

**STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION**

In re: Rhode Island Energy Advanced Metering Functionality Business Case and Cost Recovery Proposal : : **DOCKET NO. 22-49-EL**

**REPLY OF MISSION:DATA COALITION TO RHODE ISLAND ENERGY’S
OBJECTION TO ITS FIRST SET OF DATA REQUESTS**

Pursuant to Rule 1.19(C) of the RI Public Utilities Commission (“Commission”) Rules of Practice and Procedure, Intervenor Mission:data Coalition (“Mission:data”) is requesting, in part, that Commission Chairman overrule the objections filed by Narragansett Electric d/b/a Rhode Island Energy (“RI Energy” or the “Company”) to a portion of its data. Additionally, Mission:data has voluntarily withdrawn select data requests as indicated below. The Commission granted Mission:data Intervenor status at its January 25, 2023 Open Meeting. Mission:data subsequently issued its first set of Data Requests on January 31, 2022. On February 10, 2023, the Company filed its objection to the following Data Requests: MDC 1-3, MDC 1-5(a), MDC 1-6, MDC 1-7(a)-(c), MDC 1-8, MDC 1-9, and MDC 1-10(a)-(c). Commission Counsel indicated, by email, on February 16, 2023 that the Chairman requested a response to the objections from Mission:data prior to ruling. For reasons set forth below, Mission:data believes that certain of the Company’s objections are made without basis or misinterpret the scope of Mission:data’s intervention. Other select Data Requests have been voluntarily withdrawn.

I. Relevant Facts

Mission:data does not dispute the Company’s assertion that its intervention in this docket was circumscribed by the Commission in their January 25, 2023 decision. While Mission:data

articulated its primary interest to be “the financial and technological aspects” of the portions of the Company’s Advanced Metering Functionality (“AMF”) Business Case, specifically Green Button Connect (“GBC”), Home Area Network (“HAN”), and how AMF enables a market for third party energy management services. In granting intervenor status to Mission:data, the Chair also indicated that Mission:data may seek leave to address other issues as they arise.

II. Legal Standard

Discovery at the Commission is governed by Rule 1.19, whereby a party “may request such data, studies, workpapers, reports, and information as are reasonably relevant to the proceeding and are permitted by [Commission] rules or by statute.” Commission Rule 1.19(C)(1). If there is an objection to the data request, then “[t]he presiding officer shall thereupon determine the validity of the request...[t]he relevancy of a request shall be determined under the standards established for such determinations under Rule 26 of the Superior Court Rules of Procedure.” Commission Rule 1.19(C)(3).

III. Argument

Prior to addressing the individual requests to which the Company objects, Mission:data is compelled to respond to unfounded allegations by the Company of both the intent and purpose of its intervention and the scope of information covered by the Data Requests. The Company preambles its objections with an assertion that the data being requested “...attempts to ferret out the Company’s confidential business and financial information that could be used for the competitive benefit of Mission:Data’s member organizations.” RI Energy Motion to Object at 5. Mission:data sought to clarify its organizational structure and mission in its Reply Brief to the Company’s Motion to Object to Mission:data’s Intervention. To summarize, Mission:data is a not-for-profit legal entity separate and apart from any corporate supporter and maintains an

independent Board of Directors. Mission:data’s “member organizations,” whom the Company considers to be competition, are not intervenors in this docket. *See* Mission:data Reply to RIE Omnibus Motion at 2-3.

Mission:data’s mission, and purpose in this docket, is “to support a class that is often under-represented in state regulatory proceedings such as this one: energy management organizations and technologies that wish to serve Rhode Island ratepayers through the permission-based analysis of customer energy data.” *Id.* To demonstrate a commitment to this purpose, Mission:data has proffered to sign such confidentiality agreements with the Company as may be necessary to assuage concerns – regardless of their foundation – that Mission:data is merely a conduit for our members or supporters to gain competitively sensitive information from RI Energy. Mission:data respectfully requests that the Commission disregard RI Energy’s objection on these grounds, including any future effort by the Company to impugn the integrity of Mission:data or make unsubstantiated claims that Mission:data holds a hidden agenda.

A. Data Request MDC 1-3

The Company objected to this Data Request on three grounds: (1) it is irrelevant, (2) it is beyond the scope of Mission:data’s intervention, and (3) it is outside the proper scope of discovery. Each objection shall be taken in part. However, in addition to the portions of the Data Request to which an objection has been filed, MDC1-3(a) also asks “[W]hat will be the cost to change the recording interval from 15 minutes to 5 minutes?” As no objection has been made to this portion of the Data Request, Mission:data requests that the Commission order the Company to provide a timely response to the inquiry.

(1) Relevancy

Data Request MDC 1-3 sought the identity of which entity may be responsible for potentially changing recording intervals for the new meters, and provided a prompt of RI Energy employees, AMF contractors, or another party as potential responses. While Mission:data recognizes that it is possible that this information is not yet known, the Company did not provide such an answer. This information is relevant in determining whether and to what degree the Commission may have jurisdiction over a potential request by the Company for cost recovery for change orders billed by the Company's contractors. Structural and contractual barriers imposed by contractors on the utility at the time of procurement have the potential to become a determinative factor in whether the benefits of AMF are delivered to ratepayers. Mission:data is seeking to bring to light areas of this procurement where the Company may be subject to "vendor lock-in," meaning that a vendor wields pricing power over the utility after initial deployment by raising the costs to the utility of deploying alternatives, an important consideration given the quickly evolving nature of smart grids and attendant technology. "Meter reprogramming" fees are reasonably foreseen in the industry as part of any contract to install meters, and other utilities have been caught in this expensive trap, requiring regulators to approve additional ratepayer funds in order to provide necessary functionality after meters have been installed.

(2) Scope of Intervention

In its simplified form, Mission:data's scope of intervention is the technological and financial aspects of AMF affecting third-party energy management services. Time-interval energy usage data is foundational information necessary for third-party energy management services to function. Whether these services are going to be functional – and provide benefits to consumers – with the data generated by the meter is of critical importance to the claims made in

the Company's Benefit-Cost Analysis ("BCA"). This includes the potential financial impact of imprudent planning by locking in a time interval that may not be adaptable to wholesale market rules or technological developments over time. It is possible that the Company would have to request additional revenue from ratepayers in order to "reprogram" its meters to change the time period of data collection. The magnitude of such costs and whether the Company is prepared to address this predictable eventuality is directly related to whether customer-selected third party energy management services will be able to deliver benefits to Rhode Islanders.

(3) Outside the Scope of Discovery

With respect to part (b) of MDC 1-3, Mission:data withdraws this request.

For the foregoing reasons, Mission:data requests that the Commission overrule the Company's objection with respect to the portion of MDC 1-3(a) to which a timely objection was filed and compel answer to the portion of MDC 1-3(a) to which no objection was raised. No further action is necessary for MDC 1-3(b).

B. Data Request MDC 1-5(a)

The Company has objected to this Data Request on the grounds that it is (1) outside the scope of intervention and (2) it is impermissibly vague.

(1) Outside the Scope of Intervention

Data Request MC 1-5(a) asks what requirements will be imposed on Home Area Network ("HAN") devices or manufacturers in order to connect to meters. Mission:data seeks source documents to substantiate the response. While the Company asserts that the testing protocols are outside the scope of intervention, the eligibility requirements and required testing protocols of devices that are to be connected with the Company's meters are critical information to determining whether customers will be able to access their real-time energy usage data as the

Company claims. In order to achieve the delineated benefits to ratepayers that have been identified in the BCA, it is necessary to evaluate how customers, or their agents or purchased devices, are able to connect to meters in order to obtain and use the customer's own data.

In Testimony, the Company asserts that its AMF deployment will “[e]nable customer-side technologies that automate end-user response to TVR.” RI Energy Schedule PJW/WR-1 Book 2, Attachment H at 6. Mission:data is concerned that overly restrictive requirements or unsubstantiated claims of cybersecurity risk could be used to not only chill the market for third-party data analysis, it could be used to keep customers from being able to access their own data. The Commission should be aware of whether the Company is putting up unnecessary restrictions for data access. For example, contracts and device testing protocols are methods by which RI Energy could impose discriminatory restrictions on access to usage data, potentially permitting only the Company's favored devices or manufacturers to have access to customer usage data while arbitrarily denying access to others. Thus, contracts and testing protocols determine the possibilities for device-to-meter interconnection that was proposed by the Company in testimony. Until data regarding testing and accessibility is available, it is difficult to ascertain whether the benefits being promised in the BCA are achievable for ratepayers.

The Company provides a second rationale for why this request is outside the scope of Mission:data's intervention, which relies, again, upon unsubstantiated belief in nefarious or covert purposes for Mission:data's intervention as a way to provide market intelligence to separate and distinct entities. Mission:data refers back to pages 2-3 of this Reply for our response to these allegations.

(2) Impermissibly Vague

Mission:data, in crafting its data request, used the term “and the like” to describe the potential that the Company has named its workpapers or other supporting documents something other than a “contract” or “testing protocol,” specific terms used in the request. This is an effort to give notice to the Company that the information being sought is not determinative by the document’s label but rests on the content therein. Mission:data asserts that the phrase “and the like” is not impermissibly vague; in fact, it provides helpful context for RI Energy to identify responsive documents by acknowledging that the documents’ titles may fall into several categories.

With respect to the Company’s additional request for a protective order to cover pricing information, Mission:data is willing and able to agree to reasonable confidentiality requirements for providing this information. Mission:data requests that the Commission deny the Company’s Motion objecting to responding to Data Request MDC 1-5(a).

C. Data Request MDC 1-6

The Company objects to this Data Request on the grounds that it is (1) outside the scope of intervention and (2) exceedingly broad.

(1) Outside the Scope of Intervention

The information requested here is connected to the proposed Customer Portal which, among other things, provides an “integrated marketplace” for customer research and procurement of rooftop solar photovoltaics. Mission:data seeks to understand the purposes and intentions of the Company in creating a wide-ranging Customer Portal, which has been identified as the method by which customers will be able to access other data, such as through GBC and

HAN. The request seeks to establish the breadth and scope of the Customer Portal and whether it can deliver the benefits outlined in the BCA.

Mission:data is concerned that there already exists marketplaces for solar adoption, including Energysage.¹ RI Energy’s marketplace website could have detrimental effects on the enablement of third party services if the Company is unfairly exploiting its monopoly role in adjacent competitive markets. Whether and how RI Energy uses customer data and the Customer Portal to facilitate revenues and profits for its preferred partners in its online marketplace will have an effect on the market for energy management, rooftop solar and other behind-the-meter services.

(2) Request is Exceedingly Broad

Mission:data included in its request “designs and written description” of the integrated marketplace to substantiate the statements that the Company may make in response to the Data Request. Mission:data would be satisfied with the production of relevant documents to indicate the purpose and scope of the marketplace, including but not limited to snapshots of how this integrated marketplace has been deployed in other jurisdictions.

Mission:data reiterates that the Company’s concern about providing competitively sensitive information to Mission:data’s members or supporters is unfounded. On the contrary, Mission:data’s motivation is to ensure that the conditions exist for a fair, open and competitive market for third party services. Mission:data requests that the Commission deny the Company’s Motion objecting to responding to Data Request MDC 1-6.

¹ Rhode Island specific information is available at <<https://www.energysage.com/solar-panels/ri/>>, accessed Feb 23, 2023.

D. Data Request MDC 1-7(b)-(g)

Mission:data first wants to note that the Company has provided a response to MDC 1-7(b) and will consider that it has waived its previous objection.

The Company objected to this request on two grounds: (1) that it exceeds the scope of intervention and (2) data is confidential and proprietary.

(1) Exceeds Scope of Intervention

The data being requested across these requests is related to how customer data, which is either generated by or derived from customer behavior, is shared with third parties.

Mission:data's intervention in this docket is based on the ability of customers to access their data and, potentially, consent to third parties being able to access that data for the purposes of analysis or provision of services. The data that the Company is claiming to be outside our scope of intervention speaks to the intentions, ability, and processes by which the Company shares data. For example, if the Company intends to treat certain customer data as proprietary in the case of commercial, industrial or multifamily units, what would prevent them from making precedential claims that they should be able to treat residential customer data as similarly confidential?

Alternatively, if the Company regularly provides customer data to regulated or unregulated affiliates, it may be using customer data to support the business endeavors of these entities, while prohibiting market competitors from accessing that same dataset, perhaps, even with customer permission. Until the information requested is produced, it will be difficult to assess the Company's data practices and how it may intersect, or conflict, with the needs of third-party technologies.

(2) Data is Confidential and Proprietary

Consistent with previous statements, the purpose of requesting supporting documentation is to ascertain upon what documents or agreements the Company has reached its conclusions. With respect to customer oriented documents, such as consent forms or customer contracts, these template documents are unlikely to be confidential information, as the terms being offered on them would be available to any customer. Seeking additional information on these practices helps understand the Company's historic practice and standards in establishing customer consent to share data, as will be required for effective third-party enablement. As to documents that may substantiate positions taken in conjunction with sharing data with vendors or affiliates, this information is essential in determining if the Company's actions towards data sharing with third-parties is consistent with how they interact with affiliated entities and whether the Company is using customer data for self-preferencing purposes or in order to unfairly benefit its affiliates or vendors. To be clear, Mission:data has no evidence that this is the case and believes that discovery is the appropriate venue to seek such information to confirm that practices align with intent.

Mission:data requests that the Commission deny the Company's Motion objecting to responding to Data Request MDC 1-7(c)-(g).

E. Data Request MDC 1-8

Mission:data withdraws this data request.

F. Data Request MDC 1-9

The Company objects to this Data Request on the grounds that it is outside the scope of intervention. This request seeks additional information regarding the Company's statement that rather than conducting a competitive procurement process for AMF it will "leverage existing

strategic partnerships.” Given that a procurement process for AMF encompasses the entirety of the Company’s business case, including technical features such as GBC, HAN and other third-party enablement, it is difficult to understand how the procurement process of the hardware and software used to power AMF is outside the scope of any intervention. The Commission is being asked to allow the Company to recover the costs of this procurement from ratepayers. If parties are expected to accept a non-competitive procurement process without scrutiny, a claim which strains credulity, then both the Commission and Mission:data should be entitled to the Company’s admission. Absent information obtained through data requests such as MDC 1-9, parties are being asked to trust that a non-competitive, non-transparent procurement process is going to yield a technically functional system at an acceptable cost. What is being purchased – and how it will be purchased – is at the core of evaluating the technical and financial aspects of the critical components that drove Mission:data’s intervention.

For the reasons stated above, Mission:data requests that the Commission deny the Company’s Motion objecting to responding to Data Request MDC 1-9.

G. Data Request MDC 1-10(a)-(c)

The Company objects to this Data Request on the grounds that it is outside the scope of Mission:data’s intervention. The question seeks out whether the Company has set metrics of success for third-party enablement. The Company’s BCA repeatedly cites customer benefits that are derived from additional functionality that will be created by entrepreneurs and other energy market participants that engage directly with customers; such energy market participants are reliant upon access to that customer’s data. If the Company has established or forecasted certain benefits from this engagement – whether reflected in the BCA or not – it is logical to inquire if, in order for those benefits to be realized, there is a necessary market penetration level of third-

party products and services. Without additional information, it is impossible to determine what factors the Company is relying upon in order to introduce this statement into evidence and how it defines successful “animation” of the market. Seeing as the market RI Energy seeks to animate is reliant upon successfully-implemented standardized systems such as GBC and HAN, the question of quantitative forecasts or metrics is critical to understanding the Company’s claim that it is engaging with and “animating” this segment of the market.

Mission:data requests that the Commission deny the Company’s Motion objecting to responding to Data Request MDC 1-10(a)-(c).

IV. Conclusion

For the foregoing reasons Mission:data respectfully request that the Commission overrule the Company’s objections where noted, compel response to the outstanding data request, and take notice of the Data Requests that have been withdrawn.

Respectfully submitted,



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Dated: February 23, 2023

Certificate of Service

I hereby certify that an electronic copy of the Response to RI Energy's Motion to Object to Data Requests was served via electronic mail to the service list for the above captioned docket on February 23, 2023.



James Rhodes