

I. BACKGROUND

On May 4, 2021, PPL, along with National Grid USA (“National Grid”), and The Narragansett Electric Company (“Narragansett”) (with PPL and PPL RI, collectively, the “Applicants”), filed a petition with the Division for approval of PPL RI’s purchase from National Grid of 100% of the common stock of Narragansett and related approvals.

On July 6, 2021, the Division Advocacy Section served the Third Data Requests, consisting of 24 requests. PPL provided responses to the Third Data Requests on July 27, 2021. This contemporaneous motion seeks confidential treatment and protection from public disclosure of three attachments to PPL’s response to data request Division 3-16, which are proprietary information of J.D. Power, a company that is not a party to this proceeding.

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 that, “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 the exemption for “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, PPL seeks confidential treatment for Attachments PPL-DIV 3-16-1 through PPL-DIV 3-16-3. These documents implicate confidential and proprietary business information of another company not a party to this proceeding, and PPL has an obligation to that third party to maintain the confidentiality of these documents. This information is not otherwise available to the public, and its disclosure would harm the third-party company’s business operations and interfere with PPL’s ability to honor its obligations to the third party.

The three confidential attachments all belong to J.D. Power, not PPL or PPL RI. These documents relate to J.D. Power’s customer satisfaction surveys for gas utilities, under which PPL’s subsidiaries have received awards. PPL-DIV 3-16-1 is a document titled 2019 Gas Utility Business Satisfaction Study Client Questionnaire. PPL-DIV 3-16-2 is the 2020 Gas Utility Business Satisfaction Study Client Questionnaire. And PPL-DIV 3-16-3 is the 2020 Gas

Residential Questionnaire. These documents detail J.D. Power's proprietary customer survey model, which is highly valuable to its business model as a market research company.

Moreover, PPL, on behalf of J.D. Power, treats these documents as confidential and commercially sensitive. Disclosing this proprietary business information belonging to an unrelated third party as part of the Division's Application review process would "constitute an unwarranted invasion of personal privacy" and could "cause substantial harm" to J.D. Power's "competitive position" and PPL's ability to participate in these customer satisfaction surveys. *See Gen. Laws § 38-2-1; Convention Ctr. Auth.*, 774 A.2d at 47. Accordingly, PPL-DIV 3-16-1 through PPL-DIV 3-16-3 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 therefore respectfully requests that the Division grant protective treatment to Attachments PPL-DIV 3-16-1 through PPL-DIV 3-16-3 and take the following actions to preserve their confidentiality: (1) maintain Attachments PPL-DIV 3-16-1 through PPL-DIV 3-16-3 as confidential indefinitely; (2) not place Attachments PPL-DIV 3-16-1 through PPL-DIV 3-16-3 on the public docket; (3) disclose Attachments PPL-DIV 3-16-1 through PPL-DIV 3-16-3 only to the Division, its attorneys, and staff as necessary to review the Applicants' application; and (4) pending entry of a final ruling on this motion, preliminarily grant PPL's request for confidential treatment.

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

Date: July 27, 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 July 27, 2021, I sent a copy of the foregoing to the Service List by electronic mail.

/s/ Adam M. Ramos