

September 12, 2014

VIA HAND DELIVERY & ELECTRONIC MAIL

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

**RE: Docket 4514 - 2014 Distribution Adjustment Charge (DAC)
Responses to Division Data Requests – Set 2**

Dear Ms. Massaro:

On behalf of National Grid,¹ I am enclosing ten (10) copies of the Company's responses to the second set of data requests issued by the Rhode Island Division of Public Utilities and Carriers in the above-referenced docket.

Pursuant to PUC Rule 1.2 (g), the Company is seeking protective treatment of certain invoice information provided in Attachments DIV 2-1a(ii), DIV 2-1a(iii), DIV 2-1a(v), and DIV 2-1a(vii) to the Company's response to Division 2-1a. In addition, the Company is seeking protective treatment of the competitive bid information provided in Attachments DIV 2-1d(i) through (ix) to the Company's response to Division 2-1d. Due to the voluminous nature of these attachments, the Company is providing the confidential attachments on CD-ROM.

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

Very truly yours,



Jennifer Brooks Hutchinson

Enclosure

cc: Docket 4514 Service List
Leo Wold, Esq.
Steve Scialabba
Bruce Oliver

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

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

RHODE ISLAND PUBLIC UTILITIES COMMISSION

_____)	
National Grid)	
Distribution Adjustment Charge (DAC))	
2014)	Docket No. 4514
_____)	

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

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

I. BACKGROUND

On September 12, 2014, the Company filed with the PUC its responses to the second set of data requests from the Division of Public Utilities and Carriers (Division) in this docket. Division 2-1a requests supporting invoices for the consulting services referenced in the Company's Annual Environmental Report. The Company is seeking protective treatment for Attachments DIV 2-1a(ii), DIV 2-1a(iii), DIV 2-1a(v), and DIV 2-1a(vii) to that response. Specifically, the Company is seeking protective treatment for consultant invoices describing work performed by that consultant at the request of the Company's attorneys relative to potential legal proceedings. In addition, Division Data Request 2-1d requests copies of competitive bids, and the data and analyses upon which

the Company relied to evaluate such bids. The Company is also seeking protective treatment for the competitive bid information provided in Attachments DIV 2-1d(i) through (ix) to that response. For the reasons stated below, the Company requests that this information be protected from public disclosure.

II. LEGAL STANDARD

Rule 1.2(g) of the PUC'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 PUC falls within one of the designated exceptions to the public records law, the PUC 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)(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.

III. BASIS FOR CONFIDENTIALITY

Attachments DIV 2-1a(ii), DIV 2-1a(iii), DIV 2-1a(v), and DIV 2-1a(vii) contain material that divulges work performed by the Company’s consultant bearing on potential litigation. Such information is privileged. The public disclosure of this information would disadvantage the Company and ultimately its customers in a future litigation and should be granted protective treatment by the PUC under its rules.

In addition, Attachments DIV2-1d(i) through (ix) contain confidential and proprietary information including pricing information and bid-evaluation information. This information is proprietary to the bidders. Disclosure of this information would impact the competitive position of these parties, and such disclosure would impede National Grid’s future ability to obtain bids and/or this type of proprietary information.

IV. CONCLUSION

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

Respectfully submitted,

**THE NARRAGANSETT ELECTRIC
COMPANY**

By its attorney,



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

Dated: September 12, 2014

Division 2-1

Request:

Re: the "Consulting Costs" included in pages 17 and 18 of the Annual Environmental Report, please:

- a. Provide supporting invoices for the dollar amounts billed to each project showing wage rates and hours worked for the referenced Consulting services;
- b. Identify which of the dollar amounts identified by contractor represent "Consulting Costs" and which represent "Construction/Disposal/Removal Costs."
- c. Identify each project for which contractor services were not obtained through competitive bidding and explain why competitive procurement processes were not employed for each project identified.
- d. For all projects for which contractor services were obtained through competitive bidding procedures, provide copies of the competitive bids received and the data and analyses upon which the Company relied to evaluate each bid.

Response:

- a. Regarding the "Consulting Costs" included on page 17 of the Annual Environmental Report, the supporting invoices are included in the following attachments:
 - Attachment DIV 2-1a(i) – 642 Allens Ave, Providence, RI
 - Attachment DIV 2-1a(ii) – 170 Allens Ave, Providence, RI (**Confidential**)
 - Attachment DIV 2-1a(iii) – Pawtucket (Tidewater) MGP, RI (20% of invoice dollars charged to the Company) (**Confidential**)
 - Attachment DIV 2-1a(iv) – Woonsocket (Hamlet Ave) MGP (only a portion of each invoice charged to the Company)
 - Attachment DIV 2-1a(v) – Thames & Wellington, Newport (**Confidential**)
 - Attachment DIV 2-1a(vi) – MSR Program
 - Attachment DIV 2-1a(vii) – Miscellaneous MGP, RI (**Confidential**)
 - Attachment DIV 2-1a(viii) – East Providence Holder

Division 2-1, page 2

Regarding the "Contractor Costs" included on page 18 of the Annual Environmental Report, the supporting invoices are included in the following attachments:

- Attachment DIV 2-1a(ix) – 642 Allens Ave, Providence, RI
- Attachment DIV 2-1a(x) – 170 Allens Ave, Providence, RI
- Attachment DIV 2-1a(xi) – Pawtucket(Tidewater) MGP, RI (20% of invoice dollars charged to the Company)
- Attachment DIV 2-1a(xii) – Woonsocket (Hamlet Ave) MGP (20% of invoice dollars charged to the Company)
- Attachment DIV 2-1a(xiii) PCB Regulated Pipe Abandonment
- Attachment DIV 2-1a(xiv) – Thames & Wellington, Newport
- Attachment DIV 2-1a(xv) – MSR Program
- Attachment DIV 2-1a(xvi) – East Providence Holder

The supporting invoices include hourly rates and the hours worked. Attachments DIV 2-1a(ii), DIV 2-1a(iii), DIV 2-1a(v), DIV 2-1a(vii) contain confidential and proprietary business information. Accordingly, the Company is providing a confidential version of these attachments to the PUC subject to a Motion for Protective Treatment, and has provided redacted copies of these attachments for the public filing. Due to the voluminous nature of these invoices, these attachments are being provided on CD-ROM that has been marked "Confidential".

- b. The information on page 17 of the Annual Environmental Report and included in the above Attachments DIV 2-1a(i) through DIV 2-1a(viii) is for "Consulting Costs" only. The information on page 18 of the Annual Environmental Report and included in the above Attachments DIV 2-1a(ix) through DIV 2-1a(xvi) is for "Construction/Disposal/Removal Costs" only.
- c. For environmental work, the Company procures two types of services: consulting services and contractor services. For the consulting services, the Company uses Master Service Agreements (MSAs). In 2008 and 2009, National Grid conducted a 12-month, multi-step, competitive request for proposal (RFP) process to select a small number of environmental consulting firms to provide high-quality, cost-effective environmental consulting services for National Grid in New England and New York. The result of the RFP process was the extensive negotiation and award of MSAs with four "Preferred Firms" to provide these services in New England, including Rhode Island. The negotiated rates, mark-up and volume

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discounts were held for a two-year period (approximately August 1, 2009 through July 31, 2011). The MSAs were re-negotiated in 2012 and 2014 and the firms

either agreed to hold the rates or accept small rate increases. The Preferred Firm program has resulted in a cost-effective program through which most environmental consulting services are assigned to the Preferred Firms based on an overall strategic plan.

Whenever possible, environmental contractor work relating to environmental response activities is subject to a competitive bid selection process. Exceptions to this requirement are situations such as implementing short-term response actions where there is insufficient time for a competitive bid process or smaller value jobs (typically <\$75K). For smaller value jobs and waste disposal/ treatment, the Company has negotiated Blanket Contracts with agreed upon rates for performance of work on Company projects. These vendors include Environmental Soil Management, Inc. (ESMI; thermal treatment of impacted soils), Clean Harbors Environmental Services (CHES; waste disposal, emergency response, small environmental projects), T. Ford Company, Inc. (TFCI; small value environmental projects), and Citiworks (fencing repair).

- d. The Company had only one large-scale construction project in fiscal year 2014 for which contractor services were procured through a separate competitive bidding process. This project was for the remediation of the upland area of the 170 Allens Avenue Site. The Company solicited bids from eight contractors identified as qualified suppliers for this type of remediation project with the resources, experience, and willingness to work in this region of our service territory. Only 5 of the firms submitted bids on the project. The submitted bids, and the data and analyses upon which the Company relied to evaluate the bids are confidential and proprietary. Accordingly, the Company is providing this information to the PUC, subject to a Motion for Protective Treatment.

The original 5 bids are included in following confidential attachments. Due to the voluminous nature of these attachments, the Company is providing these documents on a CD-ROM marked, "Confidential." Because the entirety of information is deemed confidential, a redacted version of following "confidential" attachments is not being provided.

Division 2-1, page 4

- Confidential Attachment DIV 2-1d(i)
- Confidential Attachment DIV 2-1d(ii)
- Confidential Attachment DIV 2-1d(iii)
- Confidential Attachment DIV 2-1d(iv)
- Confidential Attachment DIV 2-1d(v)

The bids ranged from approximately \$2.7M to \$4M with three of the bidders being short listed based on cost and scope of work. A comparison of all 5 bids from a cost standpoint is provided in Confidential Attachment DIV 2-1d(vi).

The short listed bidders were provided clarification questions and were subsequently interviewed by the Company and GZA GeoEnvironmental, Inc. (the Environmental consultant for the site). The three short-listed bidders were then requested to submit best and final offers based on the revised scope of work and responses to the clarification questions.

The 3 best and final offer bids and clarification question answers for each bidder are included in following confidential attachments, which are also being provided on a CD-ROM marked, "Confidential":

- Confidential Attachment DIV 2-1d(vii)
- Confidential Attachment DIV 2-1d(viii)
- Confidential Attachment DIV 2-1d(ix)

The rankings of the three bidders were unchanged after the bid clarification process and best and final offers were submitted. Charter Environmental, Inc., the contractor selected to perform the work, was selected because their bid met the requirements of the RFP, was the lowest cost, and proposed the shortest schedule duration.

Division 2-2

Request:

Re: witness Chen's Direct Testimony at page 6 of 21, please provide a list of each proposed AGT project the Company has identified for the 2014-2015 period, and for each project indicate:

- a. The name of the customer (may be provided subject to confidentiality restrictions);
- b. The projected annual gas use volumes for the proposed facility;
- c. Description of the advanced technology to be utilized;
- d. The estimated amount of the rebate the Company would offer for the project and the basis for computing the estimated rebate;
- e. The estimated in-service date for the proposed facility;
- f. The anticipated schedule for payment of rebates.

Response:

Please see the Company's response to Division 1-16 for the specific responses to subparts (a) through (f).

Division 2-3

Request:

Re: witness Chen's Attachment YC-6, please provide electronic spreadsheet file which fully documents the derivation of the detail on pages 4 through 7 for the monthly totals shown for:

- a. Firm (dth)
- b. Firm Revenue
- c. Firm Revenue less GET
- d. Total Gas Costs
- e. Energy Efficiency Surcharges
- f. Other charges

Response:

Consistent with the methodology used in prior DAC filings, the monthly totals for Non-firm Usage (dth), Non-firm Revenue, Non-firm Revenue subject to Margin Sharing, Total Gas Costs, Energy Efficiency Surcharges, and Other charges were derived based on the customers' actual billing information.

- a. Non-firm Usage (dth) – this is the total billed volume in dekatherms from all the active Non-firm customers in a given month.
- b. Non-firm Revenue – this is the total billed revenue from all the active Non-firm customers in a given month.
- c. Non-firm Revenue subject to Margin Sharing – this is the total billed revenue excluding Sales tax, Gross Earnings Tax, Energy Efficiency Surcharge, and other charges indicated below from all the active Non-firm customers in a given month.
- d. Total Gas Costs – this is the total billed gas charges from all the active Non-firm customers in a given month.
- e. Energy Efficiency Surcharges – this is the total billed energy efficiency surcharges from all the active Non-firm customers in a given month.
- f. Other charges – this includes the total billed late payment interest charges, LIHEAP Enhancement charge, and deposit installments from all the active Non-firm customers in a given month.

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The electronic spreadsheet that supports the details of Schedule YC-6 was provided to the Division, along with those which support the other schedules of witness Chen, on a CD-ROM on August 1, 2014.

Division 2-4

Request:

Re: witness Chen's Attachment YC-7. Please provide an electronic spreadsheet file which fully documents the derivation of the detail on pages 2 through 8 of Attachment YC-7.

Response:

The electronic spreadsheet which fully documents the derivation of the detail on pages 2 through 8 of Schedule YC-7 was provided to the Division, along with those of the other schedules of witness Chen, on a CD-ROM on August 1, 2014.

The Narragansett Electric Company
d/b/a National Grid
RIPUC Docket No. 4514
2014 Distribution Adjustment Charge Filing
Responses to Division's Second Set of Data Requests
Issued on August 22, 2014

Division 2-5

Request:

Please provide complete copies any and all other electronic spreadsheet files relied upon by witness Chen in the development of her August 1, 2014 testimony and exhibits.

Response:

The electronic spreadsheet file of Schedules YC-1 through YC-9 was provided to the Division on a CD-ROM on August 1, 2014.