

**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 VENDOR NAME**

This is a Procedural Order issued by the Chairman of the Public Utilities Commission regarding a motion filed by The Narragansett Electric Company d/b/a Rhode Island Energy (Rhode Island Energy or Company). The motion seeks confidential treatment of certain information that was provided to the Commission in response to a record request made during an evidentiary hearing that occurred on April 14, 2023. This Procedural Order directly addresses only one category of information being sought for confidential treatment – namely, a request to keep confidential the name of the Company’s main vendor which is listed throughout the documents in question. For the reasons given in this Order, the Company’s request to keep the vendor’s name confidential is 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. Reference is made to two other Procedural Orders issued in this docket relating to issues of confidentiality which Orders provide background regarding the travel of this case.¹ The information in those two Orders will not be repeated here, however, they are incorporated by reference.

¹ The two orders can be found at: <https://ripuc.ri.gov/sites/g/files/xkgbur841/files/2023-02/2249-PUC-Ord24586-Confidentiality%202-6-23.pdf> ; and https://ripuc.ri.gov/sites/g/files/xkgbur841/files/2023-02/2249-RIE-Ord24591_2-21-23.pdf

At the hearing on April 14 which were conducted to address confidentiality issues arising out of the two prior Procedural Orders referenced above, the Commission made a record request for copies of certain agreements and letters that were identified by the Company’s witness and counsel.² Redacted and unredacted copies of three agreements and two letters were provided to the Commission, labeled as Attachments RR-1-1 through RR-1-5 (“Agreements and Letters”). The filing was accompanied by a “Motion of the Narragansett Electric Company d/b/a Rhode Island Energy for Protective Treatment of Confidential Information,” dated May 1, 2023 (“Motion”).

The Company’s Motion identified six categories of information that were redacted from the Agreements and Letters. They were: (1) Prices, (2) Vendor Name, (3) Trade names for proprietary products, services, and systems (the disclosure of which would reveal the identity of the vendor), (4) Service Fees, (5) Inputs for Development of the Proprietary Design of the System, (6) Negotiated Commercial Terms under Negotiation, and (7) Confidential Security Information.³ This Procedural Order addresses only the request for confidentiality of the name of the Company’s main vendor, as referenced in categories (2) & (3).

The Applicable Agreements and Letters

Below is a description of each of the Agreements and Letters, as applicable:

Attachment RR-1-1: This is a letter sent by the vendor on the vendor’s stationery (dated December 7, 2022) which proposed pricing for certain metering and communication components.

² Docket 22-49-EL, Hr’g Tr. at 88-91 (April 14, 2023).

³ Motion at 5-8.

Attachment RR-1-2: This is a supplemental letter to the December 24, 2022 letter (dated April 24, 2023), making a correction to one of the labeled products in the prior letter. This also was sent on the vendor's stationery.

Attachment RR-1-3: This is a 96-page agreement, entitled "Software as a Service and Services Agreement" dated January 30, 2023. This agreement is between PPL Services Corporation and the vendor in question. It provides for numerous services, including the deployment and maintenance of certain software, obligations to provide upgrades, service maintenance responsibility, and sizing of software and related systems. The agreement defines "benefitting affiliates" of PPL Services Corporation as entities to receive the services. The Agreement references The Narragansett Electric Company in section 2.5 as a recipient of the services in the Agreement, and one of the benefitting affiliates. It also references the Rhode Island Public Utilities Commission as one of the governmental authorities from whom regulatory approval of the AMF proposal is required in Section 5.4.2. The Narragansett Electric Company also is listed as the "Customer" in Section 16.4 to whom notices need to be sent.

Attachment RR-1-4: This is a 68-page agreement entitled "AMF Program and TSA Exit Program Statement of Work," dated January 30, 2023. The parties to the agreement are the vendor and "The Narragansett Electric Company, d/b/a Rhode Island Energy." This agreement cross-references the one contained in Attachment RR-1-3 above. Under this agreement the vendor has agreed to provide certain services relating to the implementation of the Company's AMF program which is being proposed by the Company in this Commission Docket. It also is an agreement to provide certain services relating to the Company's transition arising out of the PPL acquisition of the Company from National Grid USA, which closed in May of 2022.

Attachment RR-1-5: This is a confidentiality agreement entitled “Mutual Confidentiality Agreement,” dated May 3, 2022, between PPL Service Corporation and the vendor. It is signed on behalf of PPL Services Corporation by an individual with the title, “Intermediate Category Manager.”⁴ This agreement contains a preamble paragraph stating the following:

The Parties wish to protect the confidential nature of Confidential Information (as defined below) that each Party and its Representatives may disclose to or is otherwise discovered or obtained by the other Party and its Representatives in connection with discussions, negotiations, or dealings related to a potential business transaction (“Purpose”).

The agreement never identifies the potential business transaction to which it applies.

The Company seeks to keep confidential the name of a vendor that is a party to all of the referenced Agreements and the sender of the two Letters. The Company’s reason for the request for keeping confidential the name of the vendor was as follows:

Vendor name. The prospective vendor for AMF in Rhode Island has not been disclosed publicly by the Company. Further, the Company and vendor are still in active contract negotiations. Accordingly, the Company seeks confidential treatment for the vendor’s name, which is included through Attachment RR-1-1 through Attachment RR-1-5. Additionally, in Attachment RR-1-4, there are references to other similarly situated subcontractors in Section 1.1; for the same reasons, the Company also seeks confidential treatment of these subcontractors’ names. Notably, this is the only confidential information in Attachments RR-1-2 and RR-1-5.⁵

Decision on the Motion

For the reasons described below, the Chairman finds that the name of the vendor in this case does not fall under the exemptions to the Access to Public Records Act (APRA). There are two primary reasons why the name of the vendor in this case does not meet the exemption. First,

⁴ It is not clear how this agreement would be legally binding upon The Narragansett Electric Company.

⁵ Motion at 6.

the Company's justification fails to describe a basis for confidentiality that reasonably meets any exemption under APRA. Second, there are numerous other documents and references to the vendor by name which have either directly or indirectly put the name of the vendor in the public domain with respect to the Company's AMF proposal in this case. There also are other reasons why disclosure is in the public interest. Each will be addressed below.

The Company's Justification Does Not Describe an APRA Exemption

The Company's argument is quoted in full above. It essentially makes two assertions: (1) "The prospective vendor for AMF in Rhode Island has not been disclosed publicly by the Company;" and (2) "the Company and vendor are still in active contract negotiations."

The first assertion is meaningless in the context of APRA. Simply because the name of an entity providing services has not been publicly disclosed provides no basis for claiming an exemption under APRA. Nothing more needs to be said. Second, the vendor is a party to whom the Company is obligated and from whom the Company has received legally binding commitments. Thus, the mere possibility that there could be other items of service still under negotiation that may not have been memorialized into binding agreements offers nothing to withhold disclosure of the vendor's identity. This is especially compelling where the vendor is legally committed to the Company on matters for which the Company seeks cost recovery in this docket.

Other Relevant Information Identifying the Vendor by Name

Also important is the fact that there has been other instances where the name of the vendor and the vendor's role in providing relevant services to the Company is in the public domain either directly or indirectly, or can be easily identified through logical inquiry. They are described below:

(1) PPL Corporation Website

On the PPL Corporation website, there is a link to a page entitled “Other meter resources.” It contains the following sentence: “Statement by Landis & Gyr on meter information security – Landis & Gyr manufactures the new meters being installed by PPL Electric Utilities.”⁶

(2) Press Release

On August 23, 2021, Landis+ Gyr issued a press release entitled: “Landis+Gyr Signs Contract with Louisville Gas and Electric Company and Kentucky Utilities Company for Advanced Metering Infrastructure and IoT Network.” The press release identifies the two utilities as being “part of “the PPL Corporation (NYSE: PPL) family of companies. . . .”⁷

(3) Rhode Island Energy Filing

In Book 2 of the Company’s filing in this case (Bates page 97) the Company makes the following statement:

Rhode Island Energy will require external assistance from vendors with extensive experience and/or specialized services to meet the resource needs. Pre-established PPL AMF contracts and relationships that can be leveraged by Rhode Island Energy will be executed through several sole-source contracts with such vendors to derive efficiency and scalability. This approach is consistent with industry best practices and will expedite the contract execution process and the delivery of services.

Rhode Island Energy will be leveraging many existing strategic partnerships that have been established through AMF deployments in both Pennsylvania and Kentucky. The most recent application in Kentucky will serve as a good basis for cost comparisons.

⁶ As of May 2, 2023, the name of the vendor has been identified on the PPL Corporation website at: <https://www.pplelectric.com/site/More/About-Us/Reliability/New-electric-meters/Other-meter-resources>

⁷ See <https://www.landisgyr.com/webfoo/wp-content/uploads/2021/08/EN-August-23-2021-LandisG-yr-Signs-Contract-with-Louisville-Gas-and-Electric-Company-and-Kentucky-Utilities-Company.pdf>

Merely linking items (1) and (2) with this statement allows any interested observer to conclude that Landis+Gyr would be involved in the Company's initiative in Rhode Island.

(4) The Division's Data Request.

On April 12, 2023, the Division issued a set of data requests to the Company which was copied to the parties in the case. One question asked the following: "The Company's response to Division 4-7 states the AMF meters with remote disconnect/reconnect switches are less expensive than AMF meters without the feature. Provide a copy of the vendor (Landis & Gyr) bids for the AMF meters with the remote disconnect/reconnect feature and the AMF meters without the feature."

At the request of the Company, the Division later withdrew the question and restated it without the parenthetical reference. During the April 14 hearing, counsel for the Division indicated the reason why the data request contained the reference to Landis+Gyr:

I believe what happened, and this may not be firsthand information, but Mr. Booth had familiarity with the vendors for Pennsylvania and Kentucky, and it may be that there was an assumption or outside knowledge that that may be the vendor for Rhode Island, and so he included it in the data request. I believe that's what happened.⁸

The incident was a clear reflection of how easy it would be for anyone following the docket and interested in vendor information to discern that Landis+Gyr is the vendor.

(5) Inadvertent listing of Landis+Gyr in Attachment RR-1-3

⁸ Docket 22-49-EL, Hr'g Tr. at 27 (April 14, 2023).

On page 20 of the redacted version of Attachment RR-1-3, the name of Landis+Gyr appears in section 6.3 unredacted. While this was clearly inadvertent, the document was circulated to the service list on May 1, 2023.

(6) The Recognizable Stationery of the Vendor

Finally, the Letters contained in Attachments RR-1-1 and RR-1-2 were on the stationery of the vendor, with the clear and unmistakable green color formatting of Landis+Gyr that is found all over the Landis+Gyr website.

The Public Interest

Finally, there is a compelling reason why it is appropriate, reasonable, and in the public interest for the name of the vendor to be disclosed. The Company is seeking recovery of \$289 million of costs from ratepayers for its AMF proposal. The Agreements and Letters are a clear indication of the key role that the Company has already hired the vendor to play in the implementation and deployment of its proposed AMF plan. The Agreements are final commitments, and the Agreement in Attachment RR-1-4 also indicates substantially more will be relied upon by the Company from this vendor. The “AMF Program and TSA Exit Program Statement of Work” identifies the vendor as the “AMF Provider” and contains the following representation in Section 1.1:

Customer expects to use the following technologies and Other Vendors for achievement of the above AMF Program and Project objectives:

- AMF electric meters supplied by AMF Provider
- AMF communications hardware supplied by AMF Provider
- AMF Head End System supplied by AMF Provider
- MDMS supplied by AMF Provider
- AMF Provider Standard Project Delivery Services described in this SOW

Given the magnitude of the project, its potential impact on ratepayers, and the substantial role that the vendor will be playing in project implementation, there are compelling reasons for the public to be aware of the identity of the vendor.

Decision

For all of these reasons stated herein, the Company's request to keep confidential the identity of the vendor, the vendor's affiliates, and the trade names of the proprietary products, services, and systems of the vendor is denied. The Company is directed to file amended Agreements and Letters with the name of the vendor and trade names of the products, services, and systems unredacted.⁹

This Order makes no other definitive findings related to the Motion. While Preliminary Confidentiality is provisionally allowed for all the other redactions contained in the applicable documents referenced in the Company's Motion, the Chairman and/or Commission will evaluate those redactions as the case proceeds and may make them public in the future, as the Chairman or the Commission determines is appropriate.

So ordered. (24653)

DATED AND EFFECTIVE at Warwick, Rhode Island, on May 3, 2023.

PUBLIC UTILITIES COMMISSION



Ronald T. Gerwatowski, Chairman
Presiding Officer

⁹ The names of the vendor's unaffiliated subcontractors (referenced in the Company's motion) may remain redacted unless the Chairman or the Commission determines that they may become public.