

STATE OF RHODE ISLAND
DIVISION OF PUBLIC UTILITIES AND CARRIERS

In Re: Petition of PPL Corporation, PPL)
Rhode Island Holdings, LLC, National Grid) Docket No. 2021-09
USA, and The Narragansett Electric)
Company for Authority to Transfer)
Ownership of The Narragansett Electric)
Company to PPL Rhode Island Holdings,)
LLC and Related Approvals)

MOTION OF PPL CORPORATION AND PPL RHODE ISLAND HOLDINGS, LLC FOR PROTECTIVE TREATMENT OF CONFIDENTIAL INFORMATION PRODUCED IN RESPONSE TO FIRST SET OF DATA REQUESTS DATED JUNE 29, 2021

PPL Corporation (“PPL”) and PPL Rhode Island Holdings, LLC (“PPL RI”) (collectively the “Companies”) request that the Division of Public Utilities and Carriers (the “Division”), pursuant to Division Rules of Practice and Procedure 1.3(D)(2) and 1.21(E), 815-RICR-00-00-1 *et seq.*, grant protection from public disclosure to certain confidential, competitively sensitive, and proprietary documents submitted by the Companies in response to the Division Advocacy Section’s First Set of Data Requests (“First Data Requests”).

Specifically, the Companies seek an order from the Division to protect certain confidential commercial and/or financial information, which is exempt from disclosure under Rhode Island law, contained within Attachments PPL-DIV 1-11-17 through PPL-DIV 1-11-19.

The Companies request protective treatment of this information, and seek a determination that this information is not a public record, in accordance with R.I. Gen. Laws § 38-2-2(4)(B). The Companies also request that, pending entry of that ruling, the Division preliminarily grant this request for confidential treatment.

I. BACKGROUND

On May 4, 2021, the Companies, along with National Grid USA (“National Grid”), and The Narragansett Electric Company (“Narragansett”), filed a petition with the Division to transfer ownership of the Narragansett Electric Company to PPL RI and related approvals (the “Transaction”).

On June 8, 2021, the Division of Public Utilities and Carriers Advocacy Section (the “Division Advocacy Section”) served a First Set of Data Requests consisting of 55 data requests. The Companies served responses to a majority of the First Set of Data Requests on June 29, 2021 and the remainder on July 1, 2021.

On November 2, 2021, PPL served supplemental responses to certain requests in the First Set of Data Requests.

II. LEGAL STANDARD

The Access to Public Records Act, R.I. Gen. Laws § 38-2-1 *et seq.* (“APRA”), establishes the proper 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.” 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). The statute provides that such records “shall not be deemed public.” *Id.* Moreover, Division Rule of Practice and Procedure 1.3(D)(2)

states: “Any party submitting documents to the Division may request a preliminary finding that some or all of the information is exempt from the mandatory public disclosure requirements of the Access to Public Records Act. A preliminary finding that some documents are privileged shall not preclude the Division from releasing those documents pursuant to public request in accordance with R.I. Gen. Laws § 32-2-1 *et seq.*”

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 . . . 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).

III. BASIS FOR CONFIDENTIALITY

By this Motion, the Companies seek confidential treatment for Attachments PPL-DIV 1-11-17, PPL-DIV 1-11-18, and PPL-DIV 1-11-19. These documents contain confidential and proprietary business information of PPL and PPL RI that is not otherwise available to the public and the disclosure of which would harm PPL and PPL RI’s business operations.

In response to data request 1-11, the Companies have supplemented their response with three additional issuances by investment analysts and credit rating agencies. These documents are confidential for two reasons. First, they are not PPL or PPL RI-created documents and are confidential and proprietary to the agencies that issued them. Indeed, at least some of the agencies would not permit the Companies to disclose their reports under any circumstances, and those that did permit production of these documents did so with the requirement that PPL and

PPL RI do so on a confidential basis. Second, these documents contain “commercial or financial information” to which the APRA public disclosure requirements do not apply. *See* Gen. Laws § 38-2-2(4)(B); *Kane*, 577 A.2d at 663.

PPL and the issuing credit rating agencies treat the data and information contained in these documents as confidential and commercially sensitive. PPL does not generally make it available to the public, other companies, or regulatory bodies in the absence of a protective order or confidentiality agreement. Disclosing this financial information publicly as part of the Division’s Application review process would “constitute an unwarranted invasion of personal privacy” and “cause substantial harm” to PPL’s “competitive position.” *See* Gen. Laws § 38-2-1; *Convention Ctr. Auth.*, 774 A.2d at 47.

The Companies therefore respectfully requests that the Division grant protective treatment to the confidential documents identified in this Motion contained in this first production in response to the First Data Requests, and take the following actions to preserve their confidentiality: (1) maintain PPL-DIV 1-11-17, PPL-DIV 1-11-18, and PPL-DIV 1-11-19 as confidential indefinitely; (2) not place PPL-DIV 1-11-17, PPL-DIV 1-11-18, and PPL-DIV 1-11-19 on the public docket; (3) disclose PPL-DIV 1-11-17, PPL-DIV 1-11-18, and PPL-DIV 1-11-19 only to the Division, its attorneys, and staff as necessary to review the Applicants’ application¹; and (4) pending entry of that ruling, the Division preliminarily grant the Companies’ request for confidential treatment.

¹ PPL-DIV 1-11-18, may only be disclosed to the Division, pursuant to UBS policies. Accordingly, PPL will disclose it only to the Division and not to the other parties with which PPL has a Confidentiality and Non-Disclosure Agreement in connection with this matter.

WHEREFORE, the PPL Corporation and PPL Rhode Island Holdings, LLC respectfully request that the Division grant their Motion for Protective Treatment.

Date: November 8, 2021

Respectfully submitted,

PPL Corporation and PPL Rhode Island
Holdings, LLC
By its attorneys,



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CERTIFICATE OF SERVICE

I hereby certify that on November 8, 2021, I sent a copy of the foregoing to the Service List by electronic mail.

/s/ Adam M. Ramos