STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION

IN RE:	**THE NARRAGANSETT ELECTRIC COMPANY d/b/a NATIONAL GRID GAS INFRASTRUCTURE, SAFETY, AND RELIABILITY PLAN FY 2023 PROPOSAL**	**:**	**DOCKET NO. 5210**

REPORT AND ORDER

On December 17, 2021 and pursuant to R.I. Gen. Laws § 39-1-27.7.1(d), the Narragansett Electric Company d/b/a National Grid (TNEC or Company) filed its FY 2023 Gas Infrastructure, Safety, and Reliability Plan (Plan) with the Rhode Island Public Utilities Commission (Commission).[1] The Plan is designed to protect and improve the gas distribution system through: 1) proactively replacing leak-prone pipe; 2) upgrading the system's custody transfer stations, pressure regulating facilities, and peak shaving plants; 3) responding to emergency leak situations; and 4) addressing infrastructure conflicts that arise out of state, municipal, and third party construction projects.

The Gas Infrastructure, Safety, and Reliability (ISR) filing included a proposed revenue requirement of $42,436,970, reflecting an incremental increase of $4,195,084 over the amount currently being billed through ISR rates.[2] The resulting increase in the revenue requirement reflected a proposed increase for an average residential heating customer using 845 therms annually of $10.98 or 0.8%.[3] On January 19, 2022 and pursuant to R.I. Gen. Laws § 39-1-27.9,

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[1] Subsequent to the filing, PPL Corporation acquired The Narragansett Electric Company from National Grid. All filings in this docket are available at the PUC offices located at 89 Jefferson Boulevard, Warwick, Rhode Island or https://ripuc.ri.gov/eventsactions/docket/5210page.html.

[2] Little Test. at 3 (Dec. 17, 2021).

[3] Scheib Test. at 4 (Dec. 17, 2021).

the Office of Energy Resources (OER) formally requested to intervene.[4] There were no objections filed to OER's motion.

I. Company Witnesses' Pre-filed Testimony

In support of the Plan, TNEC submitted the pre-filed joint testimony of Amy Smith and Nathan Kocon to describe the Plan and its components, Melissa A. Little to describe the revenue requirement, and Ryan M. Scheib to discuss the rate design, calculation of the Gas ISR Factors, and the bill impacts.[5]

Ms. Smith and Mr. Kocon (the witnesses) provided testimony to describe the proposed plan. They noted that it was submitted to the Division of Public Utilities and Carriers (Division) on October 4, 2021. The submittal to the Division was consistent with the requirements of R.I. Gen. Laws § 39-1-27.7.1(d).[6] Representatives of the Company met with members of the Division on October 18 and December 10, 2021.[7] Ms. Smith and Mr. Kocon described the purpose of the Plan. They provided that as previously agreed to with the Division in the FY 2020 plan, deviations from the budget for the Southern Rhode Island Gas Expansion Project (So. RI Gas Expansion Project), would be managed separately from the other Gas ISR Discretionary programs' budget. They also agreed that deviations in the So. RI Gas Expansion Project budget would not delay other discretionary work.[8]

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[4] R.I. Gen. Laws § 39-1-27.9 provides that upon formal request, the OER shall be deemed an interested party in any Commission proceeding that relates to or could impact any of its programs, functions, or duties.
[5] All four witnesses are employed by National Grid USA Service Company., Inc. Ms. Smith is Director, Regulatory Gas New England. Mr. Kocon is Principal Analyst, Rhode Island Jurisdiction. Ms. Little is Director for New England Revenue Requirements in the New England Regulation Department. Mr. Scheib is Senior Analyst, New England Pricing Group in the New England Regulation Department.
[6] R.I. Gen. Laws § 39-1-27.7.1(d) states in pertinent part: "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."
[7] Smith/Kocon Test. at 6 (Dec. 17, 2021).
[8] *Id.* at 8.

Ms. Smith and Mr. Kocon set forth the categories and spending amounts for each category that comprise the $178.66 million the Company proposed to invest in 2023. Those categories are: 1) Non-Discretionary - $48.99 million; 2) Discretionary - $126.67 million; 3) PE Stamp costs - $2.45 million; and 4) Incremental Curb to Curb Paving - $6.76 million. Within the Non-Discretionary and Discretionary categories are a number of programs designed to maintain the safety and reliability of the gas distribution system. The Non-Discretionary programs consist of work required by legal, regulatory code and/or agreement, or a result of damage or failure with limited exceptions. The Discretionary programs consist of work not required by legal, regulatory code and/or agreement.[9]

The Non-Discretionary category programs include $20.60 million net investment for Public Works programs, $28.36 million for Mandated Programs, and $0.03 million for Damage Failure Programs. The Discretionary category programs include $78.92 million for the Proactive Main Replacement Program, which includes the Allens Avenue Multi Station Rebuild project, $0.60 million for the Proactive Service Replacement Program, $40.36 million for the Gas System Reliability project ($10.09 million of which is budgeted for LNG facilities), and $6.79 million for the So. RI Gas Expansion project. The witnesses represented that TNEC proposed no operation and maintenance costs for 2023.[10]

Ms. Smith and Mr. Kocon explained that the Plan includes the elimination or rehabilitation of 65.0 miles of leak-prone pipe, 49.4 miles of which will be proactive including 10 miles of carryover abandonment or work in progress from FY 2022, 14 miles of which will be public works, 0.1 mile of mandated work, 0.1 mile of reliability work, 1 mile of reinforcement work, and 0.5

[9] *Id.* at 9-10. The Rhode Island Utility Fair Share Roadway Repair Act, R.I. Gen. Laws § 39-2.2-2 requires the Company to repair a road it alters or excavates from curb to curb or as the state or municipal permit requires.
[10] *Id.* at 10-11.

miles of which will be rehabilitative. The abandonment target, they stated, was a decrease of about 5.8 miles from the FY 2022 Plan but is in the general alignment with the actual number of miles forecasted for 2022 and aligns with the forecasted resources available to perform the abandonments. Because the planned abandonments are greater than the planned installation miles, the witnesses explained that the Company will be able to catch up on carryover abandonment work.[11]

The Company proposed spending $78.92 million for the Proactive Main Replacement program in FY 2023. For FY 2023, it expects to maintain a target percentage of 70% abandonment of cast iron main which represents more than half of the total leak-prone main in Rhode Island. The witnesses noted that TNEC added the service corrosion repaired leaks to the main prioritization algorithm as recommended by the Division and ordered by the Commission in Docket No. 4996 and has observed a downward trend in service leaks. They explained the difference between installation miles and abandoned miles in relation to leak-prone pipe noting that in some instances the Company is able to replace two sections of leak-prone main with a single section of new main. And while the abandonment target for FY 2023 is lower than FY 2022, it is in line with the Company's resources and will allow the Company to catch up on carryover from FY 2022.[12]

Ms. Smith and Mr. Kocon stated that installation and abandonment costs are expected to increase in 2023 and identified the anticipated increases. They noted that at the inception of the ISR program about 48% of the Rhode Island gas distribution system was comprised of leak-prone pipe. Since that time, TNEC has abandoned approximately 537 miles of leak-prone pipe which

[11] *Id.* at 11-12. As it did last year, the Division expressed concern with the pace of this program. *See* Div. ISR Mem. at 4 (Feb. 18, 2022).
[12] *Id.* at 12-15.

has contributed to reducing the number of gas leaks by about 1,468. The Company will continue to target 70% of cast iron mains to abandon.[13]

The main installation and abandonment of the final segment of the Atwells Avenue Main Replacement project is expected to be completed in FY 2023. TNEC also plans to replace the Wampanoag Trail and Tiverton Gate Station heaters currently owned by Enbridge. The witnesses represented that the heaters have outlived their expected life, that the safety and controls systems for the heaters do not meet the Company's current standards, and that it had capacity concerns with the Wampanoag heaters. After the heaters are constructed by Enbridge, ownership will be transferred to TNEC which will result in a number of benefits including 1) enhancement the heating system reliability by installing fully redundant heating systems, 2) the ability to perform maintenance and repairs without having to shut down the station or bypass the heater, 3) the creation of verifiable inspection and maintenance records, and 4) the reduction of reliance on a third party to operate and maintain the equipment. In addition to these benefits that will accrue to both gate stations, each will enjoy other benefits that are station specific.[14]

The final restoration related to the main installation work for the So. RI Gas Expansion project is expected to be completed in FY 2023, and work on the existing regulator and take stations will continue to take place through FY 2026. This project is expected to spend $6.19 million of the total estimated cost of $131.48 million for FY 2023. And between FY 2019 and FY 2026, a total of $33.84 million is expected to be spent for activities related to regulator stations and for other upgrades and investment. The witnesses concluded by noting that the FY 2023 Plan fulfills the statutory requirements necessary for safety and reliability of the distribution system.[15]

[13] *Id.* at 15-18.
[14] *Id.* at 18-23.
[15] *Id.* at 23-27.

Melissa Little provided testimony to describe the calculation of the revenue requirement, which was calculated based on the amount of proposed spending for FY 2023. She identified the FY 2023 Plan revenue requirement as $42,436,970 or an incremental $4,195,084 over the amount of the FY 2022 Gas ISR Plan revenue requirement and what is currently being billed for the Plan. Ms. Little set forth the components of the revenue requirement as: 1) $6,439,207 for the Company's return, taxes and depreciation expense associated with the FY 2023 proposed non-growth ISR incremental capital investment in gas utility infrastructure of $162,924,000; 2) $29,176,179 for the FY 2023 revenue requirement on incremental non-growth ISR capital investment for FY 2018 through FY 2022; and 3) $6,821,584 for FY 2023 property tax expense.[16]

Ms. Little noted that the FY 2023 Plan is $4,195,084 higher than the FY 2022 Plan. Of the total $42,436,970 FY 2023 revenue requirement, $29,176,179 in capital investment revenue requirement and $3,781,890 in property tax recovery adjustment are associated with the incremental non-growth ISR capital investment for FY 2018 through FY 2022 which was previously approved by the Commission in the ISR Plans or reconciliation filings. She explained that the FY 2023 revenue requirement decrease compared to the FY 2022 revenue requirement on the same investment is the result of a $69 million decrease in FY 2021 capital investment resulting from the transition from "capital spending" to "capital -in-service" as ordered by the Commission in last year's docket, the half-year convention applied in the year of service in the FY 2022 plan, and the lower estimated property tax rate in FY 2023. This resulted in a $5.3 million decrease to the FY 2023 revenue requirement on vintage year FY 2018 through FY 2022 incremental non-growth ISR capital investment from the FY 2022 revenue requirement on the same investment. associated with the previous year's capital investments had increased by $6,749,155 as compared

[16] Little Test. at 3-4 (Dec. 17, 2021).

to the previous year's Plan revenue requirement on the same investments. The remainder of approximately $9.5 million is related to FY 2023 proposed non-growth ISR incremental capital investment and increase in property tax expense due to that investment.[17]

Ms. Little noted that if the sale of the Narragansett Electric Company to PPL Corporation is approved, TNEC will utilize all of its available Net Operating Losses (NOL) in FY 2022 to offset taxable income generated by the sale. The resulting impact will be a reduction of $3.1 million to the FY 2023 Gas ISR Plan revenue requirement and a decrease of about $1.5 million to the FY 2022 Gas ISR revenue requirement which will be reconciled in the Company's 2022 Gas ISR Reconciliation Filing. She indicated that the Company may have to file a revised revenue requirement due to the impact of the NOL utilization if the transfer of ownership is approved. Ms. Little provided that TNEC does not expect to submit a revised revenue requirement calculation for purposes of reconciling estimated tax assumptions to actuals on vintage FY 2021 ISR investment.[18]

The purpose of Mr. Scheib's testimony was to describe the calculation of the proposed factors and bill impacts. He stated that the FY 2023 rate design is based on the revenue requirement of cumulative incremental capital investment in excess of capital investment reflected in the last rate case, Docket No. 4770, and property tax expense. He explained that capital investment is allocated to each rate class based on the rate base allocator approved in Docket No. 4770. Mr. Scheib set forth factors ranging from $0.1434 per therm to $0.0304 per therm depending on rate class. He stated that the impact on an average residential heating customer using 845 therms annually is $10.98 or 0.8%.[19]

II. The Division of Public Utilities and Carriers Position

[17] *Id.* at 5-6.
[18] *Id.* at 6-8.
[19] Scheib Test. at 2-5 (Dec. 17, 2021).

The Division filed two memoranda on February 18, 2022, the first of which 1) detailed its evaluation process; 2) detailed the major concessions made to the proposed budget; 3) discussed the leak-prone and deteriorating infrastructure ; 4) discussed the FY 2020 System Integrity Report (SIR); 5) discussed the Company's replacement program risk ranking methodology; 6) commented on its review of the Company's FY 2021 3rd Quarter Update; and 7) provided a number of conclusions and recommendations.[20] The second memorandum provided comments on the revenue requirement and discussed the impact of the pending sale of TNEC to PPL on the balance of accumulated deferred income taxes.[21]

The Division provided a list of activities it had engaged in to evaluate TNEC's proposed Gas ISR Plan and budget. It noted that as a result of the discussions it had with the Company, TNEC decreased its initial proposed budget of $189.459 million to $175.655 million by making adjustments to the following categories and/or programs: Reactive Leaks, Service Replacements (non-leaks), Transmission Station Integrity, Damage/Failure (Reactive), Proactive Main Replacement, Large Diameter Main Replacement Program, and the Atwells Avenue Main Replacement Project. Some of the reductions were based on an updated FY 2022 forecast and others were to reflect deferral of projects, minimal spending in the prior year, and decreased work. Adjustments were also made to five categories within the Reliability Program which included: System Automation, the Wampanoag Trail and Tiverton Take State Heater Replacement, Take Station Refurbishment, Distribution Station Over Pressure Protection, and Replace Pipe on Bridges due to either limited resources available to complete the projects, advance spending in FY 2022, or deferring work.[22]

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[20] Div. ISR Mem. at 1-8 (Feb. 18, 2022).
[21] Div. Revenue Mem. at 1-2 (Feb. 18, 2022).
[22] Div. ISR Mem. at 1-3.

The Division noted that it has closely monitored the Company's Proactive Main Replacement Program and observed a significant number of carryover miles at the beginning of FY 2022 , where new main has been installed but old leak prone main has not been abandoned. It stated that the increase in carryover miles, which was approximately 35 miles at the start of FY 2022 as opposed to 10-15 miles in a typical year, was mainly driven by the pandemic and the inability of Company crews to access homes. The inability of the crews to access homes and transfer services was outpaced by those installing the new mains and services resulting in the carryover. To balance this, the Company agreed to reduce the number of installation miles in FY 2024 while still meeting their 65-mile abandonment goal.[23]

The Division had discussions with the Company regarding the approximately $11 million underspend for FY 2022 noting that the pandemic has been the main driver of the underspending. It recognized the Company's limitations caused by the pandemic. It expressed continued significant concern over the Grade 1 main leaks and over 45,000 unprotected steel services. It recommended that the Company continue to replace leak prone pipe through its Proactive Main Replacement Program while maintaining its overall budget.[24]

The Division described TNEC's gas distribution system in Rhode Island as one of the oldest in the country that has a large portion of leak-prone and deteriorating infrastructure. Acknowledging that the Company has made significant progress toward improving the system since acquiring it in the early 2000s, the Division noted that it is one of the largest collections of leak-prone aging infrastructure in the nation and expressed concern with a leak-prone service inventory that is either unchanged or increasing. It stated that when reviewing data provided by the Company, it found a number of data discrepancies between what had been provided, the 2019

[23] *Id.* at 3-4.
[24] *Id.* at 4.

and 2020 System Integrity Reports with PHMSA data, and data responses provided in this docket. It found this to be concerning and opined that the Company needs to complete its "scrub" of its infrastructure records and develop an accurate list of leak prone mains and services.[25]

The Division provided a review of the 2020 System Integrity Report and stated that while the number of main and service leak rates and leak receipts has decreased, leak backlog and corrosion leak rates have increased. Review of this Report revealed that elimination of all leak-prone main will take more than 29 years if the Company replaces 34 miles a year which is the 2020 replacement rate as opposed to the Company calculated rate of 70.6 miles per year which will be complete in 14 years. The Division opined that unless the targeted replacement rate of miles per year is consistently achieved, the replacement program will extend beyond 20 years. The Division expressed that over the past several years, the replacement program has remained stagnant at forecasting 20 years to complete replacement of all leak-prone mains and services. The Division maintained that on a semi-annual basis, the Company must re-evaluate its performance and make the appropriate adjustments to ensure that the replacement rate does not fall below what is targeted.[26]

The Division memorandum addressed its concerns with the Company's replacement program risk ranking methodology. First, it noted that the Company's omission of age as a criterion for risk ranking and pipe replacement is concerning, because a large portion of the Company's high-risk leak prone unprotected bare steel services are between 75 and 100 years old. The second issue raised by the Division was the Company's lack of separate risk ranking for unprotected bare steel services and cast iron mains. Noting that the services and mains have different risk profiles, the latter which will typically have a break at a joint and the former which

[25] *Id.* at 4-5.
[26] *Id.* at 5.

will have a corrosion leak from age over time, the Division expressed concern that the Company does not know if it is replacing its riskiest services since it does not risk rank them separately from mains. Lastly, the Division asserted that the Company does not risk rank its complete inventory of leak prone main segments and services choosing only to evaluate a snapshot annually of the leakiest mains and services. It criticized this approach as not a comprehensive method which is necessary, because most of the leak prone infrastructure is over 75-100 years old. The Division also alleged that although pressed each year, the Company has failed to provide it with a comprehensive inventory list of the segments risk ranked, offering only information that does not categorize pipe by leak prone material type and risk ranking. The Division asked the Commission to direct TNEC to modify its practice to address the concerns raised and to ensure that the riskiest mains and services are being replaced in the most efficient and cost-effective manner.[27]

After review of the Company's 3rd Quarter Update, the Division found the $11 million underspend to be caused by the ongoing pandemic. It noted that the $11 million will be reflected in the Company's reconciliation factor filed with the Distribution Adjustment Charge filing for effect November 1, 2022. Including the $11 million of work not completed in the FY 2023 budget was found by the Division to be proper.[28]

Concluding its comments were a number of recommendations made by the Division. The first, and as set forth above, was that the Company be required to semi-annually evaluate the performance of its replacement program to ensure that it maintains targeted levels which will ensure that the term for completion continues to decline. The second recommendation was that the Commission direct the Company to re-evaluate the effectiveness of its proactive replacement program to ensure that the riskiest mains and services are being replaced and to file a report with

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[27] *Id.* at 6.
[28] *Id.* at 7.

the Commission addressing each of the Division's concerns before October 1, 2022. Third, the Division recommended that the Company be required to complete its data scrub and to provide an accurate count of all of its leak prone mains and services as of March 31, 2022 by October 1, 2022. Fourth, the Division noted that the Company agreed to work with the Division to better understand leak receipts and how they are classified when and how they are repaired, and to develop a plan to track the most hazardous Grade 1 and Grade 2 leaks.[29]

Lastly, the Division discussed the GBE Plan and the anticipation that it may be replaced or significantly modified if TNEC is acquired by PPL. The Division noted that during the acquisition proceeding, neither TNEC nor PPL was able to inform the Division about whether use of the GL Synergi software system, that is part of the GBE Plan, would be continued if the acquisition is approved. The Division asked that the Commission require the Company to provide the Commission and the Division with a written update as its intention and plan for this software program within six months of the approval of the acquisition should that occur. Based on its review and with the concerns expressed, the Division recommended approval of the FY 2023 ISR Plan and budget.[30]

In addition to the ISR Memorandum, the Division filed a memorandum addressing the calculation of the revenue requirement. It stated that the cumulative total revenue requirement of $42,436,970 which includes an incremental fiscal rate year adjustment of $4,195,084 results in a total bill impact for an average residential heating customer using 845 therms annually of $10.98 or 0.8% annually. The revenue requirement memorandum also discussed the Company's accumulated deferred income taxes (ADIT) and the impact that the sale of the Company would have on tax net operating losses (NOL) utilized in FY 2022. The Division stated that if the sale is

[29] *Id.* at 7-8.
[30] *Id.* at 8.

approved, the balance of ADIT deducted from rate base, including the ISR rate base will be eliminated. The Company has represented that after the sale, which it expects to be approved, it will make a supplemental filing with a revised FY 2023 revenue requirement calculation that will reflect the impact of any additional NOL utilization on its deferred federal income taxes included in the calculation of the ISR rate base. The Division provided that PPL represented that it would propose a neutral rate impact to customers in relation to the rate impacts resulting from the elimination of the ADIT as of the date of the approved transaction. The Division stated that currently the FY 2023 revenue requirement reflects the ADIT balance which is appropriate since National Grid still owns TNEC and that the revenue requirement is reasonably calculated.[31]

III. The Company's Rebuttal Comments

On March 2, 2022, TNEC filed Rebuttal Comments in response the Division's recommendations. The Division's recommendation that the Company re-evaluate the performance of its replacement program semi-annually and make adjustments if necessary to ensure the targeted rate is met and the program is completed within the projected term for completion. In response, the Company stated that it currently evaluates the program on a monthly basis and makes adjustments as necessary. It represented that it has no objection to a more in-depth evaluation with the Division at an agreed to frequency.[32]

The Division's second recommendation was that the Company continue to reevaluate its proactive replacement program to ensure that the riskiest mains and services are being replaced. The Division recommended that the Company make modifications to its Gas Work Method ENG04030 to address risk ranking criteria, lack of risk ranking procedure for services, and infrastructure program methodology, and file a report with the Division on or before October 1,

[31] Revenue Mem. at 1-2.
[32] Rebuttal Comments at 1 (Mar. 2, 2022).

2022. The Company did not object to a more detailed review and suggested a technical session with the Division to review the work method and how it is used to select segments for replacement. The Company also did not object to the Division's recommendation that a report be filed with the Commission by October 1, 2022 that includes changes to the work method agreed to with the Division.[33]

The Company did not object to the Division's third recommendation to complete a data scrub and to provide an accurate count of all remaining leak-prone mains and services and offered to meet with the Division after the Commission's decision to determine the amount of time necessary to do this. TNEC agreed to work with the Division to better understand leak receipts, how leaks are classified, when and how leaks are repaired, and to develop a plan to track the most hazardous leaks. Regarding the Division's recommendation to require PPL to provide a written update on its intention to maintain, replace, or modify the Synergi software program no later than six months after the acquisition date, the Company noted it was unable to comment.[34]

IV. <u>The Hearing</u>

The Commission conducted evidentiary hearings on March 15, 2022. In addition to questioning the Company on a number of topics, the Commission asked the Company about PPL's intention to continue using the Synergi software currently used by TNEC in GBE for system planning and risk ranking and modeling, the Act on Climate, the abandonment of mains, and the Tiverton and Wampanoag Trail heaters.[35]

[33] *Id.* at 1-2.
[34] *Id.* at 2.
[35] Hr'g Tr. at 24-29 (Mar. 15, 2022). Although unable to confirm during the hearing, the Company responded to a record request that it was able to confirm that PPL intended to continue use of the Synergi software. Response to Record Request 1 (Mar. 22, 2022).

Brian Schuster was examined about how the Act on Climate impacts National Grid's gas business. He testified that while the Company supports the goals of the Act, it is still unsure of what directives will apply to the utility sector. Currently, the Company is attempting to balance the goals of clean energy with affordability. Mr. Schuster mentioned a few of the projects that the Company has already undertaken in furtherance of the goals set forth in the Act, like renewable natural gas projects, a hydrogen project, and a geothermal project. When asked about stranded assets, he maintained that while the Company is not actively selling gas,[36] it is not eliminating it as an option of affordability and equity in the marketplace. He specifically mentioned the Aquidneck Island project as an example of where the Company chose an alternative that did not require considerable investment in the infrastructure and the potential for stranded assets. In response to questioning from the Chairman regarding the $15 million increase requested for pipe replacement, Mr. Schuster added that the area is evolving, and the Company wants to be sure it is prudent and its focus is on safety and reliability.[37]

The Commission questioned the Company about main replacement and abandonment of old main. Ms. Smith testified that after a new main is installed, the old one remains in service and is not abandoned until all of the services are either transferred or replaced. Mr. Kocon recalled testifying that in Docket No. 5165, he had previously testified that the Company targeted abandoning 62 miles of main but was only able to abandon 30 miles because of difficulties caused by COVID. He stated that for FY 2022, if the weather remains favorable, the Company would be able to abandon approximately 65 miles of main, and that for FY 2023 the Company was going to replace less main so that it would be able to better align replacement with abandonment. He noted that going into FY 2023, the Company has a range of approximately 35 miles of main that are in

[36] Hr'g Tr. at 40.
[37] Hr'g Tr. at 37-45.

progress and on track to be abandoned.[38] The Commission, in a record request, asked the Company for more information regarding the replacement projects in FY 2021 and FY 2022: a. The number of old mains still in service, if any; b. The location of each; c. The length of miles of each; d. The number of services that are yet to be changed out; e. The capital cost of each pipeline that was intended to replace the old main; f. The estimate of when each of the old mains is forecasted to be abandoned; and g. Whether the identified main that was installed next to the old main has been put into rate base or whether the Company is proposing to put the capital cost into rate base with this year's ISR filing.[39]

Ms. Smith testified that the new main is put into rate base as soon as the first service is tied in.[40] Mr. Kocon testified that the Company was unable to reduce the carryover of main the Company was not able to abandon, because not all of the services were transferred over and there are services needing to be connected to the newly installed main and the Company's system. He said to address this issue, the Company would install less main in FY 2023 so it can catch up on abandonments.[41] Ms. Smith explained that the reason the Company was not able to get caught up with abandonments in FY 2022 continued to be because of the COVID pandemic and primarily because of the availability of their workforce, their quarantine protocols, and the quarantine protocols of their contractors as opposed to customers not allowing access to premises. She also cited accelerated retirements as contributing to the workforce issues.

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[38] *Id.* at 48-52.
[39] *Id.* at 52-55. The response to the record requests identified a number of miles of main that had not been abandoned where there were no services remaining to be connected but provided no explanation of when the old main would be abandoned and in some instances was not scheduled to be abandoned until Q4 FY 2023. Response to Record Request 3 and 4 (Mar. 22, 2022).
[40] *Id.* at 55.
[41] *Id.* at 63-64.

She explained the process used in the main replacement program when the Company must transfer service connections to the new main prior to abandoning the old leak-prone main.[42] Earlier in her testimony, Ms. Smith indicated that the capital cost of the new main is placed in ISR rate base when the first service connection is tied over to the first customer.[43] The Chair later cited the Act on Climate and referred to the methane emissions from leaks, asking why ratepayers should be paying for the new main in rate base before it is achieving the objectives relating to safety and stopping of leaks.[44] Ms. Smith asserted that the ratepayers pay for it "because it's used and useful."[45] She reasoned: "once the pipe is in service and customers are using it, it is used and useful and providing service."[46]

The Company was also questioned about $10 million included in the revenue requirement for the Wampanoag Trail and Tiverton heater replacement and ownership transfer. Justin Zaccari explained the breakdown of costs for the two heaters.[47] The incremental cost for Enbridge to construct the new heaters at TNEC's standards would be $1.72 million for the Tiverton heater and $1.37 million for the Wampanoag Trail heater.[48] Mr. Kocon explained that under the current rate structure and in order to capitalize the cost of the heaters, TNEC was unable to pay the supplemental cost to have the added benefit of the redundancy of the second heaters, because it did not own the asset. Instead, TNEC had to make the choice between enhanced reliability and ownership of the asset or forgoing the enhanced reliability for Rhode Island customers if Enbridge continued to own the heaters. While stating that TNEC did not consider the Enbridge heaters

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[42] *Id.* at 66-78.
[43] *Id.* at 54-55.
[44] *Id.* at 84.
[45] *Id.*
[46] *Id.* at 84-85.
[47] *Id.* at 87-97.
[48] Response to Record Request 6 (Mar. 22, 2022).

deficient, Mr. Zaccari maintained that they were not up to TNEC's standards and that they are considered vulnerable within TNEC's risk tolerance.[49]

Ms. Smith testified that the primary benefit of TNEC owning the heaters would be that the heaters would be serviced on a more frequent basis. Mr. Zaccari testified that he performed a risk benefit analysis on the replacement of the heaters and based on the analysis, the decision was made to transfer the ownership. He stated that there had been a prior malfunction at the Wampanoag Trail take station that led to TNEC having to replace piping. He noted that if a heater malfunctions, especially during the winter, this could result in an outage or an overpressure event which TNEC ownership would safeguard against.[50]

The Division witnesses testified in support of the Company's proposals.

V. Decision

The Commission conducted open meetings on March 23 and March 29, 2022, to consider the Company's FY 2023 Plan and proposed budget. After review of the evidence presented and the comments and recommendations of the Division, the Commission finds that the investments in the programs in the Plan will ensure the safety and reliability of the gas distribution system. However, further collaboration with the Division is needed to assure that any investment plans in the future are taking into account the policy direction implicit within the Act on Climate which clearly contemplates declining dependency on natural gas within the state.

There were two issues that surfaced during the proceedings and were explored during the hearing that raised a number of questions regarding ratemaking issues. The first issue was the Company's progress with the abandonment of old mains. The purpose of the proactive main replacement program is to replace leaky pipe to enhance safety and reliability. In addition, the

[49] Hr'g Tr. at 101-120.
[50] *Id.* at 152-175.

program provides an environmental benefit by eliminating methane leaking from the old pipes. As a result, net benefits are not realized in each instance until the leaky pipe associated with each new main is actually abandoned. While the old pipe continues to be operated, the purpose of the replacement is not achieved. Both the new and the old pipes are still flowing gas, and the old leak-prone pipe presents climate change and safety issues. Since the current accounting practice of the Company is to put the capital cost of the new main into rate base prior to the abandonment,[51] there is no apparent financial incentive for the Company to expeditiously change out the services and abandon the old pipe.

This raises questions about the application of the "used and useful" standard. The case law is well settled that utility plant must be both used and useful to be included in rate base. In *Newport Elec. Corp. v. Public Utilities Comm'n*, 624 A.2d 1098 (1993), the Rhode Island Supreme Court drew a clear distinction between (i) utility plant being used but is not very useful, and (ii) utility plant that might be useful but is not yet being used, noting that utility plant must be *both* used and useful. Given the fact that the purpose of the new main is not achieved until the old main is abandoned, there is a question whether the "used and useful" standard is met for the new main when the old main remains in service. At the time of making the open meeting decision approving the ISR plan, the Commission needed further inquiry and hearings to fully understand the Company's practice regarding the timing of abandonment of leak prone pipes, reasons for the lag, the apparent lack of incentive for timely abandonment, and the ratemaking implications relating to the application of the used and useful standard.

[51] Hr'g Tr. at 55.

The second issue was the Company's purchase of the Enbridge heaters. TNEC provided that the cost to replace and own the heaters at the Tiverton and Wampanoag Trail take stations was approximately $10 million, $3 million of which was the incremental cost to enhance the heaters to TNEC standards. During the hearing when asked how Enbridge allocated its cost to replace the heaters, TNEC could not say whether it would be solely responsible for the cost of the heaters or if the cost of the heaters would be allocated to all Enbridge customers. The Commission found the request for the funding to enhance and purchase the heaters was not accompanied by a benefit cost analysis. For that reason, the Commission required the Company to file a benefit cost analysis supported by pre-filed testimony analyzing the incremental costs and benefits that are incurred and realized only through ownership by May 1, 2022. The Commission specified that TNEC needed to produce evidence that the identified incremental benefits cannot be attained any other way than through ownership of the heaters and that attaining those benefits through other means is not possible, i.e., though a transition to hydrogen, through system abandonment, or the system is deemed no longer safe to operate in Rhode Island before it is fully depreciated. The support for ownership also needed to include an explanation of depreciation and useful life of gas assets. The Commission found further testimony and hearings may be necessary in order to determine the prudency of the proposed investment.

Reserving judgment on the issues relating to (i) ratemaking treatment in the main replacement program and (ii) the justification for the purchase and ownership of the Enbridge heaters, the Commission approves the Company's FY 2023 Plan and proposed budget with the following conditions:

1. That the Commission shall continue the hearings to a date to be determined to continue its review of the Company's lag in performance regarding the timing of abandoning leak-prone pipes that are intended to be replaced in the Proactive Main Replacement Program, including a review of the reasons for the lag, the apparent lack of incentive for timely

abandonment, and the ratemaking implications relating to the application of the used and useful standard.

2. The revenue requirement which includes forecasted recovery for main replacements scheduled for FY 2023 is conditionally approved for inclusion in rates, subject to refund and subject to the Commission's further review.

3. That the Company is ordered to make a filing by no later than May 2, with pre-filed testimony and a benefit/cost analysis, supporting the prudency of owning the referenced enhanced heaters at the Wampanoag and Tiverton Take Stations, compared to Enbridge owning the enhanced heaters.

4. The revenue requirement which includes forecasted recovery for the enhanced heaters being placed into service at the Wampanoag and Tiverton Take Stations scheduled for FY 2023 is conditionally approved for inclusion in rates, subject to refund and subject to the Commission's further review.

5. The Division and TNEC will monitor TNEC targeted pipe replacement rate at least semi-annually and will adjust the ISR plan to ensure that the actual rate of replacement keeps up with the targeted replacement rate.

6. The Division and TNEC will confer to review TNEC Work Method ENG04030 in more detail (including its risk ranking criteria) and file a report with the Commission by October 1, 2022. The report will include any changes to the Work Method agreed to with the Division.

7. By May 1, 2022, TNEC will provide the Division with a reasonable timetable for completing the data scrub of its gas pipe infrastructure records and providing an accurate count of all remaining leak prone mains and services as of March 31, 2022.

8. The Division and TNEC will confer by May 1, 2022 to discuss how TNEC classifies, repairs, and reports gas leaks.

The Commission also approves the proposed revenue requirement and associated rates as proposed by the Company and reflected in the FY 2023 Gas ISR Plan Section 3, Attachment 1 and Section 4, Attachment 1, respectively.

Accordingly, it is hereby

(24452) ORDERED:

1. The Narragansett Electric Company d/b/a National Grid's proposed FY 2023 Gas Infrastructure Safety and Reliability Plan filed on December 17, 2021 is approved subject to the following:

   a. That the Commission shall continue the hearings to a date to be determined to continue its review of the Company's lag in performance regarding the timing of abandoning leak-prone pipes that are intended to be replaced in the Proactive Main Replacement Program, including a review of the reasons for the lag, the apparent lack of incentive for timely abandonment, and the ratemaking implications relating to the application of the used and useful standard.

   b. The revenue requirement which includes forecasted recovery for main replacements scheduled for FY 2023 is conditionally approved for inclusion in rates, subject to refund and subject to the Commission's further review.

   c. That the Company is ordered to make a filing by no later than May 2, with pre-filed testimony and a benefit/cost analysis, supporting the prudency of owning the referenced enhanced heaters at the Wampanoag and Tiverton Take Stations, compared to Enbridge owning the enhanced heaters.

   d. The revenue requirement which includes forecasted recovery for the enhanced heaters being placed into service at the Wampanoag and Tiverton Take Stations scheduled for FY 2023 is conditionally approved for inclusion in rates, subject to refund and subject to the Commission's further review.

   e. The Division and TNEC will monitor TNEC targeted pipe replacement rate at least semi-annually and will adjust the ISR plan to ensure that the actual rate of replacement keeps up with the targeted replacement rate.

   f. The Division and TNEC will confer to review TNEC Work Method ENG04030 in more detail (including its risk ranking criteria) and file a report with the Commission by October 1, 2022. The report will include any changes to the Work Method agreed to with the Division.

   g. By May 1, 2022, TNEC will provide the Division with a reasonable timetable for completing the data scrub of its gas pipe infrastructure records and providing an accurate count of all remaining leak prone mains and services as of March 31, 2022.

h. The Division and TNEC will confer by May 1, 2022 to discuss how TNEC classifies, repairs, and reports gas leaks.

2. The proposed rates as reflected in the FY 2023 Gas ISR Plan, Section 4, Attachment 1 are approved for usage on and after April 1, 2022.

EFFECTIVE AT WARWICK, RHODE ISLAND ON APRIL 1, 2022 PURSUANT TO AN OPEN MEETING DECISION ON MARCH 29, 2022. WRITTEN ORDER ISSUED JULY 27, 2022.

PUBLIC UTILITIES COMMISSION

Ronald T. Gerwatowski

Ronald T. Gerwatowski, Chairman

Abigail Anthony

Abigail Anthony, Commissioner

John C. Revens, Jr.

John C. Revens, Jr., Commissioner

NOTICE OF RIGHT TO APPEAL: Pursuant to R.I. Gen. Laws § 39-5-1, any person aggrieved by a decision or order of the PUC may, within seven days from the date of the order, petition the Supreme Court for a Writ of Certiorari to review the legality and reasonableness of the decision or order.