

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
ENERGY FACILITY SITING BOARD**

In re The Narragansett Electric Company :  
d/b/a National Grid : Docket No. SB-2012-  
(Interstate Reliability Project) :

**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 (“National Grid” or the “Company”) and hereby requests that the Energy Facility Siting Board (“EFSB” or the “Board”) grant protection from the public disclosure of certain confidential information submitted in this proceeding, as permitted by R.I.G.L. §38-2-2(5)(i)(F).

**I. INTRODUCTION**

The Interstate Reliability Project (the “Project”) is a joint effort by National Grid and Northeast Utilities to resolve multiple electric reliability issues within southern New England. The IRP involves (i) the installation of new 345 kV transmission lines totaling approximately 75 miles in length in Massachusetts, Rhode Island, and Connecticut, (ii) the construction of a new Sherman Road Switching Station and the retirement of the existing facility in Burrillville, Rhode Island, and (iii) the reconstruction and modification of other transmission lines and facilities in the three states.

In Rhode Island, National Grid will construct approximately 4.8 miles of 345 kV transmission line from the Massachusetts/Rhode Island border to the West Farnum Substation in North Smithfield (the 366 Line), and 17.7 miles of 345 kV transmission line from the West Farnum Substation to the Connecticut/Rhode Island border in Burrillville (the 341 Line). In addition, National Grid will reconstruct the Sherman Road Switching Station as described above,

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rebuild and reconductor the 328 Line, an existing 345 kV transmission line located between West Farnum Substation and Sherman Road Switching Station, and realign other existing facilities to allow for the improvements.

Concurrently with this Motion, National Grid is submitting an application to the EFSB requesting approval to construct the Rhode Island portion of the Project. The application consists of a Petition and a 3 volume Environmental Report (the “ER”) which includes a volume of figures and a volume of appendices (collectively, the “Application”). The appendices filed with the Application have been redacted to avoid public disclosure of critical energy infrastructure information (“CEII”). However, the unredacted appendices contain CEII that should not be treated as a public record under state law as the information is highly sensitive scientific and technological data, “the disclosure of which would endanger the public welfare and security.”R.I.G.L. §38-2-2(5)(i)(F).This motion seeks protection for the unredacted versions of these appendices and any other CEII which may be used during these proceedings.<sup>1</sup>

CEII is defined by the Federal Energy Regulatory Commission (FERC) as:

Specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure (physical or virtual) that:

1. Relates details about the production, generation, transmission, or distribution of energy;
2. Could be useful to a person planning an attack on critical infrastructure;
3. Is exempt from mandatory disclosure under the [Federal] Freedom of Information Act; and
4. Gives strategic information beyond the location of the critical infrastructure.

18 CFR § 388.113(c)(1). In turn, “critical energy infrastructure” is defined as:

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<sup>1</sup>National Grid filed a similar motion with the Massachusetts Energy Facilities Siting Board (MA EFSB) in Docket No. EFSB 12-1/ D.P.U. 46/47 requesting confidential treatment of CEII information. The MA EFSB granted National Grid’s Motion For Confidential Treatment on June 27, 2012..

Existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters.

18 CFR § 388.113(c)(2).

Unredacted versions of the following appendices to the Application contain materials that constitute CEII:

- Appendix A: ISO-NE, Southern New England Transmission Reliability Report 1 – Needs Analysis (January 2008) [“2008 Needs Analysis”];
- Appendix B: ISO-NE, New England East-West Solution (Formerly Southern New England Transmission Reliability (SNETR)) Report 2, Options Analysis (June 2008) [“2008 Options Analysis”];
- Appendix D: ISO-NE, New England East-West Solution (NEEWS): Interstate Reliability Project Component Updated Needs Assessment (April 2011) [“2011 Needs Assessment”];
- Appendix E: ISO-NE, New England East-West Solution (NEEWS): Interstate Reliability Project Component Updated Solution Study Report (February 2012) [“2012 Solution Report”]; and
- Appendix K: Assessment of Non-Transmission Alternatives to the NEEWS Transmission Projects: Interstate Reliability Project (December 1, 2011) [“NTA Report”] (collectively, the “CEII Materials”).

Accordingly, National Grid requests that a protective order be issued by the EFSB to protect from public disclosure the CEII Materials and that any such information which is used in these proceedings be made a part of the sealed record.

## **II. LEGAL STANDARD**

Rhode Island’s Access to Public Records Act (APRA), R.I.G.L. §38-2-1 *et. seq.*, sets forth the parameters for public access to documents in the possession of state and local government agencies. Under APRA, all documents and materials submitted in connection with the transaction of official business by an agency are 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(5)(i). Therefore, to the extent that information provided to the Board falls within one of the designated exceptions to APRA, the Board 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(5)(i)(F) provides that the following records shall not be deemed public:

Scientific and technological secrets and the security plans of military and law enforcement agencies, the disclosure of which would endanger the public welfare and security.

The Rhode Island Supreme 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 Board 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**

National Grid seeks protection from public disclosure of CEII Materials not for its own internal purposes, but for the welfare and safety of the public. The general practice of National Grid and its affiliates is to provide CEII Materials to select external audiences on a need-to-know basis after execution of a Non-Disclosure Agreement. Because of national security concerns as evidenced by FERC's CEII regulations, quoted above, National Grid seeks a Protective Order for the CEII Materials in this proceeding.

The benefits of protecting this information from the public outweighs the public interest inherent in disclosure of information pending before regulatory agencies. The electric transmission infrastructure information in the CEII Materials is critical to the safe and reliable operation of the electric system and the safety of the public in general. The information should be treated in a confidential manner because disclosure of this information to the public could facilitate the ability of individuals to damage the Company's utility infrastructure and the regional electric transmission system.

Public disclosure of this information would be contrary to the public interest and represent an undue risk to public safety. Extreme care must be exercised to protect sensitive information regarding the location of critical electric infrastructure from unnecessary public disclosure. For these reasons, the Board should determine that the CEII materials are "scientific and technological secrets ... the disclosure of which would endanger the public welfare and security" and provide protective treatment for the CEII Materials by granting this Motion for a Protective Order pursuant to R.I.G.L. §38-2-2(5)(i).<sup>2</sup>

#### **IV. CONCLUSION**

National Grid respectfully requests that the CEII Materials identified herein (i) be kept confidential indefinitely, (ii) not be placed in the public docket, and (iii) be disclosed only to the Board and to other parties that sign non-disclosure agreements.

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

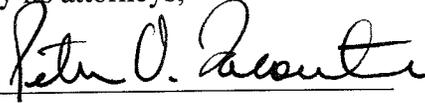
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<sup>2</sup> 18 CFR §§388.112 and .113 of the FERC regulations provide for protection of CEII material submitted to FERC. As such, CEII material is also exempt from public disclosure under §38-2-2(5)(i)(S) which exempts from disclosure records "required to be kept confidential by federal law or regulation..."

Respectfully submitted,

The Narragansett Electric Company d/b/a  
National Grid

By its attorneys,



Peter V. Lacouture

Robinson & Cole, LLP

One Financial Plaza, Suite 1430

Providence, RI 02903-2485



Bess B. Gorman

National Grid USA Service Company, Inc.

40 Sylvan Road

Waltham MA 02451

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