



STATE OF RHODE ISLAND
OFFICE OF THE ATTORNEY GENERAL

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Peter F. Neronha
Attorney General

January 19, 2023

Luly Massaro, Clerk
Division of Public Utilities and Carriers
89 Jefferson Blvd.
Warwick, RI 02888
Luly.massaro@puc.ri.gov

***In Re: The Narragansett Electric Co. d/b/a Rhode Island Energy's Advanced Metering
Functionality Business Case
Docket No. 22-49-EL***

Dear Ms. Massaro:

Enclosed please find for filing an original and nine (9) copies of the Attorney General's Reply to Rhode Island Energy's Omnibus Response to Motions to Intervene, in the above-referenced docket.

Thank you for your attention to this matter. Should you have any questions, please do not hesitate to contact me.

Sincerely,

/s/ Nicholas Vaz

Special Assistant Attorney General
nvaz@riag.ri.gov

Enclosures

Copy to: Service List

**STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION**

IN RE: THE NARRAGANSETT ELECTRIC CO. :
d/b/a RHODE ISLAND ENERGY’S ADVANCED : Docket No. 22-49-EL
METERING FUNCTIONALITY BUSINESS CASE :

**THE ATTORNEY GENERAL OF THE STATE OF RHODE ISLAND’S
REPLY TO RHODE ISLAND ENERGY’S OMNIBUS RESPONSE
TO MOTIONS TO INTERVENE**

NOW COMES Peter F. Neronha, Attorney General of the State of Rhode Island (“Attorney General”), and hereby responds to Narragansett Electric Company d/b/a Rhode Island Energy’s (“Rhode Island Energy” or the “Company”) comments in its Omnibus Response of the Narragansett Electric Company d/b/a Rhode Island Energy to Motions to Intervene (the “Omnibus Response”) concerning the scope of the above-referenced docket in which the Public Utilities Commission (the “Commission”) will review the Company’s Business Case outlining its plan for full-scale deployment of Advanced Metering Functionality (“AMF”) across the State.

I. The Attorney General should be allowed to intervene as a full party in this matter.

As an initial matter, the Attorney General’s Motion to Intervene seeking full-party status in the above-captioned matter, which was timely filed and served on December 23, 2022, should be allowed by rule. Pursuant to Rule 1.14(E) of the Commission’s Rules of Practice and Procedure (the “Commission Rules”), the Attorney General’s Motion to Intervene “shall be deemed allowed” so long as no party filed an objection within ten (10) days of service. The Omnibus Response was not filed by the Company until January 9, 2023, some seventeen (17) days after service of the Attorney General’s Motion to Intervene. Accordingly, intervention with full-party status should be allowed.

Moreover, as noted in the Attorney General’s Motion to Intervene, and as stated specifically in the Omnibus Response, the Company does not object to the Attorney General’s intervention in this docket. *See* Attorney General’s Motion to Intervene at p. 3 (noting that the Company indicated they do not object to the Attorney General’s intervention); *see also* Omnibus Response at p. 1 (stating the Company “does not oppose the intervention[]” of the Attorney General, and noting that he “represent[s] the public and [is a] proper participant[] in this proceeding.”). And, as explained in his Motion to Intervene, the Attorney General’s intervention is sanctioned by law and consistent with the public interest. He has a unique and broad interest in this docket and seeks to represent the interests of ratepayers and the public as a whole. As the Company has highlighted in its Omnibus Response, the Company’s plan has potential to significantly impact the State’s ability to meet its Act on Climate greenhouse gas emission mandates and other climate goals. At the same time, the implementation of AMF would come at significant expense to ratepayers (an estimated \$188 million). The Company has also provided a cost-benefit analysis and claims that its proposal has a benefit-cost ratio of 3.9. These environmental and financial factors, and how benefits and costs are born by different classes of ratepayers, stands to significantly impact the people of Rhode Island for decades to come.

Lastly, as stated in the Attorney General’s Motion to Intervene, this AMF filing was anticipated by and considered in a settlement agreement dated May 19, 2022 by and among PPL Corporation, PPL Rhode Island Holdings, LLC (collectively, “PPL”), and the Attorney General (the “Settlement Agreement”). As part of the Settlement Agreement, PPL committed to the following:

PPL will include in its plan for deployment of Advanced Meter Functionality (“AMF”):

- i. costs that are no more than the estimated costs in total as proposed by Narragansett in Docket No. 5113, and Narragansett will not seek

to recover from customers costs in excess of that amount, which costs shall remain subject to regulatory review and approval; and

ii. a cost-benefit analysis that is at least as positive as the cost-benefit analysis included in the current Docket No. 5113, and bear the risk of lesser actual realized benefits.

The Attorney General has a direct interest in ensuring that the Company's proposal is consistent with these terms.

II. The Company's comments concerning the scope of the proceedings and potential limits resulting from its prior stakeholder process are concerning. The scope of the proceedings should be determined independently by the Commission as this docket progresses.

In its Omnibus Response, the Company made several comments about the scope of these proceedings and has asked the Commission to "confirm and confine" this process to "consideration of whether to approve the Company's AMF Business Case and whether it meets the requirements of the ASA, and not a proceeding designed to set the policy for how AMF will be used if implemented." *See* Omnibus Response at p. 15. While this request may be seemingly innocuous, the Company also uses its "Background and Scope" section to posit that:

[T]he purpose of this proceeding is not to dictate the precise time and manner that the Company will undertake future actions associated with the technology. Nor is this the place for other interested parties to attempt to insert their own particularized view of how the Company should operate and use the proposed AMF system."

Id. at p. 4. The Company then continued:

That process has already occurred through many meetings of the AMF/GMP Subcommittee of the PST Advisory Group. And, many of the parties who now seek to intervene participated robustly in that process and contributed to the proposal that is now before the Commission. Thus, while the participation of those parties is appropriate, and they can provide helpful perspectives on how the AMF Business Case was developed and the input that they provided in its development, this docket is not the forum to re-litigate the decisions the Company made after receiving their input.

Id.

Seemingly, the Company has asked that the Commission prevent advocates from presenting certain ideas and positions to the *Commission* in light of the *Company's* opportunity to have considered those ideas during the stakeholder process organized by the Company. Although the Company cautions against “re-litigating” issues brought up during the stakeholder process - which notably included concerns related to a yet-to-be-considered grid modernization plan – there has been no initial agency proceeding to date that could be relitigated.

Stakeholder processes are extremely valuable in allowing for exchanges of ideas prior to more formal proceedings. However, they cannot be used as a tool to silence potential parties during a decision-making process before the Commission. Precluding participation in an administrative proceeding on the basis that a party participated in stakeholder meetings would impermissibly chill the willingness to participate in those processes and limit the ability of proper parties to have their concerns and positions weighed by the Commission. Presumably, any stakeholders seeking intervention status believe that the Company has not met the statutory and regulatory criteria for approval despite incorporating input through the stakeholder process or, conversely, seek to support the Company. But if any stakeholder believes that their concerns on issues relevant to the standard of approval were not sufficiently addressed by the Company, they should be permitted to raise the same. Any party prevented from raising relevant issues on the basis that they were raised during a stakeholder process, would also be denied the ability to seek judicial review should they wish to challenge a later agency decision. This directly contradicts R.I. Gen Laws § 39-1-1(c), which vests the Commission with “*exclusive* power and authority to supervise, regulate, and make orders governing the conduct of companies offering to the public in intrastate commerce energy[...] by providing full, fair, and adequate *administrative procedures and remedies*, and by securing a judicial review to any party aggrieved by such an administrative

proceeding or ruling.” (emphasis added). Accordingly, the Commission cannot deny intervention or limit the scope of these proceedings based on participation in the stakeholder process conducted by the Company.

While it is clear that the Commission will be charged with considering approval of the Business Case submitted by the Company, it is less clear how the Company’s attempts to define the scope of these proceedings may limit the ability of parties to meaningfully participate in vetting the Company’s proposal. Without specific issues having been raised, a premature definition of scope may limit discovery and testimony and impact the effectiveness of this docket. Should the Commission determine at any point that a particular topic, question, or piece of evidence is “irrelevant, immaterial or unduly repetitious” the Commission can issue a protective order or choose to exclude it from these proceedings in accordance with the Commission Rules.

For instance, a party or intervenor may hypothetically seek to determine the value of a potential meter functionality. This may not be the proper docket to determine the exact rates to be set when using that particular functionality, or the first day on which the benefits of the functionality would be available to customers. However, it may be appropriate to carefully consider other issues, such as what assumptions concerning use of the functionality were made by the Company when it determined the benefit value of that function over the 20-year expected life of each AMF smart meter. That assessment could well depend on implementation by a date certain, given dependencies on inflation, energy forecasts, and other exogenous variables that are time-dependent. Moreover, as with any technology, delays in implementation risk obsolescence. Therefore, contrary to the Company’s assertion, the planned implementation dates and useful life of the investment are linked, and are directly relevant to the issue of whether the Company has

adequately demonstrated benefit. The Commission will best know whether particular evidence is relevant to their review once it has been articulated and raised by a party or intervenor.

III. Conclusion

For the reasons outlined above, as well as those set forth in his Motion to Intervene, the Attorney General should be granted intervention as a full-party to these proceedings. Additionally, the Commission should determine the scope of these proceedings and make any decisions about the relevance of certain topics, discovery requests, testimony, etc. as they arise rather than accepting the Company's articulation of its preferred scope at this early juncture. Moreover, no previous stakeholder process should limit participation by any party, nor should it limit the topics to be considered by the Commission in any way.

Respectfully submitted,

PETER F. NERONHA
ATTORNEY GENERAL OF THE
STATE OF RHODE ISLAND

By his Attorney,

/s/ Nicholas M. Vaz
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Dated: January 19, 2023

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of January 2023, the original and nine hard copies of this reply sent, via electronic mail and first-class mail, to Luly Massaro, Clerk of the Division of Public Utilities and Carriers, 89 Jefferson Boulevard, Warwick, RI 02888. In addition, electronic copies of the reply were served via electronic mail on the service list for this Docket on this date.

/s/ Nicholas M. Vaz