STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION

IN RE: THE NARRAGANSETT ELECTRIC COMPANY d/b/a RHODE ISLAND ENERGY APPLICATION FOR APPROVAL OF A CHANGE IN ELECTRIC AND GAS BASE DISTRIBUTION RATES	:	**DOCKET NO. 25-45-GE**
IN RE: PROPOSAL TO CHANGE RATE ACCOUNTING AND ISSUE BILL CREDITS RELATING TO A COMMITMENT TO HOLD CUSTOMERS HARMLESS FROM AN ACQUISITION-RELATED INCREASE IN RATES	:	**DOCKET NO. 25-33-GE**

THE ATTORNEY GENERAL OF THE STATE OF RHODE ISLAND'S POST-HEARING REPLY MEMORANDUM

NOW COMES Peter F. Neronha, Attorney General of the State of Rhode Island ("Attorney General"), and hereby provides the within limited reply in the above-captioned docket[1] currently pending before the Rhode Island Public Utilities Commission ("Commission") concerning The Narragansett Electric Company d/b/a Rhode Island Energy's ("Company") request for a base distribution rate increase.

I. The Company Continues to Rely on a History of Overstated ROEs and General Inflation to Support an Unreasonable and Substantial Rate Increase.

For decades, publicly traded utilities have enjoyed Returns on Equity ("ROEs") that far exceed reasonable returns.[2] Still, the Company argues this excess should continue, compounding past over-generosity justified by overstating Company risks.[3] An appropriate ROE should be equal to the Company's actual cost of capital as calculated in its Weighted Average Cost of Capital

[1] As in initial briefing, the singular term "docket" refers to merged Commission Dockets 25-45-GE and 25-33-GE.
[2] *See* RIAG Brief at 7-8 (citing Malukoff Direct at 23 (citing Ellis, Mark. RIAG Response to RIE 1-13 at 15-37)); *see also* *id.* at 8 (explaining how increases in investor-owned utility rates have far outpaced their public counterparts)
[3] RIAG Brief at 6-7 (outlining overstated risks relied on by the Company); *compare* RIE Brief at 6 (citing reliance on "tried-and-true analyses" and summarily dismissing claims of consistent overearning).

("WACC").[4]

The Company admits that an ROE should align with the return investors identify as "necessary to support making the investment decision."[5] However, the Company does not grapple with the fact that a 10.75% profit in an inherently low-risk environment far exceeds the return necessary for investors to invest. Further, the Company's reliance on alleged "proxy" utilities shows a clear bias. On the one hand, the Company opines that ROEs of other utilities should be considered to determine that the Commission's proposed ROE is far too low.[6] Meanwhile, the Company conveniently omits that its own proposed ROE is more than 125 basis points above the average and almost 100 basis points higher than *any* authorized ROE in New England.[7] These other ROEs make poor comparators in any event, as they are still disconnected from market forces. For example, the Company's claim that rising interest rates impact ROEs[8] is unsupported by the evidence, as some of the highest ROEs in New England were approved during a period of historically low interest rates.[9]

II. The Company's Request for Increased Rates Continues to Fail to Properly Balance Ratepayer Impacts When Proposing Investments and Increases.

The Company did not adequately consider ratepayer interests in proposing to pursue high levels of investment and increases in utility bills, choosing instead to focus on its investors and its own opportunities to improve its system at any cost. It is well-established that *Federal Power Commission v. Hope Natural Gas Company*, 320 U.S. 591 (1944) requires that setting just and

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[4] *See* RIAG Brief at 5-9 (discussing the importance of aligning ROE with actual cost of capital to avoid unjust rates).
[5] RIE Brief at 4.
[6] RIE Brief at 5 ("The average of all allowed ROEs in the country for regulated electric or gas utilities is more than 100 basis points higher than the Division's recommendation.")
[7] RIE Response to Record Request 32 at 77.
[8] *See* RIE Brief at 9 (claiming that ROE should increase with benchmark interest rates).
[9] *See e.g.* RIE Response to Record Request 32 at 77, lines 7 and 12 (showing very low authorized 30-year treasury bond yields and very high authorized ROEs); *compare* RIE Brief at 6 (claiming "as benchmark interest rates increase, the reasonable expectation is that allowed utility ROEs also should increase.").

reasonable rates "involves a balancing of the investor and the consumer interests."[10] Still, the only mention of the word "affordability" in the Company's post-hearing brief appears in a high-level summation that the Company "acted responsibly to balance affordability with necessary investment."[11] The Company contends it reached this "balance" through proposals of limited applicability and duration: (1) the redesign of the Low Income Discount Rate ("LIDR"); (2) a payment grace period designed to correct known system errors; and (3) a proposal to expedite payment of monies the Company already owed to ratepayers as a result of its Hold Harmless Commitment.[12]

While the LIDR Settlement approved in this case importantly aligns relief with customer income and will no doubt provide necessary relief for many of the ratepayers who need it most (*especially if the Company is successful in raising everyone's rates*), the settlement does not represent a meaningful balancing of consumer interests with those of the Company. LIDR does not keep rates in balance for all customers and does not require any balance with the Company's profits; the Company redistributes the amount of the LIDR discounts to other customers, and receives its full recovery.

The touted three-day grace period again amounts to a non-concession by the Company unrelated to any balancing of interests. Company testimony noted the grace period was "intended" to ensure that payments were not mistakenly identified as late, and ratepayers were not erroneously penalized or defaulted from their payment plans.[13] Again, this supposed Company effort to "lessen the impact" of the Company's rate increase costs the Company nothing and fixes a known issue.

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[10] *See Hope,* 320 U.S. at 603; *see also* RIAG Brief at 6.
[11] RIE Brief at 3.
[12] *See* RIE Brief at 2.
[13] *See* June 9 Hr'g Tr. 249: 5-23. By way of example, the Company's current online payment system was failing to recognize payments made after 3:00 PM as having been paid until the following day. *See id.*

Finally, the Company's proposal to provide credits to satisfy its commitment to hold customers harmless from the elimination of Accumulated Deferred Income Tax ("ADIT") at the time of the 2022 sale of the Company (the "Hold Harmless Commitment") once again seeks to hide a symptom beneath a band aid while failing to address the underlying problem. Even assuming that the proper net present value of the credits was undisputed (as discussed below, it is not), the Company's payment of an obligation it already has does not amount to a balancing of affordability and necessary investment as required by *Hope*. Paying off the Hold Harmless Commitment amounts to resolution of a long-term commitment via near-term relief, with a long-term upward impact on rates.[14] Once again, the Company's claimed "balancing" places all weight on one side of the scale.

III. The Commission Does Have Authority to Adjust ROE Downward to Account for Poor Performance and/or Mismanagement. And It Should.

The Commission is an "impartial, independent body, and is charged with the duty of rendering independent decisions affecting the public interest and private rights based upon the law and upon the evidence presented before it[.]"[15] Moreover, the Commission has broad discretion in exercising its authority and powers to protect the public "against improper and unreasonable rates, tolls, and charges[.]"[16] With respect to a proposed rate increase, it is the Commission's duty to ensure that the approved rates are just.[17] The statutory standard for this rate case makes clear that at all times "the burden of proof to show that the increase is necessary in order to obtain a *reasonable compensation for the service rendered* shall be upon the public utility."[18] As such,

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[14] *See* *Initial Transmittal Letter 1-2*, *compare* June 1 Hr'g Tr. 63-65 (revenue requirement sans commitment).
[15] R.I. Gen. Laws § 39-1-11.
[16] *See* R.I. Gen. Laws § 39-1-1(c).
[17] *See e.g.* R.I. Gen. Laws § 39-3-11.
[18] R.I. Gen. Laws § 39-3-12.

evidence of defects in the services provided or mismanagement leading to unreasonable costs are at the very center of the Commission's review and justify downward adjustment.

Courts have widely upheld the authority of a regulator, such as the Commission, to adjust its approved ROE based on the quality of service provided by a utility.[19] In fact, the Company does not dispute the Commission's authority to make a downward adjustment to its ROE under certain circumstances, including where there have been pervasive customer service issues.[20] The Company's apparent claim, that this can only be done once the Company has been put on notice of a potential downward adjustment, is unsubstantiated and refuted by the very case law cited to support this contention.[21] The holding in *The United Illuminating Co. v. Pub. Utilities Regul. Auth.*, on which the Company relies, actually stated that: "The court concludes that [the regulator] has adequately stated its reasons for determining that [the utility] has poor customer service and that those reasons are supported by [the regulator's] reasonable factual conclusions and substantial evidence in the record."[22] The case also upheld ROE reductions that were imposed on other grounds, including failure to honor a commitment made by the utility.[23] Moreover, the Company confuses law prohibiting penalizing a utility for poor and inadequate service by reducing a rate

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[19] *See e.g. Gulf Power Co. v. Wilson*, 597 So. 2d 270, 273 (Fla. 1992) (noting Commission's broad discretion and noting that "after setting the rate of return range, 'the commission can make further adjustments to account for such things as accretion, attrition, inflation and *management efficiency.*'" (quoting *United Tel. Co. v. Mann,* 403 So.2d 962, 967-68 (Fla.1981))); *In Re: Citizens Utilities Co.*, 769 A.2d 19, 28 (Vt. PSB 2000) (525-basis point reduction based on imprudent mismanagement, willful failure to provide service to its customers through least-cost options and willful violations of statutes, was not unconstitutional); *US W. Commc'ns, Inc. v. Washington Utilities & Transp. Comm'n*, 134 Wash. 2d 74, 117 (1997), as corrected (Mar. 3, 1998) (upholding a 0.5% reduction in ROE for poor service quality where resulting rates were still considered reasonable).
[20] *See* RIE Brief at 7.
[21] *See* RIE Brief at 7-8; compare *The United Illuminating Co. v. Pub. Utils. Reg. Auth.*, 2025 WL 842228, at *1 (Conn. Super. Ct. Mar. 13, 2025) and *Citizens Utils. Co. of Ill. v. O'Connor*, 459 N.E.2d 682, 688 (Ill. App. 1984) (both applying an arbitrary and capricious standard to review of regulatory decision-making).
[22] *The United Illuminating Co.* at *6 (upholding a decision to reduce ROE because of failure to uphold commitment to complete a remediation project as required by a Merger Decision).
[23] *Id. at *5* ("[The utility] cannot creditably contend that a utility company's failure to abide by an express commitment to its regulator reflects "prudent and efficient" management of the company […].").

already determined to be "just, fair and reasonable" with a downward adjustment to ROE in the context of a rate-setting proceeding which considers the quality of services actually rendered.[24]

As discussed above, and in the Attorney General's initial brief, there is ample evidence in the record to find that any ROE set at or above the Company's WACC will result in just and reasonable rates.[25] Thus, the question for consideration here is whether a downward adjustment in the Company's ROE as a result of poor service and/or mismanagement can be made while still ensuring just and reasonable rates. It can, and in fact must, because to reward poor service and mismanagement is neither just nor reasonable.

The Commission should make such a downward adjustment in light of the exceptionally poor performance of the company since the 2022 change in ownership.[26] The Company makes broad sweeping claims that it has "strengthened its operations" and "improved service."[27] However, this ignores a substantial body of evidence put forth in these proceedings, which demonstrate systemic failures.[28] While the Company claims many of its customer service and billing issues have been "confronted", it has not offered sufficient proof in this proceeding.[29] The Company's early claims of success are contradicted by the Company's own assessment of its IT systems responsible for those functions, which it describes as "aging and obsolete."[30] Pointing a finger at National Grid and claims that customer-service and billing challenges "stemmed from

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[24] *See* RIE Brief at 7 (citing *In re Application of General Tele. Co. of Sw.*, 652 P.2d 1200, 1209 (N.M. 1982)).
[25] See RIAG Brief at 5-9.
[26] The Attorney General agrees with the Division's contention that the Company's poor performance justifies a reduction of at least twenty-five (25) basis points. *See* Division Brief at 10.
[27] RIE Brief at 3.
[28] *See e.g.* Division Brief at 5-10 (outlining considerable billing system issues, failures to collect monies owed, millions of dollars of mistakenly issued checks, failure to tailor payment plans to individual customers, etc.); *see also e.g.* Moniz Direct at 7 (outlining several issues on which the Division has received "many, many complaints.").
[29] The Company cannot use the fact that it filed so close in time to its supposed resolution of serious issues to effectively seek an unearned clean slate. *Compare* RIE Brief at 6-7 (The issues addressed in the hearings were confined to the transition and post-cutover period and were resolved prior to this docket.").
[30] RIE Brief at 10.

legacy systems and processes inherited from the prior owner"[31] does little to support the Company's contention of excellent performance because the Company's management of the transition appears to be the cause of the problems. There is more than enough evidence in the record for the Commission to reasonably conclude that a downward adjustment to the Company's ROE is appropriate given the poor quality of services provided. Additionally, as outlined in greater detail below, downward adjustments would be appropriate in light of the Company's mismanagement that has lead to the seeking of transition costs from ratepayers, and the Company's continued failure to appropriately consider the Act on Climate.

IV. The Company Continues to Mischaracterize Its Failed Planning to Avoid Responsibility for Transition Costs and Mismanagement.

The Company's brief asserts that its proposed IT costs and its costs to move the Electric Distribution Control Center ("EDCC") from Lincoln to Cumberland are prudently incurred costs.[32] However, these expensive ventures are both being pursued on the heels of substantial transitional costs for which Rhode Island ratepayers were not responsible. The mismanagement of the transition provides evidentiary support for a downward adjustment in the Company's ROE.[33]

The Company's claim that "[n]o party has raised a specific, credible challenge" to the Company's claim of prudency for its IT capital costs is both inaccurate and attempts to improperly shift the Company's burden of proof to other parties.[34] The Company has itself provided the evidence of its lack of prudence by admitting that its $500 million investment in standing up "obsolete" systems has left customers without functionality than was available on National Grid's systems.[35] Moreover, witness testimony showed that the Company has not met its burden of

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[31] RIE Brief at 2.
[32] RIE Brief at 10 (concerning IT costs) and 16-17 (concerning EDCC relocation costs).
[33] *See generally*, RIAG Brief at 17-21 (discussing transition costs and a lack of evidence to support IT investment).
[34] *See* RIAG's Burden Memorandum; *see also* R.I. Gen. Laws § 39-3-12.
[35] *See* RIAG Brief at 18 (citing June 15 Hr'g Tr. 18:16-18).

production, failing to quantify benefits for Rhode Island ratepayers.[36] To the extent IT investments are designed to replace functionalities and performance levels achieved by National Grid, they are transition costs which the Company has made a commitment not to collect.. As a result, (1) the projects listed in *Schedule IEc-MM-3* and their corresponding capital costs (amounting to almost $132.0 million) and (2) the investments listed in Lines 25 and 26 of *Schedule DJ-1* (amounting to $168.8 million) should be excluded from rate recovery.[37]

Similarly, the Company's decision to move its EDCC after having only recently stood it up to replace the National Grid EDCC is evidence of poor foresight and a failure in planning.[38] The Company claims that moving the Electric Distribution Control Center will actually save customers $4.8 million, compared to the cost of keeping the EDCC in Lincoln.[39] However, this ignores the reality that these "savings" are a result of the Company's failure to consider the proper long-term location for its EDCC. As such, the Company should not be allowed to recover the $3.8 million of marginal cost associated with moving the EDCC from Lincoln to Cumberland.[40]

V. The Company Continues to Ignore Its Obligations Under the Act on Climate.

Per R.I. Gen Laws § 42-6.2-8, "[a]ddressing the impacts on climate change shall be deemed to be within the powers, duties, and obligations of all… agencies [and] commissions[.]" The Commission must take the Act on Climate into account when making energy decisions that will affect greenhouse gas emissions, including establishing rates in this case. Despite being aware of this, the Company references the Act on Climate only twice in its initial brief - in a single paragraph.[41] The Company fails to articulate how its rate proposal complies with the Act on

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[36] *See* RIAG Brief at 18 (citing Malukoff Direct 13, 59-60 (Schedule IEc-MM-3); Johnson Direct 51 (Lines 25 and 26 of Schedule DJ-1); *and* June 4 Hr'g Tr. at 170-171.
[37] *See* RIAG Brief at 18.
[38] *See* *id.* at 20-21.
[39] *See* RIE Brief at 16.
[40] *See* RIAG Brief at 20-21.
[41] *See* RIE Brief at 13.

Climate instead only arguing that the law does not compel it to consider alternatives to gas infrastructure investment advanced outside of the ISR.[42] As explained in the Attorney General's briefing, the Company's continued failure to take the Act on Climate into meaningful account amounts to imprudence and justifies rejection of the Company's proposal in its own right.[43] Alternatively, this consistent failure amounts to mismanagement that merits a downward adjustment in the Company's ROE in order to prompt the Company to align its business with the State's clear and established legal framework and environmental policy.

VI. The Company Continues to Undervalue its Hold Harmless Commitment to Get Itself Off the Hook.

As noted above, the methodology for calculating the Net Present Value ("NPV") of the Company's Hold Harmless Commitment remains in dispute. The Company continues to petition the Commission to undervalue its Hold Harmless Commitment, despite clear evidence that the Company's proposed NPV discount rate of its own Weighted Average Cost of Capital would amount to a windfall for the Company. The Company proposal wrongly centers on *its own* investment opportunities, rather than similar low-risk options available to *ratepayers* – the recipients of the proposed payment.[44] Rhode Islanders must receive the full value of the Company's Hold Harmless Commitment.

Should the Commission accept the Company's proposed discount rate, this patently flawed methodology would result in Rhode Islanders receiving less than the full value of the Company's commitment. Moreover, the Company's indication that it may just refuse to pay if a fair NPV is

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[42] *See* RIE Brief at 13. Moreover, the Company failed to address several Act on Climate-related issues pending in this rate case, including elimination of line extension allowances and the need to meaningfully integrate gas and electric planning. *See* RIAG Brief 11-17.
[43] *See* RIAG Brief at 11-17 (outlining the Company's failure to consider Act on Climate despite an ability to so, including through this rate case).
[44] *See e.g.* July 8 Hr'g Tr. 205:22-206:1; *see also* Trabucchi Direct 6:15-21.

set[45] should be of no moment to the Commission. The Company's own witness testified that default risk for the Hold Harmless Commitment was very low.[46] Given the extremely low risk of default of the Hold Harmless Commitment provided via adjustments in rate proceedings over time, a discount rate at or near the 10-year Constant Maturity Rate is appropriate.[47]

Additionally, the Commission should account for the Governor's substantial rate credits designed to combat high winter electricity prices this coming year.[48] The societal value of immediate rate relief is markedly less than it was at the time of the hearings because of these credits.[49] This should result in a downward shift of any applicable risk premiums, and strengthens the argument for a discount rate equal to the 10-year maturity rate.

VII. TVR

The Company's brief indicates that there was no challenge to the recovery of costs related to hiring a consultant to develop a time varying rate ("TVR") proposal. However, the Attorney General has recommended a disallowance of these costs in addition to urging a requirement for meaningful progress.[50] The Company's proposal to outsource work on creating a plan for TVR attempts to saddle ratepayers with the cost of a consultant, eroding promised benefits resulting from the Company's claimed ability to draw from the past experience of its corporate parent, PPL.[51] The Company's displayed lack of utilization of this internal knowledge shows that the Company's approach chooses, at best, to spend money to re-invent the wheel.

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[45] RIE Brief at 25 ("If the PUC instead identifies a lower rate as a condition of approval of the Company's voluntary accelerated credits proposal, the Company would evaluate the financial impact in light of the overall rate case.")
[46] July 8 Hr'g Tr. 122:14-123:14 (confirming that there is little concern of default).
[47] Trabucchi Direct at 11:4-6 ("the customer deposit rate or the 10-year constant maturity U.S. Treasury rate is better aligned with the [Commitment] objectives [ ] and society's rate of time preference."; *see also* July 8 Hr'g Tr. 205:23-206:8; 215:1-7 (recommending a discount rate that "lands near the 10-year constant maturity.").
[48] *See* RIAG Brief at 21-22 (discussing Executive Order 26-05).
[49] *See* July 8 Hr'g Tr. 215:5-7 (noting, as a potential risk premium, the policy importance of putting dollars in the hands of customers now).
[50] *See* RIAG Brief at 13-15.
[51] *See* *id.*

VIII. The Company Did Not Adequately Consider Iron Horse Way and Cannot Justify its Facilities Decision Based on "Non-Cost Factors."

The Company's assertion that any cost differential between the Company's lease for office space at 1301 Atwood Avenue in Johnston and the potential lease for 315 Iron Horse Way in Providence was "negligible" is readily disputed in the record.[52] Moreover, the Company's assessment of Iron Horse way was incomplete, and failed to prudently investigate and consider potential allowances and ratepayer savings.[53] This is most readily evidenced by the Company's continued use of a set $12 million budget for buildout of any property regardless of condition or layout.[54] The Company's brief solidifies this same lack of careful analysis in attempting to justify its decision, stating: "actual build-out cost was not reflected in the Company's lease comparison analysis."[55] For this reason, the Company's argument against the Division's rate base adjustment of $4,820,620 falls flat, and the Commission should adopt the downward adjustment as proposed in light of the Company's inability to refute the Division's reasoned position. While the Company focuses on the Division's alleged failure to justify its proposed downward adjustment because of uncertainty, the true issue is that the Company has failed to refute the buildout costs for Iron Horse Way assumed by the Division based on information made available by the Company. [56]

The Company's claims of giving weight to non-cost factors are similarly unconvincing. Again, the Company failed to adequately consider the potential of the Iron Horse Way facility and relies on a "modest differential between the two properties' lease costs" that has not been established.[57] Only after assuming minimal cost difference does the Company contend that "non-

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[52] *See e.g.* RIAG Brief at 27 (noting $538,243.50 difference between lease payments); see also RIE Facilities Brief at 4 (acknowledging same).
[53] *See* *id.* at 27-28.
[54] *See* *id.* at 27 (noting that "[n]othing in the record supports a contention that the two spaces required equivalent work, rather testimony suggests that the amount was determined prior to entering into any lease.").
[55] RIE Facilities Brief at 3.
[56] *See* RIE Facilities Brief at 5.
[57] RIE Facilities Brief at 4.

cost factors tipped the balance in Northwoods' favor."[58] Moreover, nothing in the record suggests that Iron Horse Way would not have met the Company's needs. The record does not support that the location of Iron Horse Way or the need to have space on a second floor would have presented material challenges. Instead, the Company moved forward with its preferred, nicer, office space without fully evaluating its options and is seeking ratepayers to foot the bill. The Company has failed to meet its burden to justify the higher cost of its Johnston Facility, and as a result its recovery should be limited.[59]

IX. Conclusion

The Company continues to focus on its own ability to increase rates and earn excessive profits, while remaining tone deaf to ratepayer frustrations with Company performance and affordability concerns. For the reasons stated herein, those set forth in the Attorney General's initial briefing, and for additional reasons set forth in the substantial evidentiary record in this docket, the Company's proposed rate increases should be rejected.

[58] *Id.* (citing Camara Rebuttal at 26).
[59] *See generally*, RIAG Brief at 26-28.

Respectfully submitted,

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Dated: August 7, 2026

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of August, 2026 the original and nine hard copies of this Memorandum were provided via in hand-delivery to Stephanie De La Rosa of the Public Utilities Commission, 89 Jefferson Boulevard, Warwick, RI 02888. In addition, electronic copies of the Motion were served via electronic mail on the service list for this Docket on August 7, 2026.

/s/ Nicholas M. Vaz