

**STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION**

IN RE: THE RHODE ISLAND DISTRIBUTED :
GENERATION BOARD’S RECOMMENDATIONS :
FOR THE 2025 RENEWABLE ENERGY : DOCKET 24-50-REG
GROWTH PROGRAM YEAR :

**MOTION OF THE DISTRIBUTED GENERATION BOARD
AND OFFICE OF ENERGY RESOURCES FOR
PROTECTIVE TREATMENT OF CONFIDENTIAL INFORMATION**

The Distributed Generation Board and Office of Energy Resources (“OER”) respectfully request 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) 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, OER requests confidential treatment of the record request response filed by OER pursuant to the PUC’s record request made at the February 11, 2025 hearing in Docket 24-50-REG. OER also requests that, pending entry of a ruling on this motion, the PUC preliminarily grant OER’s request for confidential treatment pursuant to Rule 1.3(H)(2) of the PUC Rules of Practice and Procedure.

I. BACKGROUND

On February 14, 2025, OER submitted its response to the record request made by the PUC at the hearing held on February 11, 2025 in accordance with its duties outlined in R.I. Gen. Laws § 39-26.6-1 *et. seq.* (the “Filing”). Included within is a summary of individual survey responses regarding incremental brownfield solar project cost characteristics received on a confidential basis by OER’s consultant, Sustainable Energy Advantage, LLC (“SEA”).

II. LEGAL STANDARD

Rule 1.3(H) of the PUC Rules of Practice and Procedure 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 sets forth a balancing test between “public access to public records” and protection “from the 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 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 include 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). 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

During each year’s ceiling price development process, SEA relies on the trust of developers to share confidential, market-sensitive information in order to inform the cost, performance, and financing inputs adopted by SEA in its modeling. In this case, information regarding the incremental cost of solar development on an un-remediated brownfield was shared with the consulting team during the Renewable Energy Growth (REG) program’s 2024-2026 program year

ceiling price development process. Such information was shared with SEA under the explicit agreement that it would not be shared with any other parties, including SEA's client OER. Therefore, OER and SEA are concerned that making individual responses public would erode market participant's trust in the anonymity of the ceiling price development process, impeding future information collection efforts and harming the mutual trust between SEA and market participants. A lack of mutual trust, in this instance, would undermine SEA's ability to offer consulting services on behalf of OER and other public entities that tend to rely upon the company for independent, objective analysis of costs in the marketplace necessary for setting and/or forecasting incentives for distributed energy projects across the Northeast.

Accordingly, OER respectfully requests that the PUC grant protective treatment to the Filing to preserve the confidentiality of the response filed by OER pursuant to the PUC's record request made at the February 11, 2025 hearing in Docket 24-50-REG.

IV. CONCLUSION

For the foregoing reasons, OER respectfully requests that the PUC grant its Motion for Protective Treatment of Confidential Information.

Respectfully submitted,

**DISTRIBUTED GENERATION BOARD
& OFFICE OF ENERGY RESOURCES,
BY THEIR ATTORNEY,**

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