

**STATE OF RHODE ISLAND  
PUBLIC UTILITIES COMMISSION**

**IN RE: RHODE ISLAND ENERGY ADVANCED           :**  
**METERING FUNCTIONALITY BUSINESS CASE       :**           **DOCKET NO. 22-49-EL**  
**AND COST RECOVERY PROPOSAL                   :**

**PROCEDURAL ORDER  
REGARDING REQUEST FOR CONFIDENTIALITY  
RELATING TO PUC 1-17**

This is a Procedural Order issued by the Chairman of the Public Utilities Commission regarding two motions filed by The Narragansett Electric Company d/b/a Rhode Island Energy (Rhode Island Energy or Company). The motions seek confidential treatment of certain cost information contained in the Company’s response to a data request issued by the Commission during the discovery process.

This is the second Procedural Order relating to the subject of motions for confidentiality in this Docket. Like the first,<sup>1</sup> this Order is issued as a preliminary determination, consistent with Rule 1.3(H)(2) of the Commission’s Rules of Practice and Procedure. As explained in this Order below, the Company’s motion is preliminarily denied.

**Travel of the Case**

On November 18, 2022, Rhode Island Energy made a filing with the Commission relating to a proposal to deploy Advanced Metering Functionality (AMF) in its service area. The Company has estimated that the AMF deployment would cost approximately \$289 million over a period of years.<sup>2</sup> The filing also includes a proposal to recover the revenue requirement for costs

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<sup>1</sup> *Procedural Order Regarding Request for Confidentiality*, Issued February 6, 2023 (Docket No. 22-49-EL). The First Procedural Order related to other documents and motions not being addressed in this Order.

<sup>2</sup> Pre-filed Testimony of Walnock & Reder, Bates page 88 of Book 1.

in electric distribution rates as the expenses are incurred annually.<sup>3</sup> The testimony and schedules set forth a prospective multi-year revenue requirement for the recovery of future costs of deploying and maintaining the AMF systems, including operation and maintenance expenses (O&M).

As is customary in any case in which a public utility is forecasting costs for which it is seeking rate recovery from ratepayers, the Commission issued discovery in the form of data requests. One of the data requests (labeled as PUC 1-17) asked the following question:

“Are there any O&M expenses reflected in the Company’s schedules which are based on estimates derived from the allocated cost of any services being shared with a PPL affiliate? If yes, please identify each category of O&M expense, the total cost of the shared services, the portion of shared service cost allocated to Rhode Island Energy, and explain the basis of the allocation in each instance.”

On January 19, 2023, the Company responded with a brief explanation of where the costs were derived, including a table which identified six general categories of shared O&M costs between Rhode Island Energy and Pennsylvania affiliates. The response identified the amounts that were forecasted to be allocated to Rhode Island Energy from each category, but did not provide the total amounts from which each of the allocations were derived. Both a redacted and unredacted version of the response was provided, accompanied by a Motion for Protective Treatment of Confidential Information.<sup>4</sup> (First Motion) The non-confidential version redacted the entire column that identified the costs allocated to Rhode Island Energy for each O&M category.

At an Open Meeting on January 20, the Chairman noted that the response to PUC 1-17 was incomplete because it was missing the total amount of shared O&M costs from which the

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<sup>3</sup> Pre-filed Testimony of Briggs & Johnson, Bates page 5 of Book 2.

<sup>4</sup> *Motion of the Narragansett Electric Company d/b/a Rhode Island Energy for Protective Treatment of Confidential Information*, filed January 19, 2023 (hereinafter “First Motion”).

allocation to Rhode Island was derived. On February 17, 2023, the Company filed a supplemental response, accompanied by a second Motion for Protective Treatment of Confidential Information.<sup>5</sup> (Second Motion) Both a redacted and unredacted version of the supplemental response was provided.

The supplemental version (labeled as PUC 1-17 Supplemental) repeated the language of the first response, then followed with additional supplemental text and a new attachment labeled “Confidential Attachment PUC 1-17 Supplemental.” The attachment included the original totals allocated to Rhode Island under the heading of “System Ongoing Maintenance,” but added a column for the requested total amount of each O&M category from which the Rhode Island allocation was derived. This new column was redacted as confidential. This second version also added a new category of O&M labor costs that were not present in the first incomplete response, stating both the total shared costs and the amount of those shared costs allocated to Rhode Island, and asserting confidential treatment.<sup>6</sup>

The six categories of shared O&M costs are labeled as “Customer Portal,” “Analytics,” “Middleware,” “ADMS,” “OMS,” and “Cybersecurity.” Each of the categories of costs were disclosed at a high level, without any granular detail or supplementary descriptions.

The Second Motion states that the Company is seeking “protective treatment of cost information provided by the Company’s third-party vendors.”<sup>7</sup> It also asserts that the Company is

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<sup>5</sup> *The Narragansett Electric Company d/b/a Rhode Island Energy’s Motion for Protective Treatment of Confidential Information for its Supplemental Response to Data Request PUC 1-17*, filed February 17, 2023 (hereinafter “Second Motion”)

<sup>6</sup> In this version, the Company unredacted the allocation to Rhode Island for one O&M category that had been redacted in the first response. The category is identified as “Customer Portal.”

<sup>7</sup> Second Motion, at 2

seeking “confidential treatment of the total combined costs between Pennsylvania and Rhode Island” in all categories.<sup>8</sup> The Company argues:

“[T]he categories of costs for which the Company seeks protective treatment contain vendor-specific costs for monthly maintenance fees, operations service fees, and software costs. Revealing this information publicly likely would impact the ability of the Company to get best-cost pricing in future negotiations and would reveal the confidential information of the third-party vendors. They also include labor amounts that specifically would permit someone to determine the salaries and pay rates the Company expects to pay. Revealing such information publicly would inhibit the Company’s ability to effectively negotiate contracts for the provision of this labor in the future. Finally, the Company seeks protection for the total costs for both Pennsylvania and Rhode Island. Revealing this information publicly would enable third parties to know the exact cost to PPL Corporation to run these IT platforms and hinder its ability to effectively negotiate these costs in the future. Furthermore, disclosing the cost amounts would reveal the confidential financial information of a third party – PPL – that is not a party to this proceeding.”<sup>9</sup>

### **Decision on the Motions**

The Chairman has reviewed the relevant documents and the Company’s motions. For the reasons described below, the Chairman finds that the data sought for protective treatment does not fall under the exemptions to the Access to Public Records Act.

Rhode Island Energy is a regulated public utility that seeks to pass onto ratepayers all of its costs associated with the AMF deployment. As a regulated electric distribution company, it cannot raise its rates for service without obtaining approval from the Commission in rate proceedings, the likes of which have been in existence for numerous decades. When a public utility seeks to increase rates, it files schedules stating the costs which it proposes to recover in schedules which make up a cost-of-service. Each and every cost item in a cost-of-service to one degree or another reflects commercial and financial information. During the course of rate

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<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 4.

proceedings, the Commission and participating parties drill down on the granular details of actual and forecasted cost incurrence. Because the utility is expecting all of the ratepayers to pay for those costs, the rate proceedings and schedules supporting the costs for which the utility seeks to charge its customers are rarely redacted unless there is a compelling reason to allow it.

In this case, the categories of costs identified in the referenced table and attachment are stated at a high level. There is no granular breakdown making up the cost items. Nor is there any narrative that describes the costs in any detail. They are general areas of O&M costs which have traditionally appeared in cost-of-service schedules not only of Rhode Island Energy's predecessor, but also in the schedules the Commission reviews of other utilities it regulates.

Unlike a private corporation, a regulated public utility that seeks recovery of its costs through public ratemaking proceedings cannot have a reasonable expectation that it can keep confidential and hidden from public view the costs of serving its customers. Rhode Island Energy has an obligation to publicly file cost data to support its rate requests. There is no choice. It is a legal requirement. Further, it is common knowledge that Rhode Island Energy must make these filings disclosing its costs to the Commission. For that reason, it cannot reasonably be concluded that high level cost data of expected O&M cost incurrence provided by the public utility to its regulator is "commercial and financial information that the provider would not customarily release to the public."<sup>10</sup> No vendor – let alone the PPL parent company of the utility itself – should have any expectation that the costs assessed on the utility for which it seeks recovery from ratepayers will remain hidden from the public eye. To the contrary, nearly all

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<sup>10</sup> *Providence Journal v. Convention Center Authority*, 774 A.2d 40, 47 (R.I. 2001).

commercial and financial information provided to the Commission to obtain rate recovery from ratepayers is released to the public, except in rare instances.

The high-level totals of monthly maintenance fees, operations service fees, and software costs are common cost-of-service line items that are readily available for public review in a rate case. The salaries, labor costs, and pay rates of public utilities also are commonly disclosed in rate cases. Further, the fact that the costs at issue here arise out of affiliate dealings is relevant because affiliate transactions give rise to even greater regulatory scrutiny than other transactions or arrangements.<sup>11</sup> Keeping these shared costs from public view most certainly has the potential to undermine public confidence in the processes that are designed to assure that the Commission's rate review over the monopoly services it regulates is transparent.

To quote the Rhode Island Supreme Court in another context, we “reject the argument that the subjective desire for confidentiality . . . should overcome the public interest in knowing that its tax dollars are being appropriately expended and that its public agencies are properly supervising that expenditure.”<sup>12</sup> Whether the matter relates to expenditures funded through tax dollars or ratepayer dollars, the public interest in transparency is effectively the same. In fact, in yet another case, the Rhode Island Supreme Court quoted an Order of the Commission in 2004 which is pertinent:

“Because [New England Gas] is a public utility regulated by this Commission, the public needs and deserves to know how ratepayer funds are being expended. This interest outweighs [New England Gas's] speculative argument that the release of the cost

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<sup>11</sup> The Second Motion argues public disclosure would “reveal confidential information of a third party – PPL – that is not a party to this proceeding.” If this is an argument that the parent Company has no practical or legal ability to be heard through its wholly owned subsidiary in these proceedings, it is a puzzling and unpersuasive assertion, given the scope of regulatory review over affiliate transactions traditionally exercised by this Commission of which the Company should be aware.

<sup>12</sup> *Charlesgate Nursing Center v. Bordeleau*, 568 A.2d 775, 777 (R.I. 1990).

information contained in these data responses will somehow impact the negotiations between [New England Gas] and [the union].”<sup>13</sup>

Identical reasoning is applicable in this case.

It is a fact of the rate review processes here at the Commission that the public utility providing delivery service must publicly disclose its distribution costs (actual and forecasted) to recover those costs in rates. The bare assertion that disclosure could theoretically affect price negotiations at some future date is not enough without the alleged harm being real, apparent, and well-supported by substantial evidence which outweighs the public interest in transparency. It also is unpersuasive that the costs are confidential simply because the costs are shared with affiliated Pennsylvania entities. To the contrary, the fact that Rhode Island is being allocated a portion of costs being incurred in Pennsylvania by its PPL affiliates calls for even greater transparency. To quote the Rhode Island Supreme Court again, “the General Assembly has presumably determined in its wisdom that the benefits of making such information public outweigh the disadvantage that may accrue to those who have a subjective desire to keep the material private and confidential.”<sup>14</sup>

For all these reasons, the Chairman finds that the data sought for protection does not fall under the exemption of confidential financial information. Nevertheless, given that this Order is a preliminary decision, the Company may appeal this decision to the full Commission by filing a motion and legal memorandum explaining the basis for its appeal within five business days of the date of this Order. During the interim, the Commission Clerk is directed to treat unredacted PUC 1-17 as provisionally confidential. If such an appeal is filed, the matter will be addressed at

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<sup>13</sup> *In re New England Gas Co.*, 842 A.2d 545, 557 (R.I. 2004)(bracketed terms “New England Gas” and “the union” are in the original Supreme Court decision.)

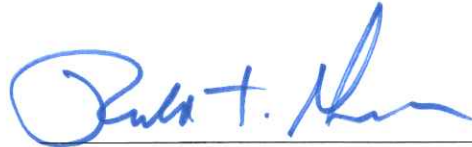
<sup>14</sup> *Charlesgate Nursing Center v. Bordeleau*, 568 A.2d at 778.

the same hearing that has been scheduled to address the confidentiality claims from the first Procedural Order issued on February 6 in this Docket.

So ordered. (24591)

DATED AND EFFECTIVE at Warwick, Rhode Island, on February 21, 2023.

PUBLIC UTILITIES COMMISSION



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Ronald T. Gerwatowski, Chairman  
Presiding Officer

