

**STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION**

**IN RE: THE NARRAGANSETT ELECTRIC
CO. d/b/a NATIONAL GRID – 2012
ENERGY EFFICIENCY PLAN**

DOCKET NO. 4295

**MOTION BY DIVISION OF PUBLIC UTILITIES AND CARRIERS
REQUESTING THE COMMISSION
TO SET ASIDE COMMISSION FINAL ORDER #20596**

Now comes the Division of Public Utilities and Carriers (“Division”), pursuant to Commission Rules, 810 RICR-00-00-1.29 (D) requesting that the Public Utilities Commission (“PUC” or “Commission”) set aside its final order, #20596 entered on December 22, 2011, due to admitted fraud upon the Commission.

As grounds therefore, the Division refers the Commission to its ongoing investigation in Docket No. 22-05-EE, the “Commission’s Investigation of Misconduct or Fraud by the Narragansett Electric Co. d/b/a/ Rhode Island Energy Relating to Past Payment of Shareholder Incentive” in which the Company has filed a report dated March 10, 2023, admitting to and evidencing widespread invoice manipulation over the course of at least a decade.¹ This report is attached hereto as Exhibit A.

The Executive Summary of the report at page 1, states:

“National Grid’s investigation revealed that out-of-period invoicing occurred in multiple Rhode Island EEPs [energy efficiency programs] from 2012-2021, across the three EEP sectors (Residential, Low-Income, and Commercial & Industrial). Certain employees generally viewed out-of-period invoicing as an available and permissible practice for managing program spending and energy savings against the budgets and energy savings targets set in Narragansett’s Annual EE Plan.

¹ See Report filed by the Narragansett Electric Company dated March 10, 2023;
https://ripuc.ri.gov/sites/g/files/xkgbur841/files/2023-03/2205-NGrid-Report-on-Investigation_310-2023.pdf

Believing that the practice was acceptable, employees engaged in out-of-period invoicing to manage budgets and avoid the negative effects that program shutdowns would have on customers and vendors; to maximize Narragansett's performance incentive; and to better position the EEPs to start the next year. To the extent that employees were engaging in this practice to maximize performance incentives or future goals, they acted inappropriately. Even if undertaken for customer-friendly purposes, out-of-period invoicing was not proper."

Since more than one year has passed since the entry of the Commission's order #20596, the Division, as a party, cannot file a motion to re-open the prior proceedings, even though within a one-year period a motion by the Division under Rule 1.29 (B) would be permitted under the following grounds:

1. Mistake, inadvertence, surprise or excusable neglect;
2. Newly discovered evidence, which by due diligence could not have been discovered in time to move to reopen the proceedings under Rule 1.27 of this Part;
3. Fraud, misrepresentation, or other conduct of an adverse party;
4. The order is void;
5. A prior order on which the order is based has been reversed or otherwise vacated, or is no longer equitable that the order should have prospective application; or
6. Any other reason justifying relief from the order.

Notwithstanding the Division's inability to file a motion to re-open beyond a one-year period after the Commission's final order has been entered, the Commission retains the right to set aside its order and re-open a docket on the basis of fraud upon the Commission.

The Division asserts that to rectify the admitted fraud perpetrated by the Narragansett Electric Company upon the Commission, and by approval of Order #20596, the resulting fraud upon the ratepayers, the Commission should set aside its previous order and reopen the proceedings to permit entering a new order that accounts for the admitted fraud. Such proceedings

and new order should include:

1. Accepting the attached report dated March 10, 2023 as newly discovered evidence in the docket;
2. Re-visiting the performance incentive approved by the Commission;
3. Possible audit at shareholder expense;
4. Consideration of the award of penalties against the Company for its conduct or lack thereof in its implementation and supervision of the administration of the energy efficiency program approved in this docket.

Respectfully Submitted:
DIVISION OF PUBLIC UTILITIES
AND CARRIERS
By its attorney:

/s/ Margaret L. Hogan
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CERTIFICATION OF NOTICE

A true copy of the within pleading is sent this 19th day of January 2024 to the current service list for Docket No. 22-05-EE.

/s/ Ellen Golde