

September 19, 2023

VIA ELECTRONIC MAIL AND HAND DELIVERY

Luly E. Massaro, Commission Clerk
Rhode Island Public Utilities Commission
89 Jefferson Boulevard
Warwick, RI 02888

RE: Docket 23-23-NG – 2023 Distribution Adjustment Charge and Gas Cost Recovery Filing - Response to the Rhode Island Division of Public Utilities and Carriers’ (“Division”) Data Request 1-22 Supplemental

Dear Ms. Massaro:

On behalf of Rhode Island Energy,¹ I have enclosed an electronic version of the Company’s response to the Division’s Data Request 1-22 Supplemental in the referenced docket.

The Company’s response to Division Data Request 1-22 Supplemental contains commercially sensitive gas pricing information. Therefore, the Company has provided a redacted and a confidential version of these materials and has requested confidential treatment pursuant to R.I. Gen. Laws § 38-2-2(4)(B) and Rule 810-RICR-00-00-1.3(H) of the PUC’s Rules of Practice and Procedure. The Company has also provided a confidential version of this response to the Division pursuant to a non-disclosure agreement.

¹ The Narragansett Electric Company d/b/a Rhode Island Energy (“Rhode Island Energy” or the “Company”).

Robinson+Cole

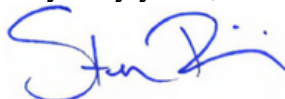
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Thank you for your attention to this matter. If you have any questions, please contact me at 401-709-3359.

Very truly yours,



Steven J. Boyajian

Enclosures

cc: Docket 23-23-NG Service List
Leo Wold, Esq.
John Bell, Division
Al Mancini, Division

Certificate of Service

I hereby certify that a copy of the cover letter and any materials accompanying this certificate were electronically transmitted to the individuals listed below.

The paper copies of this filing are being hand delivered to the Rhode Island Public Utilities Commission and to the Rhode Island Division of Public Utilities and Carriers.



Heidi J. Seddon

September 19, 2023

Date

**Docket No. 23-23-NG – Narragansett Electric Co. d/b/a Rhode Island Energy 2023 Gas
Cost Recovery Filing (GCR)
2023 Distribution Adjustment Clause (DAC)
Service List as of 8/15/2023**

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**STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION**

THE NARRAGANSETT ELECTRIC)
COMPANY d/b/a RHODE ISLAND ENERGY) DOCKET NO. 23-23-NG
2023 DISTRIBUTION ADJUSTMENT CHARGE AND)
2023 GAS COST RECOVERY FILING)

**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 (the “Company”) hereby respectfully requests that the Public Utilities Commission (the “Commission”) grant protection from public disclosure the Company’s response to Division Data Request 1-22 Supplemental (the “Confidential Response”). The reasons for the protective treatment are set forth herein. The Company also requests that, pending entry of that finding, the Commission preliminarily grant the Company’s request for confidential treatment pursuant to 810-RICR-00-00-1.3(H)(2).

The Company seeks protective treatment for the Confidential Response because it contains commercially sensitive gas pricing information that the Company negotiates with counterparties. The disclosure of this information would be detrimental to the commercial interests of the Company or the commercial interests of the Company’s counterparties.

I. LEGAL STANDARD

Rhode Island’s Access to Public Records Act (“APRA”), R.I.G.L. §38-2-1 *et. seq.*, sets forth the parameters for public access to documents in the possession of state and local government agencies. Under APRA, all documents and materials submitted in connection with the transaction of official business by an agency are deemed to be a “public record,” unless the information contained in such documents and materials falls within one of the exceptions specifically identified in R.I.G.L. §38-2-2(4). Therefore, to the extent that information provided to the Commission falls within one of the designated exceptions to APRA, the Commission has the authority under the

terms of APRA to deem such information to be confidential and to protect that information from public disclosure.

In that regard, R.I. Gen. Laws § 38-2-2(4)(B) provides that the following types of records shall not be deemed public:

Trade secrets and commercial or financial information obtained from a person, firm, or corporation which is of a privileged or confidential nature.

The Rhode Island Supreme Court has held that this confidential information exemption applies where the disclosure of information would be likely either (1) to impair the government's ability to obtain necessary information in the future; or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained. *Providence Journal Company v. Convention Center Authority*, 774 A.2d 40 (R.I. 2001). The first prong of the test is satisfied when information is provided to the governmental agency and that information is of a kind that would customarily not be released to the public by the person from whom it was obtained. *Providence Journal*, 774 A.2d at 47.

The Rhode Island Supreme Court has also noted that the agencies making determinations as to the disclosure of information under APRA may apply a balancing test. *See Providence Journal v. Kane*, 577 A.2d 661 (R.I. 1990). Under this balancing test, after a record has been determined to be public, the Commission may protect information from public disclosure if the benefit of such protection outweighs the public interest inherent in disclosure of information pending before regulatory agencies. *Kane*, 577 A.2d at 663 (“Any balancing of interests arises only after a record has first been determined to be a public record.”).

II. BASIS FOR CONFIDENTIALITY

The Confidential Response includes commercially sensitive gas pricing information that the Company maintains as confidential for two reasons. First, if the Company were to disclose the prices that it has agreed to with gas suppliers, shippers or marketers, then the Company's ability to negotiate more advantageous terms in the future would be hampered since market participants would be informed of what the Company has been willing to agree to in the past. Similarly, if the Company were to publicly disclose advantageous pricing or commercial terms that it had obtained through negotiation, counterparties would hesitate to offer the Company advantageous pricing in the future since disclosure of the pricing information would hamper counterparties' ability to negotiate with other customers. For these reasons, the Confidential Response is not of a kind that would customarily be released to the public by the Company. Therefore, the first prong of the *Providence Journal* test has been satisfied. *See Providence Journal, 774 A.2d at 47.*

III. CONCLUSION

For the foregoing reasons, the Company respectfully requests that the Commission grant this motion for protective treatment of the confidential pricing information contained in the Company's response to Division Data Requests 1-22 Supplemental.

[SIGNATURE ON NEXT PAGE]

Respectfully submitted,

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

By its attorneys,



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Dated: September 19, 2023

CERTIFICATE OF SERVICE

I hereby certify that on September 19, 2023, I delivered a true copy of the foregoing Motion via electronic mail to the parties on the Service List for Docket No. 23-23-NG.



Heidi J. Seddon

Division 1-22 - Supplemental

REDACTED

Request:

For the period August 2022 through July 2023:

- a. Please separately identify monthly citygate storage and citygate peaking quantities sold to FT-2 marketers and the applicable price;
- b. Explain how the price for citygate storage and peaking service supplies is determined; and
- c. Explain whether the Company made citygate purchases during the period and whether the costs associated with these purchases were assigned to FT-2 marketers. If such purchases were made, identify the date of each purchase and the applicable quantities and prices.

Response:

- a. Please see the table below for monthly citygate storage and citygate peaking quantities purchased by FT-2 Marketers as well as the rates charged for the period August 2021 through July 2022 (storage prices reflect a monthly average of the daily storage prices).

Month	Peaking Volumes (Dth)	Peaking Price/Dth	Storage Volumes (Dth)	Storage Price/Dth
Aug-22	n/a	n/a	0	\$8.3743
Sep-22	n/a	n/a	4	\$7.4411
Oct-22	n/a	n/a	212	\$5.3449
Nov-22	0	\$5.7919	6897	\$4.9156
Dec-22	12377	\$6.0257	27010	\$5.5215
Jan-23	2000	\$6.7299	9921	\$3.1039
Feb-23	47447	\$9.1058	41352	\$2.4584
Mar-23	0	\$11.6459	96116	\$2.4562
Apr-23	n/a	n/a	0	\$2.0074
May-23	n/a	n/a	16	\$1.8049
Jun-23	n/a	n/a	1627	\$1.7443
Jul-23	n/a	n/a	2822	\$1.8789

Prepared by or under the supervision of: Megan Borst and Joseph Calabrese
(Pursuant to the Transition Services Agreement)

Division 1-22 - Supplemental, page 2

REDACTED

- b. The variable price for storage is based on the weighted average variable cost (“WACOG”) of the Company’s underground storage assets (including the four managed paths; Niagara, Dawn to Waddington, Transco and Eastern) on the day the gas is nominated. The fixed price is determined based on the weighted average fixed cost of the underground storage assets (including managed paths). The variable and fixed pricing for peaking supplies are based on the weighted averages determined by the Company’s LNG WACOG and the fixed costs of any liquid refill contracts, as well as any variable or fixed costs for supply deals that the Company designates to be peaking assets.
- c. The following citygate purchases were made under the Company’s agreement with Constellation LNG, LLC for delivery of up to 14,100 Dth per day to the Company’s citygates. The supply call option for these volumes was entered into in advance of the heating season, so a portion of the costs associated with these purchases were assigned to FT-2 marketers in both the FT-2 Peaking Demand Rate as well as the FT-2 Peaking variable rates.

Date	Quantity (Dth)	Price (per Dth)
12/24/2022	14,100	
12/25/2022	14,100	
2/3/2023	14,100	
2/4/2023	14,100	
2/24/2023	8,000	
2/25/2023	14,100	

Supplemental Response:

Subpart (c) of the Company’s original response to data request Division 1-22 contained the following sentence: “The supply call option for these volumes was entered into in advance of the heating season, so a portion of the costs associated with these purchases were assigned to FT-2

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REDACTED

marketers in both the FT-2 Peaking Demand Rate as well as the FT-2 Peaking variable rates.”
This statement was made in error.

The Company's corrected response to subpart (c) of his request is as follows:

- c. The following citygate purchases were made under the Company's agreement with Constellation LNG, LLC for delivery of up to 14,100 Dth per day to the Company's citygates. The costs associated with these purchases were not assigned to FT-2 Marketers as this contract and associated fixed costs were allocated to the DAC and recovered from customers, not Marketers. As the volumes were not called upon to meet peak hour needs, the commodity costs were not allocated to the DAC, but instead recovered through the GCR.

<u>Date</u>	<u>Quantity (Dth)</u>	<u>Price (per Dth)</u>
12/24/2022	14,100	
12/25/2022	14,100	
2/3/2023	14,100	
2/4/2023	14,100	
2/24/2023	8,000	
2/25/2023	14,100	