

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 limited portions of Confidential Attachment PUC 7-25 Supplemental, which the Company has filed contemporaneously with this motion and its Second Supplemental Response to PUC 7-25. 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 its seventh set of data requests to the Company. The Company’s Confidential Attachment PUC 7-25 Supplemental contains confidential and proprietary information (the “Confidential Information”) that is exempt from disclosure under APRA. To the greatest extent possible, the Company has protected its confidential interests with limited and targeted redactions.

A. Information Contained in Confidential Attachment PUC 7-25 Supplemental

Confidential Attachment PUC 7-25 Supplemental contains certain confidential commercial, financial, and proprietary information. Specifically, Confidential Attachment PUC 7-25 Supplemental is the Amendment Number One to the TSA Exit Program Statement of Work made between Landis+Gyr Technology, Inc. and the Company. The primary purpose of the amendment was to address schedule changes to TSA Exit work, along with updates to Landis+Gyr key personnel and requirements. There was no change to the total contract cost and no change to cost and cost allocations for TSA Exit and AMF, respectively. A detailed explanation of the changes is provided in the Company’s Second Supplemental Response to PUC 7-25.

The redacted information in Confidential Attachment PUC 7-25 Supplemental is located in the table identifying “Payment Milestones.” That table contains information that is commercially and competitively sensitive to the vendor because it contains itemized pricing data that is not disclosed with the same level of granularity elsewhere in the Company’s AMF Business Case. If this information were disclosed publicly, Landis+Gyr’s competitors would have its exact pricing

data. The Company has reviewed this attachment and redacted only those portions necessary to protect Landis+Gyr's confidential and proprietary information, consistent with the PUC's prior guidance with respect to confidentiality issues. The Company typically would not disclose publicly the information for which it seeks redaction in Confidential Attachment PUC 7-25 Supplemental.

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." 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. *Id.* § 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

The Confidential Information contains “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.*

Confidential Attachment PUC 7-25 Supplemental incorporates Landis+Gyr’s actual fee structures and unit pricing, which the Company has taken great lengths not to have disclosed elsewhere in the AMF Business Case. The information regarding service fees, cost allocation, and pricing information falls squarely within the APRA exemption. Public disclosure of this detailed information would allow Landis+Gyr’s competitors to easily undercut its pricing information, which is a significant competitive advantage. As the Company has explained, Landis+Gyr typically does not make this detailed pricing information available publicly, and the Company likewise keeps this information about its vendors confidential. Accordingly, this information is financial information exempt from APRA.

The proposed protections are narrow. The Company seeks to use redactions to protect from public disclosure those limited portions of this attachment that contains proprietary and commercial information. All of the redacted information in Confidential Attachment PUC 7-25 Supplemental qualifies for APRA’s exemption for “trade secrets and commercial or financial information.” R.I. Gen. Laws § 38-2-2(4)(B).

Therefore, Rhode Island Energy respectfully requests that the PUC grant protective treatment to the portions of Confidential Attachment PUC 7-25 Supplemental identified by the

redactions, and take the following actions to preserve their confidentiality: (1) maintain Confidential Attachment PUC 7-25 Supplemental as confidential indefinitely; (2) not place Confidential Attachment PUC 7-25 Supplemental on the public docket; and (3) disclose Confidential Attachment PUC 7-25 Supplemental 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: August 4, 2023

CERTIFICATE OF SERVICE

I hereby certify that on August 4, 2023, I sent a copy of the foregoing to the service list by electronic mail.

/s/ Adam M. Ramos