

**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 RULING
ON OBJECTIONS TO CERTAIN DATA REQUESTS
FROM “MISSION:DATA COALITION” SET 1**

This is a Procedural Order issued by the Chairman of the Public Utilities Commission regarding objections of The Narragansett Electric Company d/b/a Rhode Island Energy (Rhode Island Energy or Company) to certain data requests issued to the Company by Mission:data Coalition (Mission:data), one of the parties in this case who has been granted intervention status.

Introduction

This case is before the Commission as a result of a filing by the Company seeking approval for deployment of advanced metering and related infrastructure which has been referred to as Advanced Metering Functionality (AMF). As is customary in cases before the Commission, all parties granted status as intervenors may make discovery requests of the utility. One of the parties granted intervention status was Mission:data that issued discovery to the Company in the form of “data requests.” The data requests were labeled as “Mission:data Coalition’s First Set of Data Requests,” consisting of twelve separate questions, many of which contained subparts. The data requests are labeled MDC 1-1 through MDC 1-12.

Rhode Island Energy filed objections to seven of the twelve data requests numbered 1-3, 1-5(a), 1-6, 1-7(b)-(g), 1-8, 1-9, and 1-10(a)-(c). In addition, the Company filed a Motion for a Protective Order with Respect to Mission:data Coalition Request Nos. 1-5(a) and 1-7.

In its motion to intervene filed in December, Mission:data described itself as “a not-for-profit organization focused on advancing policies that improve customers’ access to, and utilization of, their own energy-related data held by regulated monopolies.”¹ On January 25, 2023, the Commission conditionally granted Mission:data’s motion to intervene. The conditions for intervention are relevant to the discovery dispute at issue. Specifically, the Commission granted Mission:data’s motion to intervene “limiting the scope of their intervention to the financial and technological aspects of the AMF proposal which relate to Green Button Connect, the Home Area Network, and whether and how the proposed advanced metering functionality affects the market for third party energy management services.”²

Decision on the Objections

MDC 1-3:

This data request inquires about the Company’s proposal to design the advanced meters to collect data in 15 minute intervals. As to subpart (a), the question itself has two separate inquiries. The first inquiry seeks information regarding the incremental cost to change the recording interval from 15 minutes to 5 minutes. The Company argues that it should not be required to answer this question because it has not yet received approval for deployment of advanced metering and that ISO New England has not yet determined the interval needed for third parties to participate in the regional demand response programs.

The Company’s argument relating to the first inquiry within subpart (a), however, is not logical. The Company has made a filing seeking Commission review and approval of its AMF plan. The Company has included descriptions of the functionalities proposed to be included in

¹ Mission:data Motion to Intervene, at 1 (filed December 30, 2022).

² Minutes of Open Meeting Held on January 25, 2023, at 3.

the plan. One of the functionalities is the metering interval. For that reason, the subject matter of the first part of the question is reasonable. To the extent the Company has considered what the incremental cost is likely to be (including any high-level cost range), the Company is directed to provide that information. If, however, the Company has not already evaluated this cost differential, then the answer may so indicate with an explanation why not. To this extent, the Objection is overruled.

The second inquiry within subpart (a), however, seeks copies of all documents relevant to the cost question, along with the identity of entities, employees, and contractors that would charge the cost. While a high-level estimate of the incremental cost may be relevant, obtaining copies of all documents and the identity of entities, employees, and contractors who would charge the cost is a needlessly intrusive, overreaching, and overbroad to the issue being probed. To the extent that Mission:data also is concerned with the risk it labels as “vendor-lock in” that relates to procurement issues, the issue is beyond the scope of Mission:data’s intervention. The Objection to this part of the inquiry in MDC 1-3 is sustained.

As to subpart (b), Mission:data has withdrawn this request.

MDC 1-5(a)

This data request relates to the requirements that the Company may be considering to impose on home devices. It has four subparts, but the objection is raised only to subpart (a) which has two components. The first component asks the Company to identify any requirements it intends to impose on Home Area Network devices in order to connect with customers’ meters. The second component requests “copies of contracts, testing protocols, and the like.”

It appears from the Company’s Motion that the Company is only objecting to the second component of subpart (a), because no argument was made as to the first part of the question. In

fact, the Company stated in its objection that it “does not object to answering the portion of the question that asks ‘[w]hat requirements [] Rhode Island energy [will] impose on [HAN] devices (or manufacturers of such devices in order to connect with customers’ meters.’” Despite that statement, RI Energy did not respond to that question in its filed responses. However, RI Energy has waived any objection to the first part and is directed to answer that question.

The second component of subpart (a), however, requests “copies of contracts, testing protocols, and the like.” This request is beyond the scope of this proceeding at this time. Much like the second part of MDC 1-3 described above, it is needlessly intrusive and overreaching. Further, one of the arguments made by Mission:data in support of its inquiry was that its questions were probing “whether the benefits being promised in the BCA are achievable for ratepayers.”³ Issues relating to whether the benefits claimed in the BCA are achievable are beyond the scope of the limitations placed on Mission:data’s intervention. For each of these reasons, the objection as it relates to the second component of subpart (a) is sustained.

Rhode Island Energy sought a protective order relating to the contracts and related documents that were the subject of the second component of subpart (a). Since the objection was sustained on other grounds, the motion for protective order as it pertains to those documents is moot. The Company’s response to the first component of subpart (a) does not implicate confidential and propriety information and is to be answered without confidential treatment.

MDC 1-6

This data request relates to questions about the proposed “Customer Portal” (also referred to with the acronym “CP”). The testimony referenced in the data requests made a general

³ Reply of Mission:data at 6.

statement about the Customer Portal, which was only partially quoted in the data request. The full text of the statement was:

“Also, the [Customer Portal] will provide an integrated marketplace for customer research of solar PV adoption, the ability for customers to calculate their carbon footprint, and the ability for C&I and multi-family customers to have a portfolio view of C&I facilities and multifamily units, aggregate data, and normalized usage based on variables, such as production, occupancy, or weather.” (Testimony, at page 49 of 84; Bates page 75 of Book 1)

There were three subparts to the data request, each of which will be addressed below:

Subparts (a) & (b) are similar in scope. Subpart (a) states: “Please provide all designs and written descriptions of the ‘integrated marketplace’ showing its functions, both to ratepayers and Rhode Island Energy.” Subpart (b) requests “all documents regarding the ‘integrated marketplace.’”

The Company argues that the data request is beyond the scope of Mission:data’s intervention because it “does not relate to the ‘financial and technical aspects’” of the relevant aspects of the proposal to which the data request pertains. The Company also objects to the document request as being overbroad. Mission:data argues that it has a legitimate interest in understanding the purposes and intentions of the Company in creating the Customer Portal as it relates to data access.

The requests in subparts (a) and (b) for “all designs and written descriptions” and “all documents,” respectively, is exceedingly overbroad and unnecessary. Further, Sections 9.6 and 9.7 of the Business Case provide a reasonable description of the proposed technical functionalities of the Customer Portal. To the extent that Mission:data has questions about those functionalities, it does not need copies of all the requested documents to inquire about the functionalities identified in those sections. Accordingly, with respect to subparts (a) and (b), the objection is sustained.

With respect to subpart (c), however, Mission:data simply requests: “What specific ‘customer research’ or data from customers does Rhode Island Energy expect to obtain as a result of the proposed CP that cannot be obtained from rooftop solar interconnection applications?” This question is reasonable and not complicated. Thus, with respect to subpart (c), the objection is overruled and the Company is directed to answer the question.

MDC 1-7 (b)-(g)

The relevant subparts of this data request probes data-sharing issues related to the testimony regarding the Customer Portal. The Company objected to six of seven subpart questions contained in this data request MDC 1-7. No objection was raised as to subpart (a) to which the Company has responded. With respect to subpart (b), the Company appears to have raised an objection in its pleadings, but at the same time has provided a response to the question. Thus, the objection to subpart (b) has been waived and has otherwise become moot.

The Company argues that the Company’s practices of sharing information it receives is outside the scope of Mission:data’s intervention. The Company also argues that the question of how the Company shares information with affiliates is not relevant. The Company also argues that the documents being sought are confidential and proprietary. Mission:data argues that its “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.”⁴ Mission:data asserts that the information which the Company argues is outside of the scope of the intervention “speaks to the intentions, ability, and processes by which the Company shares data.”⁵

⁴ Reply of Mission:data at 9.

⁵ *Id.*

With respect to subparts (c) through (f) of MDC 1-7, they are rather wide-ranging inquiries. However, it appears from the content of those subparts that the intention of Mission:data is to probe whether the Company has plans to share customer-specific data with any affiliates and the extent to which the Company has, in the past, shared any customer-specific data with any affiliates. When reframed in this general way, a question would be reasonable and has a reasonable relationship to the scope of the intervention. But, instead, the subpart questions were formulated in ways that go far beyond a reasonable initial inquiry without any foundation for the need to do so. The Company's objection is sustained in part, given the scope of those questions.

However, for purposes of the efficiency of these proceedings, the Company is directed to answer the following question in lieu of responding to subparts (c) through (f) as they were formulated: Please explain the extent to which Rhode Island Energy has plans, if any, to share customer-specific data with any affiliates and the extent to which the Company has, in the past, shared any customer-specific data with any affiliates.

Rhode Island Energy sought a protective order relating to the related documents that were the subject of the subparts (c) through (f). Since the objection was sustained in part and the data request reframed in a general way, the motion for protective order as it pertains to those documents is moot. The Company's response to the reframed data request does not implicate confidential and propriety information and is to be answered without confidential treatment.

With respect to subpart (g), Mission:data is requesting copies of customer consent forms or contractual language required to obtain customer consent for the sharing of data that Rhode Island Energy plans to use for customer-provided data that "are not necessary for regulated electric utility service." The Company argues that this data is confidential and, therefore, should

not be shared. However, Mission:data’s question relating to how the Company plans to obtain customer consent for the sharing of customer-data obtained in its capacity as a regulated utility is relevant and reasonable. The process that the Company will use to share customer-data obtained in its capacity as a regulated utility is not confidential and proprietary. It would squarely fall under the Commission’s jurisdiction to determine its reasonableness and would need to be applied in a manner that is not unduly discriminatory. As Mission:data argues, since these documents would be made available to members of the public seeking to gain consent for purposes of accessing the information, they are not inherently confidential. Further, this data request does not seek documents to inquire about the details of past transactions. Rather, the Chairman interprets the request as only asking for language from any consent forms or contracts, if any, that the Company “plans to use” for the purpose of obtaining consent for customer-provided data in the context of the AMF proposal. Accordingly, the objection to subpart (g) is overruled, the motion for a protective order relating to subpart (g) is denied, and the Company is directed to respond to the request as the Chairman has interpreted it.

MDC 1-8

The Company objected to Mission:data’s request number 1-8. After the Objection was filed, Mission:data withdrew its request.

MDC 1-9

This data request asks: “Is Rhode Island Energy saying that it will not commence a competitive procurement process for AMF because it intends to merely ‘leverage existing strategic partnerships’ with PPL’s already-chosen vendors? Please explain in detail.”

This inquiry raises a question of prudence. While prudence is relevant to these proceedings, this is not an issue that is within the scope of Mission:data’s intervention. If asked by another

appropriate party, it would be reasonable. But Mission:data must stay within its lane in this case, given the Commission’s ruling on the scope of intervention. The Objection to MDC 1-9 is sustained.

MDC 1-10 (a)-(c)

These three subpart questions in MDC 1-10 probe the extent to which the Company is using quantitative targets and metrics for measuring success in “animating” the market for third party services.

The Company objects on the grounds that it is beyond the scope of Mission:data’s intervention. Mission:data responds by noting the relevancy of the question to the Company’s benefit-cost analysis (BCA) in which it cites benefits derived from the functionality created by third-party market participants that use customer data.

Mission:data’s intervention was limited to the financial and technological aspects of the AMF proposal and how AMF affects the market for third party energy management services. While issues relating to the BCA are not directly relevant to the scope of this intervention, the question of how the Company may be measuring success in achieving a positive impact on the market for third party energy management services may nevertheless have a connection. Therefore, the question in this narrow instance is allowed and – for purposes of this question only – the Company’s Objection is overruled. However, as the case proceeds, this should not be interpreted as opening the door for Mission:data to inquire granularly and broadly – without limitation – into issues relating to metrics or the BCA.

Scope of Future Discovery Requests Seeking Document Production

We are at the early stages of this proceeding and it is reasonable to expect that parties will be issuing many discovery requests as the case proceeds. For that reason, it is important to make an observation regarding requests for the production of documents.

This proceeding is not civil litigation, in which parties are involved in a contractual or other business dispute, where it becomes important and necessary for the parties in conflict to obtain copies of “all documents” that may relate to the matter being litigated that will affect the outcome of liability of one party to another. This is a regulatory proceeding in which the Commission is considering policy, evaluating the business plan of the Company, reviewing the benefit-cost analysis of the plan, reviewing a proposal for cost recovery from ratepayers, examining at a high level the need for the proposed functionalities, and determining whether the Company’s exercise of its management discretion on how it plans to serve its customers with the AMF is reasonable.

In that regard, it is important to point out that being allowed to participate as an intervenor in a Commission proceeding does not mean that a party is entitled to obtain copies of broad sets of business documents in generalized categories of inquiry. Mission:data was permitted intervention within a narrow scope of issues. While other parties in this docket may not have a similar limitation, the Chairman nevertheless encourages all parties to be reasonable in any requests that are made for copies of documents. Requesting “all documents relating to” a particular topic is inherently overbroad. In contrast, a more targeted request for a document or limited set of relevant documents is not. Yet, even then, parties need to be prepared to support the need for such a request, especially in instances where a request for production implicates a burdensome administrative effort or seeks documents that are not needed for purposes of initially

probing an issue. This is not to say that requests for documents are impermissible. To the contrary, they are relevant and important in many instances during the regulatory proceedings before this Commission. Rather, parties simply need to be prepared to substantially support the need for any documents being sought in instances where it is not readily apparent that the request for the documents is reasonably necessary to probe an issue that is relevant to the proceeding.

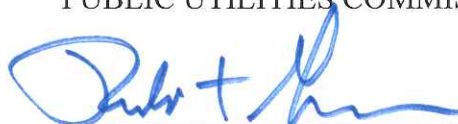
Rulings

- (1) The Objection to MDC 1-3(a) is sustained in part and overruled in part;
- (2) The Objection to MDC 1-5(a) is sustained in part and overruled in part;
- (3) The Motion for a Protective Order regarding MDC 1-5(a) is moot;
- (4) The Objection to MDC 1-6 is sustained in part and overruled in part;
- (5) The Objection to MDC 1-7(b) is waived and moot;
- (6) The Objection to MDC 1-7(c)-(f) is sustained in part and overruled in part;
- (7) The Objection to MDC 1-7(g) is overruled;
- (8) The Motion for a Protective Order regarding MDC 1-7(c)-(f) is moot;
- (9) The Motion for a Protective Order regarding MDC 1-7(g) is denied;
- (10) The Objection to MDC 1-9 is sustained; and
- (11) The Objection to MDC 1-10(a)-(c) is overruled.

So ordered. (24620)

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

PUBLIC UTILITIES COMMISSION



Ronald T. Gerwatowski, Chairman
Presiding Officer