

March 26, 2012

**VIA HAND DELIVERY & ELECTRONIC MAIL**

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

**RE: Docket 4227**  
**2012 Standard Offer Service Procurement Plan**  
**2012 Renewable Energy Standard Procurement Plan**  
**Responses to Commission Data Requests – Set 5**

Dear Ms. Massaro:

Enclosed are the responses of National Grid<sup>1</sup> to the Division's Fifth Set of Data Requests in the above-referenced docket. This filing is also accompanied by a Motion for Protective Treatment in accordance with Rule 1.2(g) of the Commission's Rules of Practice and Procedure and R.I.G.L. §38-2-2(4)(i)(B). Consequently and pursuant to Commission rules, the Company has provided the Commission with one copy of the confidential materials for its review, and has otherwise included redacted copies of those materials.

Thank you for your attention to this transmittal. If you have any questions, please feel free to contact me at (401) 784-7667.

Very truly yours,



Thomas R. Teehan

Enclosure

cc: Leo Wold, Esq.  
Steve Scialabba, Division

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<sup>1</sup> The Narragansett Electric Company d/b/a National Grid.

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS**

**RHODE ISLAND PUBLIC UTILITIES COMMISSION**

National Grid

2012 Renewable Energy Standard Procurement Plan

2012 Standard Offer Service Procurement Plan

Docket No. 4227

**MOTION OF THE NARRAGANSETT ELECTRIC COMPANY,  
D/B/A NATIONAL GRID  
FOR PROTECTIVE TREATMENT OF CONFIDENTIAL INFORMATION**

Now comes The Narragansett Electric Company, d/b/a National Grid (“Company”) and hereby requests that the Rhode Island Public Utilities Commission (“Commission”) grant protection from public disclosure of certain confidential, competitively sensitive, and proprietary information submitted in this proceeding, as permitted by Commission Rule 1.2(g) and R.I.G.L. § 38-2-2(4)(i)(B).

**I. BACKGROUND**

On March 26, 2012, the Company filed with the Commission its responses to Commission Data Requests, Set 5 in Docket 4227. The Company’s response to Commission 5-2 and the Attachment COMM 5-1 contain confidential pricing information regarding REC RFP prices. This information is competitively sensitive, proprietary information that the Company wishes to keep confidential. For the reasons stated below, the Company requests that this information be protected from public disclosure. The Company has also filed redacted copies of its filing deleting the competitively sensitive information in question.

## II. LEGAL STANDARD

Rule 1.2(g) of the Commission's 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.G.L. §38-2-1, *et seq.* Under APRA, all documents and materials submitted in connection with the transaction of official business by an agency is 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 the public records law, 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.G.L. §38-2-2(4)(i)(B) provides that the following 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 the determination as to whether this exemption applies requires the application of a two-pronged test set forth in Providence Journal Company v. Convention Center Authority, 774 A.2d 40 (R.I.2001). The first prong of the test assesses whether the information was provided voluntarily to the governmental agency. Providence Journal, 774 A.2d at 47. If the answer to the first question is affirmative, then the question becomes whether the information is "of a kind that would customarily not be released to the public by the person from whom it was obtained." Id.

In addition, the Court has held that the agencies making determinations as to the disclosure of information under APRA may apply the balancing test established by the Court in Providence Journal v. Kane, 577 A.2d 661 (R.I.1990). Under this balancing test, 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.

### **III. BASIS FOR CONFIDENTIALITY**

The Company's response to Commission 5-2 contains a description of the summary of bids regarding REC RFP pricing. Attachment COMM 5-1 contains a table identifying bidder names and pricing information. The release of this type of information would be commercially harmful to the Company and to its customers since potential bidders could use this information in such a way that would impede the Company's ability to obtain the best possible bid for its customers.

### **V. CONCLUSION**

In light of the foregoing, the Company respectfully requests that the Commission grant its Motion for Protective Treatment as stated herein.

Respectfully submitted,

**THE NARRAGANSETT ELECTRIC  
COMPANY**

By its attorney,



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Thomas R. Teehan (RI #4698)  
280 Melrose Street  
Providence, RI 02907  
(401) 784-7667

Dated: March 26, 2012

Commission 5-1

Request:

Referencing Exhibit 2 and Exhibit 3 of National Grid's Revised Rhode Island RES RFP Summary, filed with the Commission on February 24, 2012, do the bids reflect the initial bids or any amended bids? If they do not reflect the initial bids, please provide the initial bids.

Response:

Attachment 5-1 to this data response contains a summary of all bids/offers received.

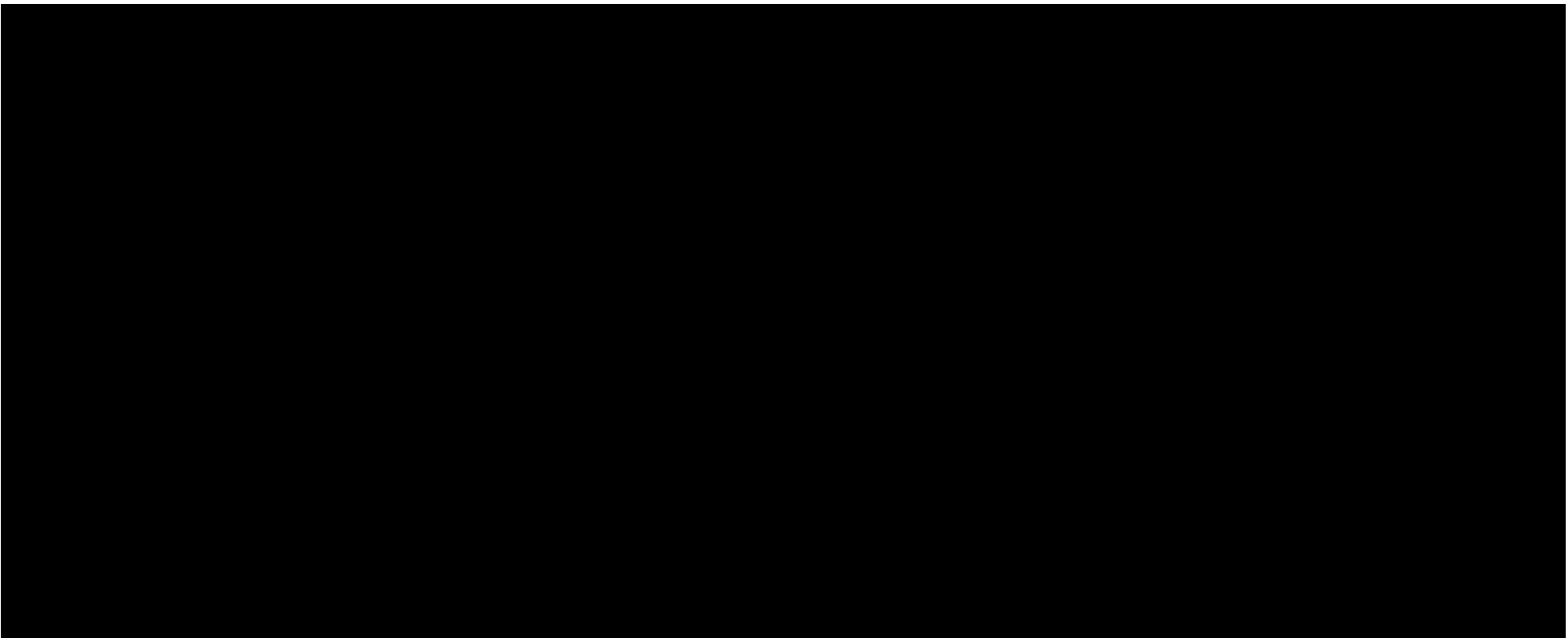
Prepared by or under the supervision of: Margaret M. Janzen

**REDACTED**

Attachment COMM 5-1  
Docket 4227  
2012 RES/SOS Procurement Plans  
Responses to Commission - Set 5  
Page 1 of 1

## The Narragansett Electric Company Summary of Bids Received

RECS Required:	Existing or		Total	ACP
	New	New		
2011	0	114,000	114,000	\$ 62.13
2012	23,000	50,000	73,000	\$ 64.02



**REDACTED VERSION**  
Commission 5-2

Request:

Referencing page 2 of Attachment 1 of National Grid's Revised Rhode Island REC RFP Summary, filed with the Commission on February 24, 2012 the filing indicated that bids were awarded on February 13, 2012, that two bidders submitted amended bids on February 14, 2012, and that these two were informed on the same day.

- a) Why did they submit amended bids? Please explain the nature of the amendment (i.e., quantity, price, source, etc.)
- b) Were the bids higher or lower compared to the previously submitted bids?
- c) What were the original (previously submitted) bids?
- d) Did the Company share the amended bids with Division Staff for review? If yes, did the Division Staff approve those bids? If no, why not?
- e) Were all of the other bidders aware of the fact that two bidders were allowed to submit amended bids?
- f) Did they also have the same opportunity to submit amended bids if they wanted to?

Response:

a) Bidder ■ submitted an amended bid on 2/14/12 to correct the REC volume offered into the RI REC RFP. The supplier had incorrectly calculated its available 2011 New RECs in its inventory and sent National Grid a notification that it wished to change its bid to the correct lower volume. There were no pricing changes and no other bid terms changed with regards to Bidder ■. As of 2/14/12, a Certificate Purchase Agreement with Bidder ■ had not yet been signed relative to the bid volumes.

Bidder ■ submitted a bid on 2/13/12 that incorrectly identified the class of RECs it wished to offer to the Company. Shortly thereafter, on 2/13/12, the supplier rescinded its bid from the solicitation and apologized for the error. On 2/14/12, Bidder ■ made an unsolicited request to submit an offer with the correct REC class, volume, and price.

b) As previously stated in 5-2(a), Bidder ■ submitted an amended bid that revised the RECs volume offered into the RI REC RFP; the price did not change. Bidder ■ submitted an amended bid that revised the REC class, volume and price.

- c) Please see the attachment to the response to 5-1 for the changes.



**REDACTED VERSION**  
Commission 5-2 (continued, p2)

d) The Company did not discuss the amended bid for Bidder [REDACTED] with Division Staff since there was no change in bid price and thus no change to the Company's recommended awards, [REDACTED]. Bidder [REDACTED] incorrectly calculated the amount of 2011 New RECs it had to offer into the solicitation, not the pricing. The change in 2011 New REC volume did not influence the National Grid's bid recommendations or awards [REDACTED]. Also, this notification to the Company occurred before the parties had executed Certificate Purchase Agreement for the quantities listed in the initial bid.

When Bidder [REDACTED] made an unsolicited request to submit an offer on 2/14/12, the Company immediately consulted with Division Staff. Staff concurred with the Company's recommendation to award the bid based on the supplier's amended bid. It was clear that Bidder [REDACTED] had made a pricing mistake on the initial bid, and its offer of 2/14/12 corrected that mistake.

e) The Company had no discussions with other bidders relative to the REC volume change with respect to Bidder [REDACTED] or Bidder [REDACTED]'s withdrawal of its bid and submission of an amended unsolicited offer. The Company does not share bidder's actions or pricing with other bidders.

f) Receipt of amended bids in response to RFPs is not a common occurrence; however, the Company would have evaluated each request to submit an amended bid, and if there had been a valid reason, the Company would have evaluated and consulted with the Division (where appropriate) on the reason for the changes, in order to achieve consensus on whether to allow the bids to be included in the solicitation.

Prepared by or under the supervision of: Margaret M. Janzen