

December 7, 2011

VIA HAND DELIVERY & ELECTRONIC MAIL

Luly E. Massaro, Clerk
Rhode Island Division of Public Utilities & Carriers
89 Jefferson Boulevard
Warwick, RI 02888

**RE: Division Docket No. D-11-94
National Grid Hurricane Irene Response Assessment
Responses to Division Data Requests 1-22 and 1-23 &
Revised Motion for Protective Treatment**

Dear Ms. Massaro:

Enclosed are three (3) CD-ROMS containing National Grid's¹ responses to Division Data Request DIV 1-22 and DIV 1-23 in the above-captioned proceeding.

Please be advised that the Company is seeking protective treatment of certain confidential, sensitive and proprietary information contained in Attachment 1 to DIV 1-22 and Attachment 3 to DIV 1-22 (Reference Document 13), as permitted by Division Rule 3(d) and by R.I.G.L. § 38-2-2-(4)(i)(B). The Company is submitting a Revised Motion for Protective Treatment, which supersedes the Motion for Protective Treatment that was submitted on November 29, 2011 along with the Company's responses to the Division's First Set of Data Requests. The Company will provide a copy of the confidential attachments mentioned above to the Division, upon execution of a non-disclosure agreement. The Company is submitting redacted versions of the above-referenced attachments on CD-ROM for the public record.

Due to the voluminous nature of the attachments to Data Request DIV 1-23, which contains storm report attachments, along with supplemental attachments, submitted to the Massachusetts Department of Public Utilities (identified as Disc 1 of 2), and Attachments 1, 2, and 3 to Data Request DIV 1-22 and Attachments 1 through 8 to Data Request DIV 1-23 (identified as Redacted Disc 2 of 2), the Company is providing the Division with three (3) copies of each disc, as mentioned above, containing these attachments. The Company has also provided a copy these discs to the Division's consultant, Greg Booth.

¹ The Narragansett Electric Company d/b/a National Grid ("Company").

Luly E. Massaro, Commission Clerk
Docket No. D-11-94 - Tropical Storm Irene
December 7, 2011
Page 2 of 2

Thank you for your attention to this transmittal. If you have any questions, please feel free to contact me at (401) 784-7288.

Very truly yours,



Jennifer Brooks Hutchinson

Enclosures

cc: Steve Scialabba, Division
Leo Wold, Esq. (with CD-ROMS)
Greg Booth (with CD-ROMS)

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DIVISION OF PUBLIC UTILITIES AND CARRIERS

**Docket D-11-94 – National Grid
Hurricane Irene Response Assessment**

**NATIONAL GRID’S REQUEST
FOR PROTECTIVE TREATMENT OF CONFIDENTIAL INFORMATION
(REVISED)**

National Grid¹ hereby requests that the Division of Public Utilities and Carriers (“Division”) provide confidential treatment and grant protection from public disclosure of certain confidential, sensitive, and proprietary information submitted in this docket, as permitted by Division Rule 3(d) and R.I.G.L. § 38-2-2(4)(i)(B). National Grid also hereby requests that, pending entry of that finding, the Division preliminarily grant National Grid’s request for confidential treatment pursuant to Rule 3(d).

I. BACKGROUND

On November 29, 2011, National Grid filed with the Division its responses to the Division’s First Set of Data Requests. Specifically, the Company filed its responses to Data Request DIV 1-1, DIV 1-2, DIV 1-3, DIV 1-4, DIV 1-7, and DIV 1-22, which are the subject of this motion. Attachment 2-DIV 1-1, Attachment 1-DIV 1-2, and Attachment DIV 1-3 contain confidential contact information of individuals integral to the implementation of the Company’s Electric Emergency Plan (“EEP”) and the

Company's U.S. Electricity operations. Attachment DIV 1-7 contains the names of customers and municipalities, which the Company has historically regarded as confidential and proprietary to those customers. Attachment DIV 1-4, Attachment 1-DIV 1-22, and Reference Document 13 of Attachment 3-DIV 1-22 contain critical utility infrastructure information that the Company treats as sensitive and proprietary to its business. National Grid is requesting protective treatment for the confidential and proprietary information contained in the above-referenced attachments, which the Company has redacted.

II. LEGAL STANDARD

The Division's Rule 3(d) 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 Division falls within one of the designated exceptions to the public records law, the Division 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 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.

¹ The Narragansett Electric Company d/b/a National Grid ("National Grid or "the Company").

The Rhode Island Supreme Court has held that this confidential information exemption applies where 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 voluntarily 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 addition, the Court has held that the agencies making determinations as to the disclosure of information under APRA may apply the balancing test established in Providence Journal v. Kane, 577 A.2d 661 (R.I.1990). Under that balancing test, the Division 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.

II. BASIS FOR CONFIDENTIALITY

A. THE CONTACT INFORMATION OF CERTAIN COMPANY PERSONNEL IN ATTACHMENT 2-DIV 1-1, ATTACHMENT 1-DIV 1-2, AND ATTACHMENT DIV 1-3, AND THE CUSTOMER INFORMATION CONTAINED IN ATTACHMENT DIV 1-7 IS CONFIDENTIAL AND SHOULD BE PROTECTED PURSUANT TO R.I.G.L. §38-2-2(4)(i)(B).

The Company seeks protective treatment for the contact information of various personnel integral to the effective functioning of its EEP and its U.S. Electricity

operations. The Company treats this information as confidential and for internal use only. There are a range of potential risks to public safety that arise from publicly disclosing the contact information of Company personnel in the context of its EEP and related emergency planning operations. For example, the Company's EEP and related emergency planning documents identify key Company personnel by name and phone number. Armed with such information, an individual with malicious intent could, for example, pester those individuals with repeated phone calls, or impersonate those individuals in an attempt to mislead or manipulate the emergency response operations. In either case, such disruptions would hinder the Company's ability to carry out its emergency response operations and jeopardize public safety. Accordingly, the contact information of key personnel warrant protection under R.I.G.L. §38-2-2(4)(i)(B).

The Company also seeks protective treatment of certain customer information contained in Attachment DIV 1-7. This attachment contains the names of customers and municipalities impacted by Tropical Storm Irene. Customer identifying information has historically been deemed proprietary to each customer, and customers have come to expect that National Grid will maintain this information on a confidential basis.

B. THE COMPANY'S CRITICAL ENERGY INFRASTRUCTURE INFORMATION CONTAINED IN ATTACHMENT DIV 1-4, ATTACHMENT 1-DIV 1-22 AND REFERENCE DOCUMENT 13 OF ATTACHMENT 3-DIV 1-22 IS SENSITIVE AND CONFIDENTIAL INFORMATION AND SHOULD BE PROTECTED PURSUANT TO R.I.G.L. §38-2-2(4)(i)(B).

The Company seeks protective treatment of certain information identified above in Attachment DIV 1-4, Attachment 1-DIV 1-22, and Reference Document 13 of Attachment 3-DIV 1-22, which contain information regarding sensitive information about the Company's electric transmission infrastructure. The transmission infrastructure

information present in Attachment DIV 1-4, Attachment 1-DIV 1-22, and Reference Document 13 of Attachment 3-DIV 1-22 is critical to the safe and reliable operation of the electric system in the Company's service territory and the safety of the public in general. The information should be treated in a confidential manner because, to the extent that disclosure of this information to the public facilitated the ability of individuals to damage the Company's utility infrastructure, and the Company's equipment was compromised through the intentional or negligent actions of those individuals, the Company's ability to provide safe and reliable electric service would be jeopardized.

Moreover, public disclosure of this information would be contrary to the public interest and represent an undue risk to public safety. In this post-September 11 age of increased vigilance against potential acts of terrorism and sabotage, extreme care must be exercised to protect sensitive information regarding the location of critical electric distribution infrastructure from unnecessary public disclosure. For these reasons, the Division should provide protective treatment for the critical utility infrastructure information in Attachment DIV 1-4, Attachment 1-DIV 1-22, and Reference Document 13 of Attachment 3-DIV 1-22.

III. CONCLUSION

Accordingly, the Company requests that the Division grant protective treatment to (i) the confidential contact information in Attachment 2-DIV 1-1, Attachment 1-DIV 1-2, and Attachment DIV 1-3; (ii) the confidential customer information in Attachment DIV 1-7, and (iii) the critical utility infrastructure information in Attachment DIV 1-4, Attachment 1-DIV 1-22, and Reference Document 13 of Attachment 3-DIV 1-22, and the information not be placed in the public docket.

WHEREFORE, the Company respectfully requests that the Division grant its Motion for Protective Treatment as stated herein.

Respectfully submitted,

NATIONAL GRID

By its attorney,

A handwritten signature in blue ink, appearing to read "Jennifer Brooks Hutchinson", with a long horizontal line extending to the right.

Jennifer Brooks Hutchinson (RI Bar #6176)
National Grid
280 Melrose Street
Providence, RI 02907
(401) 784-7288

Dated: December 7, 2011