

STATE OF RHODE ISLAND

RHODE ISLAND PUBLIC UTILITIES COMMISSION

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 Attachment PUC 7-14-1 Supplemental, which the Company has filed contemporaneously with this motion as part of its supplemental responses to the PUC’s Seventh Set of Data Requests (“PUC Set 7”). This attachment contains largely the same information as the version submitted on July 7, 2023, for which a Motion For Protective Treatment is currently pending with the PUC, with updated numbers to reflect the estimated contract costs for the MDMS implementation only, split between TSA Exit and AMF. The Company also requests confidential treatment of limited parts of its responses to the PUC’s Tenth Set of Data Requests (“PUC Set 10”), including specifically PUC 10-1 and PUC 10-3, which reveal numbers from Confidential Attachment 7-14-1 Supplemental and the AMF BCA

Model previously submitted as Confidential Attachment H. Finally, the Company 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 Attachment PUC 7-14-1 Supplemental contains confidential and proprietary information that is exempt from disclosure under the Access to Public Records Act ("APRA"). Additionally, Confidential Attachment PUC 7-14-1 Supplemental has been provided in its native, excel format, and thus cannot be redacted; as such, the Company is seeking protective treatment of Confidential Attachment PUC 7-14-1 Supplemental in its entirety and the Company is not submitting it for inclusion on the public docket. Relatedly, the Company is seeking protective treatment of limited parts of its responses to PUC 10-1 and PUC 10-3 insofar as they reveal specific numbers from Confidential Attachment PUC 7-14-1 Supplemental and the AMF BCA Model previously submitted as Confidential Attachment H, for which the PUC has granted preliminary confidential treatment. The Company is providing a redacted version of these responses for inclusion on the public docket, as well as confidential versions for the PUC's consideration.

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

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 Attachment PUC 7-14-1 Supplemental. This

information constitutes confidential commercial, financial, and proprietary information. Specifically, Confidential Attachment PUC 7-14-1 Supplemental 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 AMF BCA Model (Confidential Attachment H and 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.

B. Information contained in responses to PUC 10-1 and PUC 10-3

The Company’s responses to PUC 10-1 and PUC 10-2 rely on numbers pulled from Confidential Attachment PUC 7-14-1 Supplemental and the AMF BCA Model in Confidential Attachment H. Specifically, the Company’s response to PUC 10-1 cites to five numbers from Confidential Attachment PUC 7-14-1 Supplemental, and its response to PUC 10-3 cites to four instances of numbers derived from Confidential Attachment H and an additional three instances of numbers derived from Confidential Attachment PUC 7-14-1 Supplemental. The Company seeks to redact these numbers to preserve the confidential and proprietary information that these numbers reveal.

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 Attachment PUC 7-14-1 Supplemental and certain portions of the Company's responses to PUC 10-1 and PUC 10-3 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 Attachment PUC 7-14-1 Supplemental 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 Attachment PUC 7-14-1 Supplemental 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 Attachment PUC 7-14-1 Supplemental must be viewed as an excel document, in part because it includes "live" features such as pivot tables. As such, it cannot be redacted.

Additionally, the Company seeks to use narrow redactions to protect confidential and proprietary information contained its responses to PUC 10-1 and PUC 10-3, which information comes directly from Confidential Attachment PUC 7-14-1 Supplemental and the AMF BCA

Model previously submitted as Confidential Attachment H. Maintaining this information as confidential in these responses is necessary to protect the confidential and proprietary pricing and related information provided in Confidential Attachment PUC 7-14-1 Supplemental and the AMF BCA Model previously submitted as Confidential Attachment H, for which the PUC has granted preliminary confidential treatment, disclosure of which could allow a competitor to unfairly compete with TCS or L+G.

Therefore, Rhode Island Energy respectfully requests that the PUC grant protective treatment to Confidential Attachment PUC 7-14-1 Supplemental and portions of its responses to PUC 10-1 and PUC 10-3 and take the following actions to preserve its confidentiality: (1) maintain Confidential Attachment PUC 7-14-1 Supplemental and portions of the Company's responses to PUC 10-1 and PUC 10-3 as confidential indefinitely; (2) not place Confidential Attachment PUC 7-14-1 Supplemental or portions of the Company's responses to PUC 10-1 and PUC 10-3 on the public docket; and (3) disclose Confidential Attachment PUC 7-14-1 Supplemental and portions of the Company's responses to PUC 10-1 and PUC 10-3 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 17, 2023

CERTIFICATE OF SERVICE

I hereby certify that on July 17, 2023, I sent a copy of the foregoing to the service list by electronic mail.

/s/ Adam M. Ramos _____