

May 2, 2024

VIA ELECTRONIC MAIL

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

**RE: Docket No. 23-05-EL – The Narragansett Electric Company d/b/a Rhode Island Energy
Tariff Advice to Amend the Net Metering Provision - Proposal for Administration
of Excess Net Metering Credits**

**Identification of Off-Taker Accounts That Appear on More Than One Schedule B -
Compliance Filing – Confidential Version**

Dear Ms. Massaro:

On behalf of The Narragansett Electric Company d/b/a Rhode Island Energy (the “Company”), enclosed, please see the confidential version of a report which identifies off-taker accounts that appear on more than one Schedule B (“Confidential Schedule B Report”). The public version of the Schedule B Report (using anonymized customer data) was filed on May 1, 2024. Per request by counsel of the Public Utilities Commission (“PUC”), the Company is filing the Confidential Schedule B Report which contains actual customer name and account numbers.

Pursuant to 810-RICR-00-00-1.3(H)(3), R.I. Gen. Laws § 38-2-2(4)(A)(I)(b), and R.I. Gen. Laws § 38-2-2(4)(B), the Company respectfully requests that the PUC treat the Confidential Schedule B Report as confidential. In support of this request, the Company has enclosed a Motion for Protective Treatment of Confidential Information. In accordance with 810-RICR-00-00-1.3(H)(2), the Company also respectfully requests that the PUC make a preliminary finding that the Confidential Schedule B Report is exempt from the mandatory public disclosure requirements of the Rhode Island Access to Public Records Act (“APRA”).

Thank you for your attention to this filing. If you have any questions, please contact me at 401-784-4263.

Sincerely,



Andrew S. Marcaccio

Enclosures

cc: Docket No. 23-05-EL Service List
John Bell, Division (w/confidential attachments)

STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION

IN RE: THE NARRAGANSETT ELECTRIC COMPANY d/b/a
RHODE ISLAND ENERGY TARIFF ADVICE
THE NET METERING PROVISION – PROPOSAL FOR
ADMINISTRATION OF EXCESS NET METERING CREDITS))))
Docket No. 23-05-EL

**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 (“PUC”) grant protection from public disclosure certain confidential information submitted by the Company in the above referenced docket. The reasons for the protective treatment are set forth herein. The Company also requests that, pending entry of that finding, the PUC preliminarily grant the Company’s request for confidential treatment pursuant to 810-RICR-00-00-1.3(H)(2).

The record that is the subject of this Motion that requires protective treatment from public disclosure is the confidential version of the Company’s report which identifies off-taker accounts that appear on more than one Schedule B (referred to herein as the “Confidential Schedule B Report”) that was filed by the Company on May 2, 2024 in the above referenced docket. Please note that the Company filed a public version of the Confidential Schedule B Report using anonymized customer account numbers and names on May 1, 2024. The Company requests protective treatment of the Confidential Schedule B Report in accordance with 810-RICR-00-00-1.3(H), R.I. Gen. Laws § 38-2-2-(4)(A)(I)(b) and R.I. Gen. Laws §§ 38-2-2-(4)(B).

I. LEGAL STANDARD

For matters before the PUC, a claim for protective treatment of information is governed by the policy underlying the Access to Public Records Act (“APRA”), R.I. Gen. Laws § 38-2-1 et seq. See 810-RICR-00-00-1.3(H)(1). Under APRA, any record received or maintained by a state or local governmental agency in connection with the transaction of official business is considered public unless such record falls into one of the exemptions specifically identified by APRA. See R.I. Gen. Laws §§ 38-2-3(a) and 38-2-2(4). Therefore, if a record provided to the PUC falls within one of the designated APRA exemptions, the PUC is authorized to deem such record confidential and withhold it from public disclosure.

II. BASIS FOR CONFIDENTIALITY

The Confidential Schedule B Report that is the subject of this Motion is exempt from public disclosure pursuant to R.I. Gen. Laws § 38-2-2(4)(A)(I)(b) as “[p]ersonnel and other personal individually identifiable records otherwise deemed confidential by federal or state law or regulation, or the disclosure of which would constitute a clearly unwarranted invasion of personal privacy pursuant to 5 U.S.C. § 552 et seq...” and pursuant to R.I. Gen. Laws § 38-2-2(4)(B) as “[t]rade secrets and commercial or financial information obtained from a person, firm, or corporation that is of a privileged or confidential nature.” While the Company asserts that both exemptions apply, the PUC only needs to find that one exemption applies to withhold the Confidential Schedule B Report from public disclosure.

The exemption codified by R.I. Gen. Laws § 38-2-2(4)(A)(I)(b) represents a balancing test between the individual's privacy interests and the public's right to disclosure. See 2016 WL 499007, at *4 (R.I.A.G. Feb. 2, 2016) which states that “[t]he Supreme Court thus determined that the legislative intent represented a balancing test between the individual's privacy interests and the public's right to disclosure.” In this case, the Confidential Schedule B Report consists of customer

accounts and customer names. A public version of the Confidential Schedule B Report (using anonymized customer data) has been filed. The fact that a public version with much of the substance of the filing has been made lessens the value of publicly disclosing the confidential version. On the other side of the balancing test, the Company's customers could be harmed by having their names with associated account numbers released to the public. Accordingly, when performing a balancing test, the customer's right to privacy outweighs the public's right to disclosure.

For the exemption codified by R.I. Gen. Laws §38-2-2(4)(B), the Rhode Island Supreme Court has held that this confidential information exemption applies where the disclosure of information is 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 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. In this case, the Company would not customarily release customer names with associated account numbers to the public. The submission of the Confidential Schedule B Report to the PUC is needed to comply with directives that were issued by the PUC at an Open Meeting that occurred on January 12, 2024. Accordingly, the Company is providing the Confidential Schedule B Report to fulfil its regulatory responsibilities.

Furthermore, customer names and associated account numbers is the type of information that the PUC has historically recognized as proprietary information. The PUC found that "[a]t the hearing, the Commission approved [the Utility's] request to protect from public disclosure

customer account numbers provided in Attachment 2-2-2 of the Company's response to PUC 2-2. This information is typically considered commercially sensitive customer information and could harm customers if released to the public.” See Docket No. 5039 - Footnote 13 of Report and Order No. 23936 (October 29, 2020),

III. CONCLUSION

For the foregoing reasons, the Company respectfully requests that the PUC grant this motion for protective treatment of the Confidential Schedule B Report.

Respectfully submitted,

**The Narragansett Electric
Company d/b/d Rhode Island
Energy**

By its attorney,

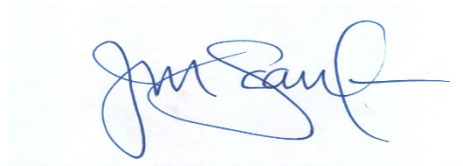


Andrew S. Marcaccio (#8168)
Rhode Island Energy
280 Melrose Street
Providence, RI 02907
(401) 784-4263

Dated: May 2, 2024

CERTIFICATE OF SERVICE

I hereby certify that on May 2, 2024, I delivered a true copy of the foregoing Motion via electronic mail to the parties on the Service List for Docket No. 23-05-EL.

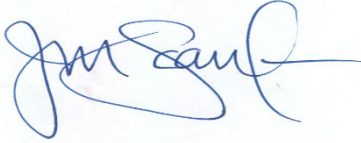
A handwritten signature in blue ink, appearing to read "Joanne Scanlon", is centered on a light blue rectangular background.

Joanne M. Scanlon

Certificate of Service

I hereby certify that a copy of the cover letter and any materials accompanying this certificate was 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.



Joanne M. Scanlon

May 2, 2024

Date

**Docket No. 23-05-EL Rhode Island Energy – Net Metering Provision, RIPUC No. 2268
Service List updated 11/16/2023**

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