

STATE OF RHODE ISLAND

RHODE ISLAND PUBLIC UTILITIES COMMISSION

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In re: The Narragansett Electric Company)	
d/b/a Rhode Island Energy’s Advanced)	Docket No. 22-49-EL
Metering Functionality Business Case)	
)	

**MOTION OF THE NARRAGANSETT ELECTRIC
COMPANY D/B/A RHODE ISLAND ENERGY FOR PROTECTIVE
TREATMENT OF CONFIDENTIAL INFORMATION**

The Narragansett Electric Company d/b/a Rhode Island Energy (“Rhode Island Energy” or the “Company”) respectfully requests that the Rhode Island Public Utilities Commission (“PUC”) provide confidential treatment and grant protection from public disclosure to certain confidential, competitively sensitive, and proprietary information submitted in this proceeding, as permitted by Rule 1.3(H)(3) of the PUC Rules of Practice and Procedure, 810-RICR-00-00-1-1.3(H)(3) (“Rule 1.3(H)”), and R.I. Gen. Laws § 38-2-2(4)(B). Specifically, the Company requests confidential treatment of Confidential Excel Attachment PUC 7-14-1, which the Company has filed contemporaneously with this motion as part of its responses to PUC’s Seventh Set of Data Requests (“PUC Set 7”). The Company also requests that, pending entry of a ruling on this motion, the PUC preliminarily grant the Company’s request for confidential treatment pursuant to Rule 1.3(H)(2).

I. BACKGROUND

On November 17, 2022, Rhode Island Energy submitted its Advanced Metering Functionality Business Case (the “AMF Business Case”) in the above-captioned docket. On June 16, 2023, the PUC issued PUC Set 7 to the Company. Confidential Excel Attachment PUC 7-14-

1 contains confidential and proprietary information that is exempt from disclosure under the Access to Public Records Act (“APRA”). Additionally, Confidential Excel Attachment PUC 7-14-1 has been provided in its native, excel format, and thus cannot be redacted; as such, the Company is seeking protective treatment of Confidential Excel Attachment PUC 7-14-1 in its entirety and the Company is not submitting it for inclusion on the public docket.

A. Information Contained in Confidential Excel Attachment PUC 7-14-1

The Company seeks confidential treatment for the negotiated cost and pricing information that is specifically identifiable to the Company’s third-party vendors products and services they propose to provide to the Company pursuant to negotiated contracts, which are specifically contained within Confidential Excel Attachment PUC 7-14-1. This information constitutes confidential commercial, financial, and proprietary information. Specifically, Confidential Excel Attachment PUC 7-14-1 consists of spreadsheets, pivot tables, and charts that reveal the amounts and terms of payment for vendor services, including a breakdown of service order costs by production, disaster recovery and lower (development) environment. The file includes the forecasted costs by each service order number, a summary of the costs to be paid, along with a direct comparison of the AMF on-going costs from the BCA estimates to the forecasted contract prices contained in each service order. Additionally, this attachment includes inputs from other confidential attachments including the BCA Model (Confidential Attachment PUC 3-2-1), the Landis + Gyr (“L+G”) agreements (Confidential Attachments PUC RR-1-1 through RR-1-6), and the Tata Consultancy Services (“TCS”) agreements (Confidential Attachments PUC 6-3-1 through PUC 6-3-4). These inputs are confidential and proprietary because they reveal each vendor’s pricing and revealing that information could allow a competitor to unfairly compete with TCS or L+G.

II. LEGAL STANDARD

Rule 1.3(H) provides that access to public records shall be granted in accordance with the Access to Public Records Act (“APRA”), R.I. Gen. Laws § 38-2-1, *et seq.* APRA establishes the balance between “public access to public records” and protection “from disclosure [of] information about particular individuals maintained in the files of public bodies when disclosure would constitute an unwarranted invasion of personal privacy.” R.I. Gen. Laws § 38-2-1. Per APRA, “all records maintained or kept on file by any public body” are “public records” to which the public has a right of inspection unless a statutory exception applies. R.I. Gen. Laws § 38-2-3. The definition of “public record” under APRA specifically excludes “trade secrets and commercial or financial information obtained from a person, firm, or corporation that is of a privileged or confidential nature.” *Id.* § 38-2-2(4)(B). Under the statute, such records “shall not be deemed public.” *Id.*

The Rhode Island Supreme Court has held that when documents fall within a specific APRA exemption, they “are not considered to be public records,” and “the act does not apply to them.” *Providence Journal Co. v. Kane*, 577 A.2d 661, 663 (R.I. 1990). Further, the court has held that “financial or commercial information” under APRA includes information “whose disclosure would be likely to either (1) impair the Government’s ability to obtain necessary information in the future, or (2) cause substantial harm to the competitive position of the person from whom the information was obtained.” *Providence Journal Co. v. Convention Ctr. Auth.*, 774 A.2d 40, 47 (R.I. 2001) (internal quotation marks omitted). The first prong of the test is satisfied when information is provided voluntarily to the governmental agency, and that information is of a kind that would not customarily be released to the public by the person from whom it was obtained. *Id.* at 47.

III. BASIS FOR CONFIDENTIALITY

Confidential Excel Attachment PUC 7-14-1 contain “trade secrets and commercial or financial information” such that the information does not fall within APRA’s definition of a public record. *See* Gen. Laws § 38-2-2(4)(B); *Kane*, 577 A.2d at 663. The negotiated commercial terms contained in Confidential Excel Attachment PUC 7-14-1 fall under the umbrella of “trade secrets and commercial or financial information” exempted from APRA. For example, service fees and pricing details fall within the APRA exemption covering “commercial or financial information.” Public disclosure of this detailed information would provide the vendors’ competitors an unfair competitive advantage through the opportunity to undercut the vendors’ prices. *Providence Journal Co.*, 774 at 47. The vendors ordinarily do not make this information public. Accordingly, this information is commercially sensitive, confidential, and financial information exempt from APRA, and the PUC should permit confidential treatment of this information.

In this instance, maintaining the entirety of Confidential Excel Attachment PUC 7-14-1 as confidential is appropriate. The confidential pricing information it contains cannot be neatly or easily separated from the non-confidential information. Rather, this information forms the basis of the calculations contained throughout the attachment. Furthermore, Confidential Excel Attachment PUC 7-14-1 must be viewed as an excel document, in part because it includes “live” features such as pivot tables. As such, it cannot be redacted.

Therefore, Rhode Island Energy respectfully requests that the PUC grant protective treatment to Confidential Excel Attachment PUC 7-14-1 and take the following actions to preserve its confidentiality: (1) maintain Confidential Excel Attachment PUC 7-14-1 as confidential indefinitely; (2) not place the Confidential Excel Attachment PUC 7-14-1 on the

public docket; and (3) disclose Confidential Excel Attachment PUC 7-14-1 only to the PUC, its attorneys, and staff as necessary to review this docket.

IV. CONCLUSION

For the foregoing reasons, Rhode Island Energy respectfully requests that the PUC grant its Motion for Protective Treatment of Confidential Information.

Respectfully submitted,

**THE NARRAGANSETT ELECTRIC
COMPANY d/b/a RHODE ISLAND ENERGY**

By its attorney,



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Dated: July 7, 2023

CERTIFICATE OF SERVICE

I hereby certify that on July 7, 2023, I sent a copy of the foregoing to the service list by electronic mail.

/s/ Adam M. Ramos