

The Narragansett Electric Company  
d/b/a Rhode Island Energy

**Investigation of Misconduct by  
The Narragansett Electric Company  
Relating to Past Payments of Energy  
Efficiency Program Shareholder  
Incentives**

**Complete Set of Responses to  
Division Post-Decisional Data  
Requests Set 7**

Docket No. 22-05-EE

**Submitted to:**  
Rhode Island Public Utilities Commission

**Submitted by:**



**Rhode Island Energy™**  
a PPL company

August 25, 2022

**VIA HAND DELIVERY & ELECTRONIC MAIL**

Luly E. Massaro, Commission Clerk  
Rhode Island Public Utilities Commission  
89 Jefferson Boulevard  
Warwick, RI 02888

**RE: Docket No. 22-05-EE  
Investigation of Misconduct by The Narragansett Electric Company Relating to Past  
Payments of Energy Efficiency Program Shareholder Incentives  
Responses to Division Post-Decisional Data Requests – Set 7 (Complete Set)**

Dear Ms. Massaro:

On behalf of The Narragansett Electric Company d/b/a Rhode Island Energy (“Rhode Island Energy” or the “Company”), enclosed please find the Company’s complete set of responses to the Division of Public Utilities and Carriers (“Division”) Seventh Set of Post-Decisional Data Requests for filing in the above referenced docket.

Please be advised that confidential Attachments DIV 7-2-1 through DIV 7-2-4 in response to data request Division 7-2 contains confidential and privileged information. Pursuant to 810-RICR-00-00-1.3(H)(3) and R.I. Gen. Laws § 38-2-2-(4)(A)(I)(b), the Company respectfully renews its requests that the Commission treat the confidential attachments as confidential pursuant to previously filed Motions for Protective Treatment. In accordance with 810-RICR-00-00-1.3(H)(2), the Company also respectfully requests that the Commission make a preliminary finding that the information redacted in the public version is exempt from the mandatory public disclosure requirements of the Rhode Island Access to Public Records Act (“APRA”).

# Robinson+Cole

Luly E. Massaro, Commission Clerk  
Docket No. 22-05-EE – Responses to Division Set 7 (Complete Set)  
August 25, 2022  
Page 2

Thank you for your attention to this matter. If you have any questions, please contact me at 401-709-3359.

Very truly yours,



Steven J. Boyajian

Enclosures

cc: Docket No. 22-05-EE Service List  
Margaret Hogan, Esq., Division (w/confidential version)

**STATE OF RHODE ISLAND  
PUBLIC UTILITIES COMMISSION**

_____ )	
In re: Investigation of Misconduct by )	
The Narragansett Electric Company Relating )	Docket No. 22-05-EE
to Past Payments of Energy Efficiency )	Docket No. 5189
Program Shareholder Incentives )	
_____ )	

**MOTION OF THE NARRAGANSETT ELECTRIC COMPANY D/B/A  
RHODE ISLAND ENERGY FOR PROTECTIVE TREATMENT OF  
CONFIDENTIAL INFORMATION**

The Narragansett Electric Company d/b/a Rhode Island Energy (“Rhode Island Energy” or the “Company”) hereby respectfully requests that the Public Utilities Commission (“PUC” or “Commission”) grant protection from public disclosure of certain confidential information submitted by the Company. The reasons for the protective treatment are set forth herein. The Company also requests that, pending entry of that finding, the PUC preliminarily grant the Company’s request for confidential treatment pursuant to 810-RICR-00-00-1.3(H)(2).

The information that is the subject of this Motion and requires protective treatment is the results of internal audits performed by National Grid USA (“National Grid”) contained in Attachment DIV 7-2-1 through Attachment DIV 7-2-4 (“Confidential Attachments”) to the response to Data Request Division 7-2 of the Division of Public Utilities and Carriers’ (“Division”) Seventh Set of Data Requests, issued on July 29, 2022. The Company requests protective treatment of the Confidential Attachments in accordance with 810-RICR-00-00-1.3(H) and R.I. Gen. Laws § 38-v2-2-(4)(A)(I)(b).

**I. LEGAL STANDARD**

Rule 1.3(H) of the PUC’s Rules of Practice and Procedure provides that access to public records shall be granted in accordance with the Access to Public Records Act (APRA), R.I. Gen.

Laws § 38-2-1, *et seq.* Under APRA, all documents and materials submitted in connection with the transaction of official business by an agency are deemed to be a “public record,” unless the information contained in such documents and materials falls within one of the exceptions specifically identified in R.I. Gen. Laws § 38-2-2(4). To the extent that information provided to the PUC falls within one of the designated exceptions to the public records law, the PUC has the authority under the terms of APRA to deem such information as confidential and to protect that information from public disclosure.

In that regard, R.I. Gen. Laws § 38-2-2(4)(B) provides that the following types of records shall not be deemed public:

Trade secrets and commercial or financial information obtained from a person, firm, or corporation which is of a privileged or confidential nature.

The Rhode Island Supreme Court has held that this confidential information exemption applies where the disclosure of information would be likely either (1) to impair the government’s ability to obtain necessary information in the future; or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained. *Providence Journal Company v. Convention Center Authority*, 774 A.2d 40 (R.I. 2001).

The first prong of the test is satisfied when information is provided to the governmental agency and that information is of a kind that would customarily not be released to the public by the person from whom it was obtained. *Providence Journal*, 774 A.2d at 47.

## **II. BASIS FOR CONFIDENTIALITY**

The Company is seeking protective treatment for the confidential information produced in the Confidential Attachments, which contain the results of internal audits performed by National Grid. Audit results are not disclosed to the public and are maintained for internal use in order to assess and improve the National Grid-affiliated companies’ performance. This information should

be protected from public disclosure because it is proprietary, confidential, and competitively sensitive, and it is also of critical importance to encourage full and robust participation by companies in self-critical analyses and to consider all of the information necessary for these processes to be successful.

To ensure the integrity of the internal analyses reflected in the Confidential Attachments, National Grid conducts those processes in a manner designed to foster candid disclosure of information and findings within the organization. This approach serves an important role in National Grid's ability to detect, obtain, and analyze information that otherwise would be difficult or impossible to gather and review. The chilling effect that would be created as a result of public disclosure of the information obtained during an internal analysis or audit would substantially reduce the value and effectiveness of the internal review process. That is, confidentiality is critical to the process of all National Grid internal reviews in order to obtain the highest quality information and make difficult findings intended for improvement.

Moreover, internal audits are the type of information National Grid ordinarily does not make public. For example, in Massachusetts, the Massachusetts Department of Public Utilities has consistently held that internal performance reviews and audit results are confidential. See, e.g., Massachusetts Electric Company and Nantucket Electric Company each d/b/a National Grid, D.P.U. 18-150 (Jan. 14, 2019 Stamp Approval of Motion for Protective Treatment of Confidential Information regarding internal audit reports); Boston Gas Company and Colonial Gas Company each d/b/a National Grid, D.P.U. 17-170 (May 30, 2018 Stamp Approval of Motion for Protective Treatment of Confidential Information regarding internal audit report); New England Gas Company, D.P.U. 07-46, at 6 (Hearing Officer Ruling on Motions for Confidential Treatment) (August 23, 2007); Boston Gas Company, D.T.E. 03-40, at 3 (approving all motions for protective

treatment of confidential information filed in this proceeding by Boston Gas, including the motion filed on August 11, 2003 related to performance audits); see also NSTAR Electric Company and Western Massachusetts Electric Company each d/b/a Eversource Energy, D.P.U. 17-05 (Feb. 22, 2017 Stamp Approval of Motion Seeking Confidential Treatment of Audit Reports).

Therefore, in order to protect the confidential and proprietary results of National Grid's internal audit reports, the Company respectfully requests that the Commission grant its motion and afford protective treatment to the Confidential Attachments.

### **III. CONCLUSION**

For the foregoing reasons, the Company respectfully requests that the PUC grant this motion for protective treatment of the results of internal audits contained in the Confidential Attachments DIV 7-2-1 through Attachment DIV 7-2-4.

[SIGNATURES ON NEXT PAGE]

Respectfully submitted,

**The Narragansett Electric  
Company d/b/a Rhode Island  
Energy**

By its attorneys,



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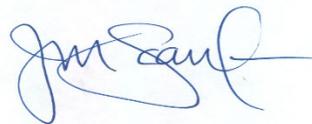


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Dated: August 25, 2022

**CERTIFICATE OF SERVICE**

I hereby certify that on August 25, 2022, I delivered a true copy of the foregoing Motion via electronic mail to the parties on the Service List for Docket No. 22-05-EE.



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Joanne M. Scanlon

The Narragansett Electric Company  
d/b/a Rhode Island Energy  
RIPUC Docket No. 22-05-EE (Formerly Docket No. 5189)  
In Re: Investigation of Misconduct by The Narragansett Electric Company  
Relating to Past Payments of Energy Efficiency Program Shareholder Incentives  
Responses to the Division's Seventh Set of Post-Decisional Data Requests  
Issued on July 29, 2022

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Division 7-1

Request:

As part of their annual audit program, did National Grid's external auditors ever review selected invoices, project controls or project procedures from any of the Energy Efficiency programs in Rhode Island relating to the years 2012-2021? If yes, please provide documentation prepared by the auditors indicating the results of those reviews.

Response:

The energy efficiency programs would have been considered as part of the external audits of The Narragansett Electric Company between 2012 and 2021. Audit scoping, review and/or testing procedures are determined independently by the external auditors, which means that National Grid USA has no insight into whether the external auditors reviewed selected invoices, project controls, or project procedures as part of the audits during those years. The audit documentation is the property of the external auditors, and not of National Grid USA. National Grid USA is contacting the external auditors regarding the requested documentation, which may be subject to a claim that it is confidential and warrants protective treatment. If any responsive documentation is received, National Grid USA will supplement this response consistent with its obligations under the Public Utilities Commission's Rules of Practice and Procedure.

The Narragansett Electric Company  
d/b/a Rhode Island Energy  
RIPUC Docket No. 22-05-EE (Formerly Docket No. 5189)  
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Division 7-2

Request:

Did National Grid's (or Narragansett Electric's) internal auditors ever conduct audits of Rhode Island Energy Efficiency programs relating to the years 2012-2021, including those that relate to project controls and procedures? If yes, please provide documentation prepared by the auditors indicating the results of those reviews. If no, why were these programs not subject to internal audit by the Company during the ten-year period 2012-2021?

Response:

Please see the following attachments for internal audits of the energy efficiency programs performed during the period 2012 through 2021:

- |                                      |  |
|--------------------------------------|--|
| Attachment DIV 7-2-1 (Confidential): | Energy Efficiency Control Framework (Implementation), Audit No. 1756 (February 18, 2015) |
| Attachment DIV 7-2-2 (Confidential): | Energy Efficiency Reconciliations, Audit No. 1931 (January 28, 2016)                     |
| Attachment DIV 7-2-3 (Confidential): | Energy Efficiency: Third Party Management, Audit No. 368398 (March 31, 2020)             |
| Attachment DIV 7-2-4 (Confidential): | Energy Efficiency – Residential Programs, Audit No. 458057 (September 23, 2020)          |

The audits were not specific to the Rhode Island energy efficiency programs; rather, they included Rhode Island in addition to other jurisdictions.

The Narragansett Electric Company  
d/b/a Rhode Island Energy  
RIPUC Docket No. 22-05-EE (Formerly Docket No. 5189)  
In Re: Investigation of Misconduct by The Narragansett Electric Company  
Relating to Past Payments of Energy Efficiency Program Shareholder Incentives  
Responses to the Division's Seventh Set of Post-Decisional Data Requests  
Issued on July 29, 2022

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Attachments DIV 7-2-1 through DIV 7-2-4

**REDACTED**

The Narragansett Electric Company  
d/b/a Rhode Island Energy  
RIPUC Docket No. 22-05-EE (Formerly Docket No. 5189)  
In Re: Investigation of Misconduct by The Narragansett Electric Company  
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Issued on July 29, 2022

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Division 7-3

Request:

Div 1-3 (b) and (c) asked:

- (b) Was the email search limited to emails of only specific programmatic level employees or was the search conducted Company-wide, including the highest levels of management?
- (c) If the email search was limited to specific programmatic level employees, and not expanded to upper management layers, why?

The Company answered:

- b) The scope of the email search “was focused” on 33 energy efficiency program managers. However, six of the 33 program managers left National Grid USA. Therefore, The Narragansett Electric Company (“Narragansett”) could not search those particular accounts due to National Grid USA’s email retention policy. (Quotation added)
- c) The purpose of the email search was to identify whether invoices were being intentionally delayed beyond year-end. Because the employees most likely to have engaged in the “out-of-period” invoicing practice were the program managers, the email search “focused” on energy efficiency program managers during this period. (Quotation added)
- a) The question was not what emails the Company “focused” on. The question was whether a search conducted Company-wide, including the highest levels of management. Please answer, yes or no, was the email search conducted Company-wide, including the highest levels of management?
- b) Assuming that the answer to (a) is no and in light of the fact that the Company’s answer to DIV. 1-29 admits that it became evident from the email search that the practice of out of period invoices “was openly discussed and incorrectly viewed as acceptable by program managers within the energy efficiency program”, why was it appropriate to not further expand the email search to higher levels of management?
- c) Has there been any further email searches of those employees above Program Managers since the initial search or since the report was filed on June 7, 2022? If not, why not?

Response:

- a) No, an email search was not conducted company-wide for National Grid USA, including the highest levels of management, as part of Phase I and Phase II of the investigation. The reason that a company-wide sweep of emails was not conducted (including the highest levels) for these phases of the investigation is that The Narragansett Electric Company (“Narragansett”) was first engaged in a process of

The Narragansett Electric Company  
d/b/a Rhode Island Energy  
RIPUC Docket No. 22-05-EE (Formerly Docket No. 5189)  
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Issued on July 29, 2022

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Division 7-3, page 2

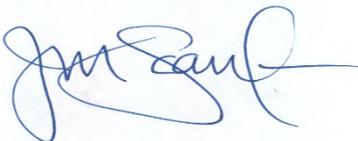
determining whether the allegation had any basis in fact and, once this was validated, whether there was an impact on performance incentives and by how much. It would have been inefficient and inordinately time-consuming to start with a National Grid USA company-wide sweep of emails, including all levels of management. Narragansett was attempting to get to the heart of the matter to identify what was going on as quickly as possible and to identify the potential scope and impact. Narragansett knew that the program managers would be the most direct path for illumination of the questioned practice, if it did exist, as these employees are responsible for all aspects of program management, including sign-off of vendor payments (also, the allegation was aimed at the program management level). Starting at this level did, in fact, enable Narragansett to determine that the allegation was true and required further investigation and improvement of accounting and program controls. As part of this initial effort, approximately 5.2 million pieces of electronic media were reviewed as part of the search, as indicated in response to request PUC Post-Decisional 3-5.

- b) As discussed in the response to subpart (a), above, and in the response to Data Request Division 1-3, subpart (c), Narragansett's first order of business was identifying whether an improper practice was occurring and, if so, what the impact of that improper practice was for customers. Identifying the full extent of management knowledge was going to take more time and process and, although critical in the end result, was not a priority over identifying whether the practice was occurring, stopping the practice and quantifying the impact on customers. To fulfill this objective, email searches of more mailboxes were not needed to identify the Program Manager behavior alleged and described in the June 7, 2022, "Review of Invoices Within the Energy Efficiency Program" report.
- c) It is important to note that National Grid USA's investigation of this matter is ongoing. National Grid USA's further investigation is, at this time, protected by the attorney-client privilege and work product doctrine. National Grid USA will supplement this response at the appropriate time, consistent with its obligations under the Public Utilities Commission's Rules of Practice and Procedure.

Certificate of Service

I hereby certify that a copy of the cover letter and any materials accompanying this certificate was electronically transmitted to the individuals listed below.

The paper copies of this filing are being hand delivered to the Rhode Island Public Utilities Commission and to the Rhode Island Division of Public Utilities and Carriers.



\_\_\_\_\_  
Joanne M. Scanlon

August 25, 2022

Date

**Docket No. 22-05-EE – PUC Investigation of Utility Misconduct or Fraud by The Narragansett Electric Co. Service list updated 8/25/2022**

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