

**STATE OF RHODE ISLAND
DIVISION OF PUBLIC UTILITIES AND CARRIERS**

Petition of PPL Corporation, PPL Rhode)	
Island Holdings, LLC, National Grid USA,)	
and The Narragansett Electric Company for)	
Authority to Transfer Ownership of The)	Docket No. D-21-09
Narragansett Electric Company to PPL)	
Rhode Island Holding, LLC and Related)	
Approvals)	

Pre-Filed Surrebuttal Testimony of

MARK D. EWEN AND ROBERT D. KNECHT

On Behalf of the

Attorney General of the State of Rhode Island

Topics:

**Financial Impacts
Due Diligence
Environmental Impacts
Tax Implications
Operating Cost and Rate Impacts**

Date Filed: December 9, 2021

SURREBUTTAL TESTIMONY OF MARK D. EWEN AND ROBERT D. KNECHT

1 **Q. Please introduce this surrebuttal testimony.**

2 A. We are Mark Ewen and Bob Knecht. We pre-filed direct testimony earlier in this
3 proceeding and our qualifications were presented therein. This surrebuttal testimony
4 responds to rebuttal testimony submitted by the Applicants, specifically the pre-filed
5 rebuttal testimony of PPL witnesses Bethany L. Johnson, David J. Bonenberger, John J.
6 Reed and Daniel S. Dane, Tadd Henninger, and Todd J. Jirovec, as well as the NG rebuttal
7 testimony of Christopher Kelly and Duncan Willey.¹

8 **Q. Has the Applicants' rebuttal testimony caused you to modify any of the conclusions
9 and recommendations in your direct testimony?**

10 A. No. Applicants have not materially addressed the key threshold issues addressed in our
11 testimony. We do recognize, however, that PPL has more formally made some of the
12 commitments that we recommended be part of any approval of the proposed transaction.
13 Specifically, PPL has committed to certain "ring-fencing" provisions to protect both NEC's
14 financial viability and its ratepayers.²

15 We also recognize that the Applicants have addressed some of the cost concerns we raised
16 in direct testimony. In particular, PPL has clarified that the allocation of corporate costs in
17 its comparative operations cost analysis reflects an estimate of the impact of the sale of
18 WPD.³ In addition, PPL has provided some additional detail regarding the magnitude and

¹ Abbreviations defined in our direct testimony apply to this testimony.

² Bonenberger Rebuttal at 7.

³ Jirovec Rebuttal at 13.

1 potential treatment of certain transition costs.⁴ Further, PPL appears to have at least begun
2 to address some of our operational concerns, by retaining expertise in LNG operations.⁵

3 Nevertheless, our overall conclusions and recommendations as summarized at pages 8
4 through 11 in our pre-filed direct testimony remain valid.

5 **Q. Do you have any clarifications to your direct testimony?**

6 A. Yes. In our direct testimony, we concluded that ratepayers were at significant risk to higher
7 rates due to the uncertainty associated with future costs arising from the proposal to
8 substantially modify NEC's operating practices under the new owner.⁶ If the transaction
9 is to be approved, we recommended that certain ratepayer protections be required,
10 including a three-year "stayout" for a base rate filing from the closing date of the
11 transaction.⁷ To be clear, it was our intent that the stayout be three years before *filing* a
12 rate case, which would imply a longer period in which rates remain at their current levels.
13 We recommended a three-year stayout for a *filing* based on the idea that PPL would need
14 a full year of operations past the end of the two-year transition period to develop a full
15 understanding of its costs to operate NEC.

16 **Q. Did the Applicants update their filing to include basic post-transaction financial**
17 **statements for NEC?**

18 A. No. Mr. Henninger indicates that financial statements are not available due to various
19 reasons, not least of which is uncertainty about future costs under PPL operation. Mr.
20 Henninger indicates only that PPL intends to comply with SEC regulations.⁸

⁴ Bonenberger Rebuttal at Exhibit B.

⁵ Bellar Rebuttal at 8-9.

⁶ Direct Testimony and Exhibits of Mark D. Ewen and Robert D. Knecht ("Ewen/Knecht Direct") at 8, 10, 11, 28-32.

⁷ *Id.*, at 11 and 35.

⁸ Henninger Rebuttal at 5.

1 Messrs. Reed and Dane argue that such financial statements are unnecessary, because other
2 information such as financial analyst reports and credit rating agency reports are provided.⁹
3 Without post-transaction financial statements, any analyses prepared by financial analysts
4 and credit rate agencies are speculative at best. We remain mystified by PPL's resistance
5 to providing even a reasonable estimate of such basic financial information.

6 **Q. Mr. Henninger also indicates that post-transaction financial statements for PPLRI**
7 **are irrelevant because it is a holding company and it is not regulated. Do you agree?**

8 A. No. Mr. Henninger confirms that the approximately \$1 billion in goodwill associated with
9 the proposed transaction will be recorded on the PPLRI books but not on NEC's books.¹⁰
10 While PPL has not so indicated, it may choose to attempt to issue PPLRI debt to finance
11 that asset. If it were to do so, the financial leverage and risk of PPLRI would increase,
12 which would likely be reflected in the debt ratings for NEC. We therefore believe that both
13 the financials and the capital structure for PPLRI are relevant to the Division's evaluation
14 of the proposed transaction.

15 **Q. In several areas of its rebuttal testimony, the Applicants argue that NEC will continue**
16 **to be regulated by the Division and the PUC, and thus ratepayers are adequately**
17 **protected.¹¹ Is this accurate?**

18 A. Not necessarily. In our non-legal view, the regulatory standards that the Division and the
19 PUC will apply in future proceedings are not necessarily the same as those that apply to
20 this proposed transaction.

21 In particular, PPL proposes to adopt a substantially different operating model for NEC than
22 that used by NG. PPL's approach will involve more local operations, it may involve capital
23 for O&M substitution, it may involve alternative staffing strategies, and it may involve
24 retaining specialized outside expertise. In the current proceeding, PPL must demonstrate,
25 at the least, that the costs associated with these changes will not have a negative impact on

⁹ Reed/Dane Rebuttal at 37.

¹⁰ Henninger Rebuttal at 8.

¹¹ See, e.g., Reed/Dane Rebuttal at 7, Johnson Rebuttal at 12-13, 17, 21.

1 ratepayers relative to continuing the status quo. In regulatory rate proceedings, however,
2 it is our experience that PPL will not need to demonstrate that the costs are lower than those
3 of NG; PPL need only demonstrate that the costs were prudently incurred. Prudence
4 generally does not require that a utility's management be optimal; in practice it requires
5 only that management decisions be defensible. Moreover, in our experience, the burden
6 for demonstrating that any utility capital or operating spending was imprudent falls on
7 intervenors, and that it is extremely difficult to demonstrate that any particular expenditure
8 was imprudent.

9 In addition, if the Division approves the proposed transaction, it will do so knowing that
10 PPL plans to adopt a substantially different operating philosophy. We would expect that
11 PPL's attorneys in future proceedings will cite to such approval as justification that PPL's
12 operating model is reasonable, and thus PPL need only demonstrate that its costs were
13 prudently incurred *within* that operating model.

14 We therefore respectfully disagree that continued regulation is necessarily sufficient to
15 meet either the "no harm" or the "public interest" standard for the proposed transaction.

16 **Q. PPL relies substantially on the cost comparison presented in Attachment PPL-DIV 1-**
17 **54-1 as a demonstration that its operating costs will be no higher than those under**
18 **NG management.¹² Please respond to the Applicants' rebuttal.**

19 A. The Company's rebuttal testimony generally indicates that PPL is developing a better
20 understanding of how it will need to operate NEC, and it has more specific plans for various
21 functions. Nevertheless, we observe that the Applicants did not update their cost
22 comparison between when it was filed on September 30 and the submission of rebuttal
23 testimony on November 23. Thus, our prior concerns regarding operating cost uncertainty
24 remain, which are our primary considerations for our recommendation for a rate stayout if
25 the proposed transaction is approved.

¹² See, for example, Reed/Dane Rebuttal at 7. It is now reported that this document was prepared with the support of PwC under Mr. Jirovec. Jirovec Rebuttal at 9.

1 We acknowledge that PPL appears to have moved forward in retaining technical and
2 operating expertise for LNG operations, about which we expressed concern in our direct
3 testimony.¹³ We also acknowledge that PPL indicates that its allocation of corporate costs
4 in this analysis reflects an estimate of the impact of the sale of WPD, about which we also
5 expressed concerns.¹⁴ Finally, we note that some of the capital costs excluded from the
6 PPL/PwC cost comparison are recognized as transition costs, and thus may or may not be
7 claimed by PPL in future rate proceedings.¹⁵

8 Nevertheless, PPL's analysis remains insufficient to demonstrate that ratepayers will not
9 be negatively impacted by the proposed transaction. As we explained in our direct
10 testimony, the shortfalls in the PPL analysis fall into two categories: (1) it fails to reflect
11 the risk that must be borne by ratepayers; and (2) it is incomplete.

12 **Q. Mr. Jirovec complains that you have not provided your own analysis of PPL's**
13 **anticipated operating cost vis-à-vis NG's operations. Please respond.**

14 A. Mr. Jirovec's complaint fails both in law and in logic. We are advised by counsel that it is
15 the Applicants' burden to demonstrate that the proposed transaction will not harm
16 ratepayers and is in the public interest. It is not our burden to demonstrate otherwise.
17 Moreover, even if we were to assume, *arguendo*, that the PPL/PwC analysis was both
18 complete and unbiased, the issue remains that there is substantial uncertainty associated
19 with the cost projections. PPL has proposed to make material changes to many of NEC's
20 operations, making the uncertainty much greater than that associated with a utility sale that
21 simply shifts operations from one owner to another. Since ratepayers implicitly bear the

¹³ NG Rebuttal Testimony at 20.

¹⁴ Jirovec Rebuttal at 13.

¹⁵ Bonenberger Rebuttal at Exhibit B, notably regarding the customer service center and the distribution control center cited in our direct testimony.

1 risk that costs will be higher than forecast, it is not unreasonable to include some ratepayer
2 protections as an offset for absorbing that risk.¹⁶

3 **Q. Does PPL acknowledge that it is adopting a significantly different operating model**
4 **for NEC, and that the cost estimates are uncertain?**

5 A. Yes, both explicitly and implicitly.

6 • PPL acknowledges that the analysis is substantially uncertain, it is not a budget, and it
7 reflects the best information available at the time.¹⁷

8 • PPL indicates that it simply assumes that Rhode Island non-labor costs would “closely
9 mirror” those incurred by NG.

10 • PPL excluded one-time costs incurred by NG, as if there will be no future one-time
11 costs.

12 • It is unclear whether the cost estimate from September 30 reflects the additional
13 expertise PPL now acknowledges it will require, such as retaining the Brant Group as
14 discussed in the rebuttal testimony of both Mr. Bonenberger and Mr. Bellar.

15 **Q. Are there also uncertainties regarding the treatment of transition costs?**

16 A. Yes. The Applicants have provided some additional detail in rebuttal showing transition
17 costs of about \$400 million.¹⁸ The Company indicates that it will make a determination on
18 a case-by-case basis whether it will seek recovery of transition costs.¹⁹ Since it is unknown

¹⁶ This risk is substantially similar to the risk absorbed by utility shareholders in a regulatory environment, namely that costs within a rates period vary from those established in the rate proceeding. Utilities, of course, demand a premium in their allowed returns to reflect that risk. In that case, however, utilities have at least some control over the costs being incurred; ratepayers have no similar control.

¹⁷ Attachment PPL-DIV 1-54-1 at 2.

¹⁸ Bonenberger Rebuttal at 31 and Exhibit B.

¹⁹ Johnson Rebuttal at 11, 19; Bonenberger Rebuttal at 32

1 what transition costs will be claimed, it is similarly unknown what transition costs will be
2 included in future rates.

3 PPL attempts to address this concern by arguing that none of those costs will be reflected
4 in rates unless they provide a net benefit. For this argument to be valid, PPL would need
5 to demonstrate that the net benefit must be measured relative to the costs presented in the
6 cost comparison. That is, PPL would only be able to claim transition costs if the costs
7 shown in the cost comparison will be reduced by more than the transition cost being
8 claimed.

9 For example, Mr. Bonenberger indicates that PPL expects to incur some \$315 million in
10 new IT systems installation costs as part of the transition, for which it may or may not
11 claim cost recovery. In order for PPL to eventually attempt to claim those costs, it would
12 need to demonstrate that the \$315 million would reduce costs reflected in the cost
13 comparison (on a lifecycle basis) by more than \$315 million. However, we are unable to
14 locate the specific costs associated with that investment in the Company's cost comparison
15 analysis. Thus, it is unclear how PPL will demonstrate in future rate proceedings that the
16 transition investments result in savings relative to the costs derived in this proceeding.

17 **Q. In your direct testimony, you recommended that certain “ring-fencing” plans offered**
18 **by PPL to protect both NEC’s financial viability and its ratepayers be formally**
19 **adopted as part of any approval of the transaction. How has PPL responded?**

20 A. Putting aside the issue of a maximum debt to capital ratio, Mr. Henninger confirms those
21 commitments. In discovery, PPL indicated that those commitments are: *“First, PPL plans*
22 *to have Narragansett continue to issue its own long-term debt to finance its operations.*
23 *Second, Narragansett has no plans to guarantee the credit of any PPL affiliates and will*
24 *not do so at any point in the future without first obtaining regulatory approval. Third,*
25 *neither PPL nor any of its affiliates plan to borrow or issue any security or incur any debt*

1 *that pledges any assets of Narragansett, and they will not do so at any point in the future*
2 *without first obtaining regulatory approval.”²⁰*

3 If the proposed transaction is approved, we therefore recommend that these commitments
4 be explicitly recognized in the order.

5 **Q. PPL witnesses Messrs. Reed and Dane argue that, because Moody’s indicated that it**
6 **was considering an upgrade in its rating for NEC debt, separate ring-fencing**
7 **commitments are not required.²¹ Do you agree?**

8 A. No, for two reasons.

9 First, from our non-legal viewpoint, we respectfully disagree that merely retaining sub-
10 optimal or inadequate ring-fencing protections while introducing a new and unknown
11 owner in this jurisdiction is in the public interest.

12 Second, the Moody’s evaluation to which Messrs. Reed and Dane apparently refer was
13 provided in Attachment NG-DIV 8-5-3. That document appears to conclude that an
14 upgrade in the NEC debt rating may eventually be merited because (a) PPL is financially
15 more sound than NG, (b) NEC currently has an “absence of significant ring-fencing
16 provisions,” and (c) NEC is currently permitted to pay dividends up to a debt to capital
17 ratio well above the norm. Moreover, Moody’s makes it clear that any upgrade will be
18 dependent on future Moody’s evaluation of NEC’s cash flow to debt ratio. (Since PPL
19 continues to refuse to provide any post-transaction financial statements to the parties to this
20 proceeding, we must assume that Moody’s similarly has no access to such financial
21 information.) Thus, overall, it would not be unreasonable to assume that Moody’s based
22 its opinion about the potential for an upgrade at least in part on the assumption that ring-
23 fencing provisions such as those we recommend will indeed be adopted by the new owner.

24 Moreover, PPL appears to have no objection to making those commitments.

²⁰ PPL-DIV-6-3.

²¹ Reed/Dane Rebuttal at 10.

1 **Q. In addition to those ring-fencing commitments, you recommended in your direct**
2 **testimony that the debt to capital ratio for NEC and PPLRI not exceed 50 percent,**
3 **with goodwill assets excluded from the calculation. Please address the Applicants’**
4 **response to that recommendation.**

5 A. Mr. Henninger indicates that PPL intends to manage NEC’s finances to maintain a debt to
6 capital ratio that is “substantially consistent” with the implied 49 percent debt to capital
7 ratio from the most recent rate case.²² Mr. Henninger argues simply that a specific
8 numerical constraint is not necessary, and that PPL will maintain NEC’s credit metrics. In
9 effect, PPL’s position is “trust us.”

10 In the spirit of “trust but verify,” we retain our recommendation that a specific limit on the
11 debt to capital ratio be adopted, until such time as the regulator is comfortable with PPL’s
12 financial management of the utility. For the reasons discussed above, we believe that limit
13 should apply to both PPLRI and NEC. We note that Advocacy Section witness Mr.
14 Matthew I. Kahal made a similar recommendation for a debt to capital limit of 52 percent.²³
15 We have no material disagreement with Mr. Kahal’s recommendation.

16 As this appears to be PPL’s intent, such a commitment would not appear to be unreasonably
17 burdensome. We therefore reaffirm our recommendation that this limitation on the debt to
18 capital ratio for both NEC and PPLRI, subject to any changes subsequently approved by
19 the regulator, be included in any order approving the proposed transaction.

20 **Q. PPL witness Bonenberger (at 46-48) addresses your concern regarding NEC’s**
21 **compliance with the 2021 Act on Climate, particularly with respect to significant**
22 **investments in gas distribution. Please address that rebuttal testimony.**

23 A. PPL takes the position that it needs to become more familiar with NEC’s operations before
24 making any changes to investment policies. While we understand the need for PPL to
25 become more familiar with both NEC and the legal environment in Rhode Island, we would

²² Henninger Rebuttal at 11.

²³ Direct Testimony and Supporting Exhibits of Matthew I. Kahal, at 12. Mr. Kahal expresses the limit as a minimum equity to capital ratio of 48 percent, excluding goodwill from equity and including short-term debt.

1 think that this consideration would make a prudent utility *more* cautious with its expansion
2 investments until the policy environment is better understood.

3 Mr. Bonenberger also takes the position that the 2021 Act on Climate does not, in an of
4 itself, impose any specific requirements on NEC. PPL indicates that it will actively
5 participate in the process by which specific actions are developed to meet the aggressive
6 targets laid out in the legislation, and therefore argues that there is no need for any
7 particular action at this time. In effect, PPL argues that NEC should be permitted to
8 continue with a natural gas distribution investment program, with little fear that
9 shareholders will ever be on the hook for stranded costs.

10 This is, of course, a standard utility response. Nevertheless, it should be recognized that
11 utilities are very effective in legislative, governmental, and regulatory processes. While it
12 is of course unknown what approach PPL will take in such processes, our experience is
13 that utilities are effective in delaying actions that are costly to both utility shareholders and
14 utility ratepayers. For a utility, participating in a bureaucratic governmental process is like
15 having home-court advantage.

16 In our view, what this line of argument ignores is certain specific aspects of the language
17 of the legislation that we highlighted in our direct testimony, namely § 42-6.2-9 which
18 specifies that the emission reduction targets specified for the plan are mandatory, and § 42-
19 6.2-10 which indicates that the mandatory reductions can be enforced through court
20 proceedings brought by the RIAG, any Rhode Island resident, or any registered Rhode
21 Island organization. In effect, the legislative targets may not be met through the careful
22 processes of a climate change coordinating council, but through judicial fiat. We therefore
23 retain our view that NEC should begin planning how it is realistically going to meet the
24 mandatory greenhouse gas emission targets beyond simply participating responsibly in the
25 governmental processes.

26 Finally, Mr. Bonenberger argues that any restriction on investments to expand the natural
27 gas distribution system would “hamstring” NEC’s ability to meet the energy needs of its
28 customers. We respectfully submit that NEC has an obligation to meet the energy needs

1 of its customers in a way that is consistent with meeting the targets laid out in the 2021 Act
2 on Climate. This may very well mean that it would not be prudent for NEC to continue to
3 expand the natural gas distribution grid. It would likely be imprudent for PPL to continue
4 the grid expansion before it has prepared a careful evaluation of the implications of the
5 legislation.

6 **Q. Does this conclude your surrebuttal testimony?**

7 **A. Yes, it does.**

CERTIFICATION

I hereby certify under oath that the foregoing testimony is true and correct to the best of my knowledge, and that this declaration has been executed on this 9th day of December, 2021 in Arlington, Massachusetts.

By: Mark Ewen
Mark D. Ewen
Principal
Industrial Economics, Inc.

CERTIFICATION

I hereby certify under oath that the foregoing testimony is true and correct to the best of my knowledge, and that this declaration has been executed on this 9th day of December, 2021 in Lexington, Massachusetts.

By:

A handwritten signature in black ink, appearing to read 'R. D. Knecht', written over a horizontal line.

Robert D. Knecht
Principal
Industrial Economics, Inc.