

December 26, 2023

VIA ELECTRONIC MAIL

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

**RE: Docket No. 22-49-EL-The Narragansett Electric Company d/b/a Rhode Island Energy
Advanced Metering Functionality Business Case
Compliance Filing**

Dear Ms. Massaro:

On behalf of The Narragansett Electric Company d/b/a Rhode Island Energy (“Rhode Island Energy” or the “Company”), enclosed is the revised Attachment H Excel spreadsheet (the “revised confidential BCA Model”) in compliance with the Rhode Island Public Utilities Commission’s (the “Commission”) September 27, 2023 Open Meeting motions and votes approving with conditions the Company’s Advanced Metering Functionality (“AMF”) Business Case (the “Decision”).¹

This filing includes a Motion for Protective Treatment of Confidential Information in accordance with Commission Rules of Practice and Procedure 1.3(H)(3) and R.I. Gen. Laws § 38-2-2(4) for the revised confidential BCA Model, which contains confidential and proprietary information. For the reasons stated in the Motion for Protective Treatment, the Company seeks protection from public disclosure of the revised confidential BCA Model. Accordingly, the Company has submitted a complete, unredacted electronic version of the working Excel file for the revised confidential BCA Model labeled “**Contains Privileged and Confidential Information – Do Not Release**” to the Commission through a secure file transfer and has included a slip sheet noting that the revised confidential BCA Model has been submitted confidentially for the public docket.

¹ Per communication from Commission counsel on October 4, 2021, the Company is submitting an electronic version of this filing followed by hard copies filed with the Clerk within 24 hours of the electronic filing.

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Thank you for your time and attention to this matter. If you have any questions, please contact Jennifer Hutchinson at 401-316-7429.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Adam M. Ramos", is written over a light blue rectangular background.

Adam M. Ramos, Esq.

Enclosures

cc: Docket No. 22-49-EL Service List

CERTIFICATE OF SERVICE

I certify that a copy of the within documents was forwarded by e-mail to the Service List in the above docket on the 26th day of December, 2023.



Adam M. Ramos, Esq.

The Narragansett Electric Company d/b/a Rhode Island Energy
Docket No. 22-49-EL Advanced Meter Functionality (AMF)
Service list updated 7/24/2023

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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)	

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

The Narragansett Electric Company d/b/a Rhode Island Energy (“Rhode Island Energy” or the “Company”) submitted its Advanced Metering Functionality (“AMF”) Business Case in the above-captioned docket. At that time, the Company requested confidential treatment of its AMF Benefit-Cost Analysis (“BCA”) Spreadsheet in Excel format (the “BCA Model”) contained in Attachment H to the AMF Business Case. The Rhode Island Public Utilities Commission (“PUC”) preliminarily granted that request in its February 6, 2023 Procedural Order Regarding Request for Confidential Treatment. Order No. 24586, Docket No, 22-49-EL, *In re: Rhode Island Energy Advanced Metering Functionality Business Case and Cost Recovery Proposal* (the “First Procedural Confidentiality Order”). The BCA Model has been afforded confidential treatment throughout the proceedings in this docket.¹

On September 27, 2023, the PUC approved, with conditions, the Company’s AMF Business Case. One of the conditions requires the Company to resubmit the BCA Model with updated numbers to reflect the removal of certain costs that the PUC excluded from its approval of the AMF Business Case. Contemporaneous with the filing of this motion, the Company is

¹ Although there were multiple additional orders in this docket concerning requests for confidential treatment, none of those orders disturbed the grant of confidential and protective treatment for the BCA Model, and, therefore, the grant of confidential and protective treatment remains in effect.

filing that updated BCA Model in compliance with the PUC's approval order.

For the reasons described below, the Company respectfully requests that the PUC provide confidential treatment to the updated confidential BCA Model and grant it protection from public disclosure because it contains confidential, competitively sensitive, and proprietary information described, 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). The Company also requests that, pending entry of this ruling, the PUC preliminarily grant the Company's request for confidential treatment pursuant to Rule 1.3(H)(2).

I. BACKGROUND

The updated confidential BCA Model contains confidential and proprietary commercial and financial information that the Company ordinarily would not share with the public. Specifically, the updated confidential BCA Model includes confidential pricing information from Rhode Island Energy's third-party vendors, assumptions regarding salaries for positions that have not yet been filled, and information with respect to which Rhode Island Energy has confidentiality obligations, including confidential information provided to Rhode Island Energy by National Grid USA ("National Grid") and Rhode Island Energy's third-party vendors. Although, as the PUC observed, each of the individual inputs to the updated confidential BCA Model may not be subject to confidential and protective treatment separately, the BCA Model as a whole is composed of "created spreadsheets that may be proprietary in their development. The model itself is not the type of spreadsheet that general members of the public would ordinarily review, let alone understand without a significant degree of experience and expertise." First Procedural Confidentiality Order at 7. Thus, given the interrelatedness of the components to the updated confidential BCA Model, it is not feasible to attempt to partition them, and the

Company, therefore, seeks confidential and protective treatment of the updated confidential BCA Model in its entirety, pursuant to Rule 1.3(H).

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. *Id.* § 38-2-3. The definition of “public record” under APRA, however, 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). The statute provides that 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 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 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 updated confidential BCA Model constitutes “commercial or financial information” to which the APRA public disclosure requirements do not apply. *See* R.I. Gen. Laws § 38-2-2(4)(B); *Kane*, 577 A.2d at 663. As described above, it contains confidential and proprietary commercial and financial information relating to the Company’s business operations and the business operations of the Company’s vendors. As identified above, the updated confidential BCA Model is composed of numerous working spreadsheets that are proprietary in their development, and which the public ordinarily would not understand without significant experience and expertise. The Company ordinarily does not make this information available to the public. Rather, the Company has provided it on a voluntary basis to assist the PUC with its decision-making in this proceeding. Therefore, this information satisfies the APRA exception found in R.I. Gen. Laws § 38-2-2(4)(B). For all of these reasons, the updated confidential BCA Model is not public information to which APRA applies.

Accordingly, Rhode Island Energy respectfully requests that the PUC grant confidential and protective treatment to the updated confidential BCA Model and take the following actions to preserve its confidentiality: (1) maintain the updated confidential BCA Model as confidential indefinitely; (2) not place the updated confidential BCA Model on the public docket; and (3) disclose the updated confidential BCA Model 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,

/s/ Adam M. Ramos

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Dated: December 26, 2023

CERTIFICATE OF SERVICE

I hereby certify that on December 26, 2023, I sent a copy of the foregoing to the service list by electronic mail.

/s/ Adam M. Ramos

The Narragansett Electric Company
d/b/a Rhode Island Energy
RIPUC Docket No. 22-49-EL
In Re: Advanced Metering Functionality Business Case
AMF Benefit-Cost Analysis (BCA) Spreadsheet
Revised Confidential BCA Model
Compliance Filing

Revised Confidential BCA Model

The Company provided a revised confidential BCA Model as an Excel version.

As permitted by the Public Utilities Commission Rule 810-RICR-00-00-1-1.3(H)(3) and Rhode Island General Laws § 38-2-2(4)(B), the Company is seeking confidential treatment of the revised confidential BCA Model.