Division’s preferred spending target. Is Mr. Booth’s solution evident in his**
5 **testimony?**

6 A. No. In his testimony, Mr. Booth references a number of prioritization preferences or
7 recommendations but does not lay out a comprehensive recommendation that meets the
8 spending goal of the Division. Mr. Booth asserts that he has “independently evaluated
9 adjustments to achieve capital spending within the Division’s desired budget guidance”
10 by “reprioritizing substation work” using the Company’s 5-Year Capital Plan and the
11 LRP for the following five years to arrive at his budget adjustments. He then goes on to
12 explain that he “deferred early lifecycle and lower priority substation projects” but
13 provides no basis for how he determined such prioritization. (Booth Testimony at p. 25).
14 Yet, when asked specifically to identify the projects that the Division has identified could
15 be deferred in the Company’s data request RIE 1-1, Mr. Booth appeared to contradict his
16 own “independent evaluation” of project priorities by stating,

17 [I]t is the Company’s responsibility to determine how it can modulate
18 spending to achieve affordability while recognizing an acceptable level of
19 risk. It is the Company’s responsibility to cost justify its projects,
20 especially for a system that is not suffering from poor reliability. Each year,
21 the Company develops its annual work plan and a proposed 5-year capital
22 plan by going through iterations of project priorities to meet an internal
23 budget. The Company has full latitude in adjusting discretionary projects
24 to meet budgets (Division Response to Data Request RIE 1-1.
25

1 The Division's proposed capital budget guidance is based solely on Mr. Booth's
2 independent and arbitrary assessment of project deferrals that are not based in fact or on
3 any technical analysis and should not be adopted by the Commission.

4
5 **Q. Can the Company modulate its spending and adjust its discretionary projects to**
6 **achieve the stated budget guidance in the interest of affordability in the proposed**
7 **FY 2027 Electric ISR Plan?**

8 A. Yes, this is exactly what the Company did when it made the decision to defer certain
9 asset condition projects and advance other projects as traditional utility investments
10 separate from the ISR process following the Commission's decision establishing a
11 reduced approved budget in the FY 2026 Electric ISR Plan. Company witness Ryan M.
12 Constable discusses these projects and the operational risks that contributed to the
13 Company's decision-making in more detail in his Pre-filed Rebuttal Testimony.

14
15 Further, and importantly, the Company maintains management discretion over its capital
16 spending and the safety and reliability of its electric distribution system, as Mr. Booth
17 concedes in his response to data request RIE 1-1. The Company exercised that discretion
18 in developing a proposed FY 2027 Electric ISR Plan that aligned with the overall budget
19 guidance from the Commission during the FY 2026 Electric ISR Plan proceeding. At the
20 same time, the Company bears the obligation to maintain a safe and reliable electric
21 distribution system and will make the investments it determines are necessary to meet

1 those obligations in the short- and long-term. Doing so is in line with the Commission’s
2 direction in its Reports and Orders from previous ISR proceedings (as discussed in the
3 Legal Memorandum of The Narragansett Electric Company d/b/a Rhode Island Energy in
4 Response to Pre-Filed Direct Testimony Submitted on Behalf of the Division of Public
5 Utilities and Carriers, filed contemporaneously with this Pre-Filed Rebuttal Testimony).

6
7 **Q. Mr. Booth claims that the Company’s strategy is to pursue two separate portfolios**
8 **that will result in capital spending of \$170 million in FY 2027 and may reach**
9 **upwards of \$200 million or more in the following years (Booth Testimony at pp. 8-9,**
10 **28). How does the Company respond to these claims?**

11 A. Mr. Booth has mischaracterized the Company’s intent to invest in additional projects that
12 are not included in the Company’s proposed ISR Plan. First, doing so does not inherently
13 create two separate portfolios of capital investments, as Mr. Booth asserts. The Company
14 has a single Long-Range Plan (“LRP”) that is based on its Planning Criteria and Area
15 Studies, to which the Division has had and continues to have visibility. In the
16 Company’s response to Division Data Request 1-5, the Company stated that it would
17 “continue to list these projects in its LRP as Non-ISR projects without the associated
18 budgets *to provide the Commission and the Division with a holistic view of the*
19 *Company’s electric distribution system planning for safety and reliability.*” (Emphasis
20 added.)

21

1 Second, any costs incurred on non-ISR projects in FY 2027 and beyond will have no rate
2 impact to customers until such time as those investments are placed in service and the
3 Company makes a proposal to the Commission for cost-recovery, at which time the
4 Company will bear the burden to show that such spending was prudently incurred. This
5 is consistent with the Company's exercise of its management discretion over traditional
6 utility investments, and doing so does not create separate portfolios of investments as the
7 Division incorrectly states.

8
9 **Q. Does the Company agree with Mr. Booth that by making investments in addition to**
10 **and separate from the projects included in its ISR Plan, it seeks to avoid scrutiny**
11 **and circumvent the ISR process (Booth Testimony at pp. 12-13; Exhibit GLB-2 at**
12 **pp. 22-23)?**

13 A. No. The Company has demonstrated in previous dockets, with agreement from the
14 Division, that Area Study results have revealed several system Planning Criteria
15 violations. Following the direction the Company received from the Commission in its
16 Report and Order regarding the FY 2026 Electric ISR Plan, the Company had to weigh
17 the operational risks associated with pausing or stopping certain projects that already
18 were underway versus continuing to advance certain projects. In doing so, the Company
19 identified investments to continue to pursue. The Company determined that it should
20 progress these specific projects in its current workplan, whether as part of the ISR or

1 separate from the ISR, as further discussed in Mr. Constable’s Rebuttal Testimony.

2 The Company worked diligently to develop a proposed FY 2027 Electric ISR Plan that
3 enabled the Company to continue to meet its obligations for safety and reliability, while
4 maintaining budget levels relatively similar to the approved FY 2026 Electric ISR Plan.

5
6 **Q. With respect to the Company’s capital plan for FY 2027, does the Company agree**
7 **with Mr. Booth’s assumption that “ratepayers will be adversely impacted whether**
8 **the spending is inside or outside the ISR”?** (Booth Testimony at p. 19)

9 A. No. The Company’s proposed FY 2027 ISR Plan has a modest \$1.75 per month rate
10 increase for the average residential customer. During the consultation process, the
11 Division supported ISR spending at the Company’s proposed level; so, the Company
12 understood the Division to be in agreement that this was an acceptable impact on rates.
13 Any spending on non-ISR investments has *no rate impact* on customers currently.
14 Contrary to Mr. Booth’s assertions, the Company’s decision to accept the risk and
15 regulatory lag for non-ISR investments results in customers realizing the benefits of those
16 investments at no cost for up to several years. Customers enjoy cost benefits similar to
17 what would result if the Company deferred projects while realizing the system benefits of
18 constructing projects now at a lower cost than if those projects were deferred into the
19 future.

20

1 **IV. Company’s Participation In The FY 2027 Electric ISR Consultation Process**

2 **Q. On page 5 of the Division’s testimony, Mr. Booth states that the Company has been**
3 **more recently filing the ISR Plan in mid-October, thus providing a “shortened**
4 **review and negotiation period” and the process “was further complicated by the fact**
5 **that the Company has elected to progress several significant customary ISR Plan**
6 **projects outside of the ISR Plan.” Does the Company agree with this**
7 **characterization?**

8 A. No. As the Company has done historically, the Company provided the Division with the
9 latest revision of its LRP on September 12, 2025. The Division had longer than a month
10 to review the LRP before the Company filed its proposed FY 2027 Electric ISR Plan with
11 the Division on October 17. Representatives of the Company and Division subsequently
12 met in consultation on five occasions on November 6, 12, and 20, and December 4 and
13 11. The Division issued three sets of discovery, totaling 64 questions, between October
14 27 and November 19, which the Company answered in full.

15
16 Furthermore, the FY 2027 Electric ISR Plan, *including separate investments the*
17 *Company is making that are not a part of the FY 2027 Electric ISR Plan*, is substantially
18 similar to the Company’s FY 2026 Electric ISR Plan proposal, for which all requested
19 documentation was provided to the Division, and for which the Division had more than a
20 year to consider at the time the proposal was filed with the Commission, and which the

1 Division found sufficient to allow it to concur with the Company and present the
2 FY 2026 Electric ISR Plan as an agreed-to plan.

3
4 **Q. What was the Company's understanding of the Division's position on the proposed**
5 **FY 2027 Electric ISR Plan following the final consultation meeting in December?**

6 A. During the final consultation meeting, the Division informed the Company of its three
7 conclusions: (1) the size of the plan was reasonable; (2) the Division concurred with the
8 treatment of the Third Party Attachment budget outside of the consolidated soft budget
9 cap and not included in the revenue requirement; and (3) the Division did not agree with
10 the Company's approach to advancing projects for safety and reliability separate from the
11 ISR process. The Division asked the Company to rework its ISR Plan to include all its
12 safety and reliability related investments in the ISR Plan, but to hold the budget at the
13 level proposed in the plan to the Division – approximately \$136 million.

14
15 **Q. How did the Company respond to the Division's request to include additional**
16 **investments that it was making separate from its proposed FY 2027 ISR Plan within**
17 **the Plan without adjusting the proposed budget of \$136 million?**

18 A. The Company reiterated its position that all the capital investments in its FY 2027
19 Electric ISR Plan were needed for the short- and long-term safety and reliability of the

20

1 system. The Company asked the Division to identify specific projects that it believed the
2 Company could defer to reach consensus.

3
4 The Division provided the Company with a high-level list of various projects. The
5 Company reviewed the list and determined that the Division had not proposed any
6 significant reduction to the Company's overall capital plan such that it would meet the
7 stated goal of holding to the budget level deemed acceptable by the Division.
8 Specifically, the Division's proposal appeared to prioritize inclusion of at least three
9 projects that the Company is advancing as traditional utility investments separate from its
10 ISR Plan. The anticipated FY 2027 spend for those projects is \$11.2 million. The
11 Division's proposal appeared to identify only two projects for "potential" deferral, with
12 an anticipated FY 2027 spend of \$2.3 million. Thus, the Division's proposed approach
13 would have resulted in a nearly \$9 million increase from the Company's proposed
14 budget.

15
16 **Q. Did the Company fail to respond to the Division's proposed priority list of projects
17 as indicated several times in Mr. Booth's testimony?**

18 A. No. I spoke with a member of the Division staff on December 12, 2025, following the
19 receipt and evaluation of the Division's list. I pointed out that the Division's proposed
20 deferrals would not result in an ISR budget of approximately \$136 million, which the
21 Company understood to be the Division's stated goal. I also pointed out the Company's

1 no-win situation: it could defer projects that the Company’s rigorous assessment against
2 its Planning Criteria indicated were needed for the short- and long-term safety and
3 reliability of its system in order to comply with the Division’s request to include all
4 projects within the ISR plan; or it could continue with the proposal as presented but
5 without Division concurrence in the docket. Division staff conceded that a contested
6 docket seemed to be a likely result.

7
8 **Q. Does the Company agree with the Division’s assessment that the “solution set for**
9 **safety and reliability and capital budget impact ... is incomplete” as stated on pages**
10 **5 and 9 of Mr. Booth’s testimony?**

11 A. No. Mr. Booth’s claims throughout his testimony that the Division does not have a
12 comprehensive picture of the Company’s “solution set” and that the Company has not
13 provided details of non-ISR projects is a mischaracterization. The Company informed
14 the Division about the projects in which it was investing separate from its ISR Plan. In
15 fact, in the Company’s response to Division Data Request 1-6, the Company provided a
16 table expanding the Company’s LRP to include all capital projects, including ISR and
17 non-ISR projects. These non-ISR projects are the same projects for which the Division
18 had all the documentation necessary to evaluate from previous dockets. Such projects
19 include the Phillipsdale and Auburn substations, mobile substations, and VVO/CVR,

20

1 among others. The Division should have been able to evaluate the Company’s proposed
2 ISR Plan on its merits independently of these non-ISR projects even without the
3 supporting documentation it already possessed concerning any non-ISR investments.
4

5 **V. The Company’s Third-Party Attachments Budget Properly Accounts for Revenue**

6 **Q. Does the Company’s proposed budget for Third-Party Attachments consider any**
7 **expected revenue from existing attachers that bear responsibility for loading or**
8 **clearance violations?**

9 A. Yes. The Company explained to the Division that the proposed “GoNetSpeed” project on
10 Aquidneck Island represented an unusually large Third-Party Attachment request for the
11 Company. The Company maintains that it informed the Division that it recognizes that
12 existing attachers that have created overloading or clearance issues on poles bear at least
13 partial responsibility for replacing or upgrading the pole when new attachers apply. The
14 Company has evaluated the large number of poles in the GoNetSpeed application and
15 made assumptions about cost sharing, which result in the net cost to the Company
16 presented in this proposal.
17

18 The Company indicated that it does, and has always intended to, seek reimbursement on a
19 pole-by-pole basis as the project progresses. The Company agrees that third-party
20 attachers have an obligation to perform load study engineering and that they bear
21 responsibility if their attachments cause loading or clearance exceptions. However, the

1 Company maintains that it is not possible in all cases to identify which third-party
2 attacher created an exception, to get those third parties to agree that they are the cost
3 causer, and to recover costs resulting from these exception causes. The settlement of this
4 identification and billing of third parties can last beyond a single ISR Plan year. It is for
5 these reasons the Company proposed, and the Division agreed to, moving this budget
6 group outside the consolidated soft budget cap, as well as removing the expected capital
7 additions in service from the revenue requirement for FY 2027 and seeking cost recovery
8 in reconciliation. However, if cost causers cannot be identified, do not agree that they are
9 the cost causer, and/or refuse to pay, the Company must be able to recover its cost for
10 complying with federal law vis-à-vis FCC regulations on third-party attachers.

11
12 **VI. Infrastructure Investment and Jobs Act (“IIJA”) Issues**

13 **Q. Has the Company proposed or undertaken any capital investments, whether as part**
14 **of the ISR process or separately, only because it believed it could recover some**
15 **portion of those costs through the Infrastructure Investment and Jobs Acts**
16 **(“IIJA”)?**

17 **A.** No. There is no separate IIJA investment portfolio as the Division suggests. The
18 Company has no guarantees of reimbursement at this time. Any reimbursement that does
19 occur will be a benefit to the ratepayers of Rhode Island.

1 **VII. Conclusion**

2 **Q. Does the Electric ISR Plan fulfill the Company's statutory obligation to plan for the**
3 **safe and reliable delivery of electricity through the Company's distribution system**
4 **in Rhode Island?**

5 **A. Yes.**

6

7 **Q. Does this conclude your testimony?**

8 **A. Yes.**

**STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION**

_____)
In re: The Narragansett Electric Company)
d/b/a Rhode Island Energy – FY 2027 Electric) Docket No. 25-54-EL
Infrastructure, Safety and Reliability (ISR) Plan)
_____)

**LEGAL MEMORANDUM OF THE NARRAGANSETT ELECTRIC
COMPANY D/B/A RHODE ISLAND ENERGY IN RESPONSE TO
PRE-FILED DIRECT TESTIMONY SUBMITTED ON BEHALF OF
THE DIVISION OF PUBLIC UTILITIES AND CARRIERS**

The Narragansett Electric Company d/b/a Rhode Island Energy (the “Company”) submits this legal memorandum to set forth legal arguments in response to positions taken by the Division of Public Utilities and Carriers (the “Division”) as set forth in the Prefiled Direct Testimony of Gregory L. Booth, PE (the “Booth Testimony”).¹

I. BACKGROUND

The Company made its fiscal year (“FY”) 2027 Electric Infrastructure, Safety, and Reliability (“ISR”) Plan (the “FY 2027 Electric ISR Plan”) consistent with the legal requirements of R.I. Gen. Laws § 39-1-27.7.1(d) (the “ISR Statute”), as that statute has been interpreted and implemented by the Public Utilities Commission (the “PUC”) through its orders in previous ISR dockets. In particular, the Company has incorporated the PUC’s direction through its orders in recent years to: (a) prepare an ISR budget that remains relatively unchanged from its FY 2026 Electric ISR Plan, but (b) continued to make additional investments that it

¹ Contemporaneous with this legal memorandum, the Company also has submitted the Pre-Filed Rebuttal Testimony of Phil LaFond (the “LaFond Rebuttal”) and the Pre-Filed Rebuttal Testimony of Ryan M. Constable (the “Constable Rebuttal”) to rebut the factual positions set forth in the Booth Testimony. This legal memorandum relies on the facts set forth in the LaFond Rebuttal and the Company’s other filings in this docket.

deems necessary, and which are not subject to the special cost recovery provided under the ISR Statute – but rather are investments the Company is making at risk and subject to regulatory lag.

Despite the Company’s fidelity to the ISR Statute and the PUC’s direction, the Division, through the Booth Testimony, has now taken the position that it is inappropriate for the Company to make investments separate from the ISR mechanism and has, therefore, proposed that the consolidated soft budget cap for the Company’s FY 2027 Electric Plan be reduced to \$59.2 million, composed of \$54.9 million associated with the Company’s proposed non-discretionary investment budget and \$4.3 million for third-party attachments related to Federal Communications Commission (“FCC”) rules regarding cost responsibility for third-party attachments.²

In addition to the factual issues identified and addressed in the LaFond Rebuttal and the Constable Rebuttal, there are several legal flaws with the Division’s position. Specifically, 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) its

² The Booth Testimony also raises legal questions about the Company’s interpretation of Federal Communications Commission (“FCC”) rules regarding cost responsibility for pole replacements and about the Company’s obligations related to the Infrastructure, Investment, and Jobs Act (“IIJA”) award it is in the process of working through with the United States Department of Energy (“DOE”).

With respect to cost responsibility for pole replacements under FCC rules, the Division’s position mischaracterizes the Company’s proposal for the reasons addressed in the LaFond Rebuttal. Accordingly, the legal arguments the Division makes with respect to those proposed costs are inapposite.

With respect to the IIJA award issues, the Company repeatedly has advised the Division that the award does not obligate the Company to spend any particular amount; it is just a mechanism for the Company to potentially secure federal funds for the benefit of customers. The Company also has explained to the Division that, to the extent it receives IIJA award reimbursement, the Company is free to apply it to whichever projects it chooses when accounting for it internally. Thus, even if the reimbursement comes to the Company for an investment that is not a part of an ISR Plan, the Company can apply the award against spending on investments being made as part of an ISR Plan and provide the benefit to customers. As such, the Division’s position that the Company could potentially be “liable” for making \$283 million in investments is legally incorrect. Any reimbursement that the Company receives from the IIJA award is only a benefit.

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.

Accordingly, this legal memorandum sets forth the legal underpinnings of the ISR Statute, including its history and purpose, as well as the requirements set forth in the plain statutory language. This memorandum also discusses the PUC's recent decisions interpreting and implementing the ISR and explains how those decisions fit with the Company's FY 2027 Electric ISR Plan proposal. Then, this memorandum identifies and explains the legal shortcomings of the Division's positions and recommendation.

II. THE ISR STATUTE

A. Statutory Language

The ISR Statute provides:

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.

The Company's annual ISR process also includes a rate reconciliation mechanism for the Company to receive cost recovery through a rate factor that reflects the amount of capital spending on projects placed into service during the ISR fiscal year in question. *See* The Narragansett Electric Company Infrastructure, Safety, and Reliability Provision, RIPUC No. 2225 (the "ISR Tariff"). Accordingly, the annual ISR review process has two principal components: (1) review and approval of the proposed ISR investment plan for the fiscal year, *see* R.I. Gen. Laws § 39-1-27.7.1(d), and (2) review and approval of the rate factors calculated for the investments that were to be completed and placed in service during the fiscal year. *See* the ISR Tariff.

These components are interrelated. The approved spending budget is expected to become plant-in-service for which the Company obtains cost recovery. But, because some investments the Company makes as part of the annual ISR process take time to complete, spanning multiple years in some cases, there is not a direct comparison to be made between approved ISR spending budgets and the amount the Company recovers through rates in a given year.

Importantly, there is no language in the ISR Statute or the ISR Tariff that prohibits the Company from making other investments – for any reason – and proceeding with the traditional ratemaking processes for cost recovery of those separate investments. This legal principle is reflected in the history of the ISR Statute and in the PUC's decisions interpreting and implementing it.

B. The History of the ISR Statute

The Rhode Island General Assembly adopted the ISR Statute in 2010 as part of the broader revenue decoupling statute, which is the legislative framework aimed at decoupling utility revenues from sales, thereby promoting energy efficiency and system reliability. *See* R.I. Gen. Laws § 39-1-27.7.1(a). The General Assembly sought to address challenges posed by traditional rate structures, which could disincentivize utilities from investing in energy efficiency and infrastructure improvements. *Id.* One of the express purposes enumerated in the statute is “facilitating and encouraging investment in utility infrastructure, safety, and reliability.” R.I. Gen. Laws § 39-1-27.7.1(a)(7). The purpose of the ISR Statute is to supplement traditional utility investment decision-making. *In Re: The Narragansett Elec. Co. d/b/a Nat'l Grid Gas Infrastructure, Safety, & Reliability Plan Fy 2023 Proposal*, No. 5210, 2022 WL 18033074, at *2-3 (RIPUC Nov. 18, 2022) (“The ISR process is a statutory modification of the traditional rate case process, which had been the exclusive regulatory means through which the utility could commence recovery of its costs of investing in capital projects, among recovery of other business expenses. The ISR eliminated the regulatory lag on recovery of the costs for certain prioritized investments, allowing current and annual recovery of the capital costs of eligible projects.”).

The statute is “a departure from traditional ratemaking principles” because it allows the Company “to put capital expenses into rate base as soon as they are put into service rather than waiting until the conclusion of its next base distribution rate case.” *In Re: Nat'l Grid Proposed Fy 2012 Elec. Infrastructure, Safety & Reliability Plan Pursuant to R.I.G.L. S39-1-27.7.1*, No. 4218, 2011 WL 6960168, at *10 (RIPUC Dec. 12, 2011). The statute struck “a balance for ratepayers because investments that are no longer used and useful are removed from rate base sooner than they otherwise would have been under traditional cost of service *ratemaking*

principles.” *Id.* “While the ISR process addresses the annual plan for capital investments, traditional ratemaking principles still apply and were not affected by the ISR law.” *In Re: The Narragansett Elec. Co. d/b/a Nat’l Grid Gas Infrastructure, Safety, & Reliability Plan Fy 2023 Proposal*, No. 5210, 2022 WL 18033074, at *2–3 (RIPUC Nov. 18, 2022). Thus, not only does the plain language of the ISR Statute reflect that it is a supplement to traditional ratemaking for traditional utility investment, but the PUC has recognized that to be the case in its dockets reviewing and approving ISR plans.

The ISR Statute creates a process to remove some of the financial risks utilities face when making investment decisions for safety and reliability needs. It is not, and was not meant to be, a prohibition on – or even an obstacle to – applying traditional ratemaking principles to utility investments that are not proposed as part of the Company’s ISR Plans. Rather, the Company always remained free to make traditional utility investments as it deemed necessary, subject to the standard ratemaking review process that would occur when the Company sought cost recovery for those investments when it placed them in service, such as in a future base distribution rate case. And, when the Company makes these separate investments, it accepts that it will experience regulatory lag.

C. The PUC’s Recent Implementation of the ISR Statute

The PUC has reviewed and evaluated the Company’s ISR plan filings each year, and it has made interpretations of how it reviews proposed spending plans to determine whether the proposed “investments and spending are found to be reasonably needed to maintain safe and reliable distribution service over the short and long term” as set forth in the statute. R.I. Gen. Laws § 39-1-27.7.1(d). In recent years, the PUC has addressed concerns that the level of spending the Company has proposed in ISR Plan budgets has placed too much upward pressure

on customer rates. Accordingly, the PUC opened a separate docket to address the ISR budgeting process. *See In re: The Narragansett Electric Co. d/b/a Rhode Island Energy - Electric Infrastructure, Safety & Reliability (ISR) Plan Budgeting and Planning Processes*, Docket No. 23-34-EL. Following that docket, as part of its review and approval of the Company's FY 2025 Electric ISR Plan, the PUC adopted a new budgetary framework that would apply starting with that year's ISR budget. That framework: (1) established a consolidated soft budget cap for combined non-discretionary and discretionary spending with a 2.5-percent buffer above which the Company would incur a reduction in revenue requirement for that year's ISR rate factor equal to one year of revenue requirement on the full amount of the spending in excess of the consolidated soft budget cap; (2) established separated tracking for Major Projects³ budgets and imposed a separate budget cap on those projects that would apply in the same way as the consolidated soft budget cap for combined non-discretionary and discretionary spend; and (3) imposed of a 10-percent buffer on operations and maintenance ("O&M") spend on vegetation management and inspection and maintenance ("I&M") spending, pursuant to which, if the Company exceeded the buffer, the entirety of the spending in excess of the budget would be disallowed. *See Report and Order at 7-9, In re: The Narragansett Electric Company d/b/a Rhode Island Energy's Electric Infrastructure, Safety, and Reliability Plan FY 2025 Proposal*, Docket No. 23-48-EL (October 25, 2024). The Commission explained that the proposed new budgetary framework was "reasonable because it is consistent with both the construct of the ISR statute and principles of traditional ratemaking[.]" *Id.* at 10.

Subsequently, in connection with the Company's FY 2026 Electric ISR Plan, the PUC again evaluated the application of the new budgetary framework it had adopted the previous year

³ "Major Projects" are defined as projects that total more than \$5 million in forecasted spending and are budgeted to take more than one year to complete.

to the Company's proposed budget. The PUC approved a consolidated soft budget cap for combined discretionary and non-discretionary spending at a reduced amount from the Company's proposal. *See* Report and Order at 10-14, *In re: The Narragansett Electric Co. d/b/a Rhode Island Energy - FY 2026 Electric Infrastructure, Safety and Reliability (ISR) Plan*, Docket No. 24-54-EL (July 17, 2025). In so doing, the PUC acknowledged:

[N]othing in the framework nor the decision to limit eligibility for ISR cost recovery relieves the Company from adequately investing in its system. It is the Company and not the Commission that ultimately bears responsibility to provide safe and reliable service. The ISR serves as an accelerated cost recovery tool for investments that the Company can prove meet the statutory standard. **Nothing in this order prohibits the Company from making needed investments and seeking cost recovery in its next rate case.**

Id. at 15-16 (emphasis added).

The PUC, therefore, has interpreted and implemented the ISR statute for the purposes of establishing frameworks and guidelines that manage the Company's recovery of infrastructure investments that are eligible for the special rate recovery established by the ISR Statute for the purpose of encouraging such investment. In so doing, the PUC also has reminded the Company that its ISR budgets are not the only mechanism through which the Company can make investments that it determines are necessary. Rather, the PUC has directed that the Company has not only the option, but the obligation, to make needed investments, and the Company can then seek cost recovery through traditional ratemaking in base distribution rate cases. *See* Report and Order at 16 n.54, *In re: The Narragansett Electric Co. d/b/a Rhode Island Energy - FY 2026 Electric Infrastructure, Safety and Reliability (ISR) Plan*, Docket No. 24-54-EL (July 17, 2025) ("Delay of recovery of an expense from the special ratemaking treatment provided by ISR is not a disallowance of cost. Instead, the Company can seek to include that investment in its rate base for rate recovery in its next rate case. Thus, if the Company, despite a Commission ruling

determines that it must make an investment in the system that is prudent, it has the legal obligation to do so and it may request cost recovery no later than the next rate case. The Company appeared to assert that if it is level funded, it will not invest in a necessary component of the system. This position appears to be an inappropriate attempt to shift risk from the Company onto the regulator for management decisions.”) *quoting* Report and Order at 15-16, *In re: The Narragansett Electric Company d/b/a Rhode Island Energy’s Electric Infrastructure, Safety, and Reliability Plan FY 2024 Proposal*, Docket No. 22-53-EL (Dec. 1, 2023).

D. The Company’s FY 2027 Electric ISR Plan

With this history and framework in mind, the Company developed and proposed its FY 2027 Electric ISR Plan. As explained in the LaFond Rebuttal and the Constable Rebuttal, after the PUC’s open meeting decision on the FY 2026 Electric ISR Plan budget, the Company identified that it would need to: (a) develop an FY 2027 Electric ISR Plan budget that was close to the same amount as the approved FY 2026 Electric ISR Plan budget, and (b) make the investments that it determined were necessary for the safe and reliable operation of the electric distribution system. Accordingly, following that open meeting decision, the Company determined that it would defer certain projects and make certain other separate investments for which it would seek traditional rate recovery. In doing so, the Company facilitated development of an FY 2027 Electric ISR Plan budget only slightly greater than the consolidated soft budget cap established in the FY 2026 Electric ISR Plan, but also moved forward with the separate investments it determined, in the exercise of its role as the manager of and party responsible for the safe and reliable operation of the electric distribution system, were needed. Those separate investments are not part of the FY 2027 Electric ISR Plan budget, and they are not investments for which the Company would seek cost recovery through the ISR rate mechanism once they

have been completed and placed into service for the benefit of customers. The Company made the decision to proceed in this manner to follow the interpretation and implementation of the ISR Statute elucidated through the PUC's decisions, taking on the risk for that management decision.

As a result of the Company's decision, and as a matter of law, the Company is accepting regulatory risk to make these additional investments. It is not getting contemporaneous cost recovery through the ISR rate reconciliation mechanism for them. Rather, it is making the financial commitment to move forward with these investments now. This provides customers with the benefits of those investments before the costs for those investments become part of rates. The Company will have to submit them as part of a future base distribution rate case after the investments have been completed and placed in service. Further, the Company will experience regulatory lag on any cost recovery it eventually obtains for these investments.

III. The Division's Position on the Company's FY 2027 Electric ISR Plan is Contrary to Law

In the Booth Testimony, the Division proposes that the Company's consolidated soft budget should be reduced to the amount of the Company's proposal for categories of spending identified as non-discretionary, plus an amount for pole replacements. The apparent basis for that recommendation is the Division's disagreement that it is appropriate for the Company to make the separate investments that it has not included in the FY 2027 Electric ISR Plan budget. As support for this position, the Division contends that keeping these investments separate from the ISR budget makes the proposed investment plan incomplete such that the Division could not complete a holistic review. The Division further raises concerns that the spending on the separate investments means that the proposed FY 2027 Electric ISR Plan budget does not reflect the Company's actual proposed investment budget. This recommendation and each of the Division's

bases for it are inconsistent with the ISR Statute and the PUC's implementation and interpretation of that statute.

A. The ISR Statute does not Prohibit Investments Separate from the ISR Budget

As set forth, *supra*, there is no language in the ISR Statute that indicates that the ISR is the exclusive mechanism through which the Company can propose, make, and recover the costs of investments for safety and reliability. As reflected in the PUC's decisions since the adoption of the ISR in 2010, the purpose of the ISR is to create a mechanism to incentivize needed investment; it is not to impose an obstacle to the Company making traditional investments when needed. As the PUC has applied the ISR statute in recent years to address concerns about rate impact, the PUC has continued to affirm the Company's ability to make investments it determines are needed separate from the ISR. Accordingly, the Division's position that the Company cannot make these separate investments has no basis in law.

B. The Company's FY 2027 Electric ISR Plan Proposal Satisfied All Legal Requirements Under the ISR Statute

The Company complied with the ISR Statute when preparing its proposed FY 2027 Electric ISR Plan budget and submitting it to the Division for consultation before filing it with the PUC. The ISR Statute requires that the Company submit its proposed budget and investments to the PUC at least 60 days before the Company files with the PUC. R.I. Gen. Laws § 39-1-27.7.1(d). The Company did so. The language of the ISR Statute does not expressly mandate that the Company provide all information about all investments that the Company is planning. Rather, the statute states that the Company "shall submit a plan" for consultation with the Division. *Id.*

The Company understands that the consultation process required by the ISR Statute reasonably calls for the Company to provide the Division with information necessary to evaluate

the proposed ISR Plan budget. R.I. Gen Laws § 39-1-27.7.1(d). The Company did so. The Division received the Company's full long range investment plan and responded to the Division's data requests as part of the consultative process. The Division's position that it must have all the detailed information, including cost estimates and projections, for all investments being made separate from the Company's ISR Plan budget has no basis in the ISR Statute, nor is it directed through PUC decisions that all such information must be provided. Rather, the Division received from the Company information necessary to perform its role to "cooperate in good faith to reach an agreement on a proposed plan." *Id.*

The Division's position indicates that it wants to be the clearinghouse vetting all the Company's proposed investments. That is not the legal construct established by the ISR Statute. The ISR Statute provides that the Division must "cooperate in good faith" to attempt to reach agreement with the Company on the Company's proposed plan and budget. R.I. Gen Laws § 39-1-27.7.1(d). It does not indicate that the Division must "concur" with all the Company's proposed investments, including the separate traditional utility investments, before the Company proceeds. *See, e.g.,* Booth Testimony at 11 ("The Division did not concur with all the projects now being advanced outside the ISR Plan."). Thus, the Division's position regarding what it needs to perform its statutory duty under the ISR Statute – and what the Company must do to comply with the ISR Statute – is an expansion of the Division's role beyond what is contemplated by the statutory design.

The Division's position also is not consistent with the PUC's decisions implementing the ISR Statute. The PUC has reminded the Company that it has the right and obligation to make the investments it deems necessary. *See, supra*, p. 9. The Company's obligation is to cooperate in good faith with the Division as part of the consultation process. As explained in the LaFond

Rebuttal, the Company did just that; the Division had all the information necessary to assess the Company's proposed FY 2027 Electric ISR Plan investments. Accordingly, the PUC should reject as a matter of law the Division's suggestion that the Company must propose all investments it intends to make as part of its proposed Electric ISR Plans.

C. The Division's Proposed Consolidated Soft Budget has no Legal Basis

The Company's proposed FY 2027 Electric ISR Plan budget is fully supported with an evidentiary basis as to why the proposed investments are reasonably needed for safe and reliable service over the short and long term. *See* R.I. Gen. Laws § 39-1-27.7.1(d). The Division has reviewed the Company's proposed investments and the information supporting those investments. The Division has not provided an evidentiary basis that could support a conclusion that the only investments that are reasonably needed to provide safe and reliable service over the short and long term are those that make up the "non-discretionary" spending presented in the Company's proposal. Rather, through the consultative process with the Division (as well as prior ISR dockets), the Company learned that the Division has generally agreed that the investments the Company has proposed are reasonably needed for safe and reliable service over the short and long term. *See id.*

The Division's recommendation is, thus, arbitrary and therefore insufficient to support a PUC order adopting it.⁴ The ISR process is intended to facilitate the reasonably needed investments for safety and reliability. Yet, the Division has made a recommendation that would approve a limited budget that does not include budgeted amounts for investments it

⁴ Under R.I. Gen. Laws § 39-5-3, the Rhode Island Supreme Court cannot reverse a decision of the PUC unless it concludes that "the commission exceeded its authority or acted illegally, arbitrarily, or unreasonably." Applying this standard, the Rhode Island Supreme has held that PUC orders must be "fairly and substantially supported by legal evidence, and sufficiently specific to enable [the Court] to ascertain if the evidence upon which the commission based its findings reasonably supports the result." *Roberts v. New England Telephone and Telegraph Co.*, 487 A.2d 136, 138 (R.I.1985).

acknowledges meets that legal standard. Accordingly, there is an insufficient legal basis to accept the Division's recommendation, and the PUC should reject it. *See Narragansett Elec. Co. v. Rhode Island Public Utilities Com'n*, 35 A.3d 925, 936 (R.I. 2012) (reversing PUC decision in rate case on issue of capital structure based on "dearth of evidence" for result that led the Supreme Court to conclude that the analysis was "preordained" to reach a desired result).

D. The Division is Legally Incorrect Regarding the Rate Impact of the Separate Investments

As discussed, *supra*, the Company receives more contemporaneous cost recovery when it makes investments as part of an approved ISR budget. In contrast, when the Company makes other investments, the Company cannot receive cost recovery until after it completes the investments, places them into service, and then files a new base distribution rate case.⁵

Here, the Division contends that the Company's proposed FY 2027 Electric ISR Plan budget does not reflect the true potential rate impact to customers from the Company's investments because the separate investments also will impact rates. The Division does not, however, contend that the Company should never make these separate investments; it contends only that those investments should be included in the ISR Plan and potentially made at a later date. As such, the Division's position on this point is legally incorrect for two reasons: (1) the Company's separate investments will not be a part of rates charged to customers through the ISR mechanism but rather will be recovered at some point later, after they are complete and placed in service, and cost recovery for them is approved as part of a future distribution rate case, and (2) the spending on these investments, even under the Division's position, would be recovered through the ISR rate recovery mechanism in future years. Thus, there is no legal basis for the

⁵ In all circumstances, the Company's ability to recover costs through rates is subject to regulatory review and approval.

PUC to conclude, as the Division alleges, that the Company is masking the true cost of its proposals by pursuing the separate investments. Rather, by making these separate investments now, as opposed to strictly making investments through its future ISR budgets, the Company is bringing the benefits of those investments to customers sooner while still delaying the cost recovery on those investments and taking on the regulatory lag associated with that delay.

IV. CONCLUSION

For the reasons set forth in this legal memorandum, as well as those set forth in the LaFond Rebuttal, the PUC should: (1) reject the Division's position that the Company must include all its investments for safety and reliability reasons in proposed ISR budgets, and (2) reject the Division's recommendation that the consolidated soft budget cap for the FY 2027 Electric ISR Plan be limited to the investments for non-discretionary investments and an amount for application of the FCC rules to third party attachments. Instead, the PUC should approve the Company's FY 2027 Electric ISR Plan as proposed.

Respectfully submitted,

**THE NARRAGANSETT ELECTRIC
COMPANY d/b/a RHODE ISLAND ENERGY**

By its attorney,



Jennifer Brooks Hutchinson, Esq. (#6176)
The Narragansett Electric Company d/b/a
Rhode Island Energy
280 Melrose Street
Providence, RI 02907
(401) 784-7288

/s/ Adam M. Ramos
Adam M. Ramos (#7591)
Hinckley, Allen & Snyder LLP
100 Westminster Street, Suite 1400
Providence, RI 02903-2319
T: (401) 457-5164 / F: (401) 277-9600
aramos@hinckleyallen.com

Dated: March 4, 2026

CERTIFICATE OF SERVICE

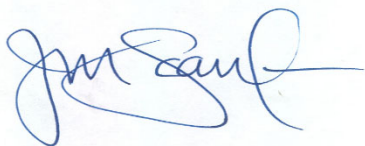
I hereby certify that on March 4, 2026, I sent a copy of the foregoing to the service list by electronic mail.

/s/ Adam M. Ramos

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

March 3, 2026

Date

**Docket No. 25-54-EL – RI Energy’s Electric ISR Plan FY 2027
Service List as of 1/21/2026**

Name/Address	E-mail Distribution	Phone
<p>The Narragansett Electric Company d/b/a Rhode Island Energy Jennifer Brooks Hutchinson, Esq. 280 Melrose St. Providence, RI 02907</p> <p>Adam M. Ramos, Esq. Hinckley Allen 100 Westminster Street, Suite 1500 Providence, RI 02903-2319</p>	JHutchinson@pplweb.com ;	401-316-7429
	cobrien@pplweb.com ;	
	jscanlon@pplweb.com ;	
	aramos@hinckleyallen.com ;	
	AGiron@hinckleyallen.com ;	
	sbriggs@pplweb.com ;	
	KMCampbell@RIEnergy.com ;	
	PLaFond@RIEnergy.com ;	
	NKocon@RIEnergy.com ;	
	JADenson@pplweb.com ;	
	CMBird@RIEnergy.com ;	
	smtoronto@RIEnergy.com ;	
	ATLaBarre@RIEnergy.com ;	
	reconstable@RIEnergy.com ;	
	krcastro@RIEnergy.com ;	
	CJRooney@RIEnergy.com ;	
	joliveira@pplweb.com ;	
	TGShields@pplweb.com ;	
	nhawk@pplweb.com ;	
	PDCapwell@RIEnergy.com ;	

Division of Public Utilities (Division) Gregory Schultz, Esq. Margaret Hogan, Esq.	Gregory.Schultz@dpuc.ri.gov ;	
	Margaret.I.hogan@dpuc.ri.gov ;	
	Ellen.golde@dpuc.ri.gov ;	
	John.bell@dpuc.ri.gov ;	
	Al.contente@dpuc.ri.gov ;	
	Robert.Bailey@dpuc.ri.gov ;	
	Christy.Hetherington@dpuc.ri.gov ;	
	leo.wold@dpuc.ri.gov ;	
	mark.a.simpkins@dpuc.ri.gov ;	
	kyle.j.lynch@dpuc.ri.gov ;	
	jvanreen@vanreenaccounting.com ;	
dschmelzer@vanreenaccounting.com ;		
David Effron Berkshire Consulting 12 Pond Path North Hampton, NH 03862-2243	Djeffron@aol.com ;	603-964-6526
Gregory L. Booth, PLLC 14460 Falls of Neuse Rd. Suite 149-110 Raleigh, N. C. 27614	gboothpe@gmail.com ;	919-441-6440
Linda Kushner L. Kushner Consulting, LLC 514 Daniels St. #254 Raleigh, NC 27605	Lkushner33@gmail.com ;	919-810-1616
Office of Energy Resources Adam Fague, Esq.	adam.fague@doa.ri.gov ;	
	nancy.russolino@doa.ri.gov ;	
	Christopher.Kearns@energy.ri.gov ;	
	Shauna.Beland@energy.ri.gov ;	
	William.Owen@energy.ri.gov ;	
	david.augustyn@energy.ri.gov ;	
Office of Attorney General Nick Vaz, Esq. 150 South Main St. Providence, RI 02903	nvaz@riag.ri.gov ;	401-274-4400 x 2297
	mgomes@riag.ri.gov ;	
Conservation Law Foundation (CLF) James Rhodes, Esq. Conservation Law Foundation 235 Promenade Street Suite 560, Mailbox 28 Providence, RI 02908	jrhodes@clf.org ;	401-225-3441
File an original & 9 copies w/ PUC: Stephanie De La Rosa, Commission Clerk Public Utilities Commission 89 Jefferson Blvd.	stephanie.delarosa@puc.ri.gov ;	401-780-2107
	Cynthia.WilsonFrias@puc.ri.gov ;	
	ryan.coyne@puc.ri.gov ;	

Warwick, RI 02888	Todd.bianco@puc.ri.gov ;	
	Alan.nault@puc.ri.gov ;	
	Kristen.L.Masse@puc.ri.gov ;	
Matt Sullivan, Green Development LLC	ms@green-ri.com ;	
Emily Koo, Director, Acadia Center	EKoo@acadiacenter.org ;	