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Admitted in: RI, MA, NY

December 8, 2020

*Via Electronic Mail: Luly.Massar@puc.ri.gov
and
Via Federal Express*

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

**RE: Docket 5058 – Commission’s Notice to Solicit Written Public
Comments of 11/18/2020**

Dear Ms. Massaro:

Enclosed please find five (5) copies of Colonial Power Group, Inc.’s Comments In Response to the November 18, 2020, Rhode Island Public Utilities Commission’s Notice to Solicit Written Public Comments.

Thank you for your attention to this matter. If you have any questions, please contact me at 401-490-3430.

Very truly yours,

/s/ Stephen J. MacGillivray

Stephen J. MacGillivray

Enclosures

Copy to: Docket No. 5058 Service List

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STATE OF RHODE ISLAND PUBLIC UTILITIES COMMISSION

Re: National Grid's Application to Change Terms and Conditions – Municipal Aggregation)	RIPUC Docket No. 5058
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COMMENTS OF COLONIAL POWER GROUP, INC.

On November 18, 2020, the Rhode Island Public Utilities Commission (“PUC”) issued a Notice to Solicit Written Public Comments in the docket referenced above (“Notice”). In its Notice the PUC references a particular section of the proposed tariff filed by The Narragansett Electric Company d/b/a National Grid (“National Grid”) that, if approved, will apply to Municipal Aggregators conducting business pursuant to municipal aggregation plans (the “Tariff”). The referenced section describes limited information that National Grid proposes to provide to Municipal Aggregators after an Aggregator's plan has been reviewed and approved by the PUC. National Grid has appropriately structured the information it shall provide to Aggregators to enable them to satisfy their statutory obligations. The information to be provided to Aggregators includes only customer name, account number, service address, mailing address, distribution rate, and first four characters of last name. In its Notice the PUC noted that, through its Tariff, National Grid proposes to release certain “individualized customer data” to Municipal Aggregators without first obtaining prior consent from each customer and invited public comments on the subject. Colonial Power Group, Inc. (“Colonial”) submits these comments in response to the PUC’s Notice and submits that the National Grid tariff provides an appropriate, targeted and limited structure to enable Aggregators to comply with applicable statutes.

Colonial appreciates the opportunity to comment on the issue of customer information in the context of municipal aggregation programs and Colonial’s comments herein reflect its substantial experience seeking to provide meaningful information to aggregation plan customers

while protecting confidential customer information. Before advancing municipal aggregation into practice in Rhode Island, it is important to carefully consider the roles and responsibilities of different stakeholder groups with respect to customer information. In short, there is an important balance to maintain: How does the Municipal Aggregator, in collaboration with the PUC and National Grid, most effectively satisfy its obligation to communicate the details of a consumer opt-out program to each and every individual potentially affected while, at the same time, protecting the personal information of those same individuals?

Colonial submits that National Grid is well-positioned to manage the delivery of only appropriate information to the Aggregator by providing only what is necessary for the Municipal Aggregator to carry out its statutory responsibilities. Specifically, the Rhode Island General Laws require that any person owning or controlling a residence or business that consumes electricity (an "electric load center") in the jurisdiction of a Municipal Aggregation must be given the opportunity in advance to opt-out of the program before automatically being enrolled. Rhode Island General Laws § 39-3-1.2(a)(emphasis added) reads, in part:

No legislative authority pursuant to an ordinance or resolution under this section that provides for automatic aggregation as described in this section, shall aggregate the electrical load of any electric load center located within its jurisdiction unless it in advance clearly discloses to the person owning, occupying, controlling, or using the load center that the person will be enrolled automatically in the aggregation program and will remain so enrolled unless the person affirmatively elects by a stated procedure not to be so enrolled.

...

It shall be the duty of the aggregated entity to fully inform participating ratepayers in advance of automatic enrollment that they are to be automatically enrolled and that they have the right to opt-out of the aggregated entity without penalty.

In order for the Municipal Aggregator to satisfy this obligation it must secure accurate and appropriate contact information for any of the electricity consumers in the community. Further, it is necessary to obtain records of the individual or entity that has taken responsibility for the electrical service at the premise, including financial responsibility and decisions regarding supply service. Only National Grid has these records. Alternative sources of customer contact information, such

as property tax records, are inadequate and not reliable for the Municipal Aggregator to use to meet its express notice requirements under the General Laws. The Municipal Aggregator cannot be sufficiently confident that the addressees included on an alternative contact list are the individuals responsible for procuring or paying for electricity at a property. The limited delivery of necessary information to communities pursuing aggregation is necessary to fulfill the purpose and opportunity described in § 39-3-1.2(a). Not allowing a Municipal Aggregator access to these records, at its request, puts the Municipal Aggregator at risk for failing to meet statutory requirements, and at worst endangers aggregation programs from moving forward thereby frustrating the intent of the legislation providing for this additional and important choice for consumers.

Another important consideration in maintaining control over the dissemination of customer information within R.I. Gen. Laws § 39-3-1.2 is the limitation on the ability to aggregate electrical load on an opt-out basis to only municipalities. Local government officials are directly accountable to their constituents in all matters. It is reasonable and appropriate to rely on municipalities' direct accountability to citizens and customers when contemplating municipal officials undertaking a municipal aggregation program for residents and businesses within their jurisdiction. Further, R.I. Gen. Laws § 39-3-1.2 specifically requires minimum levels of outreach and engagement with community members, including town meetings, public hearings, public notices, and citizen review of a written plan. Given these obligations, it is appropriate that a Municipal Aggregation plan and associated communications describe the specifics regarding individual customer information. With the benefit of this information, customers concerned with the limited distribution of information to an Aggregator may take appropriate actions. The PUC may wish to consider directing its inclusion as one of the necessary conditions for plan approval. Such specifics might include disclosures about the type of information to be collected from National Grid, how the Municipal Aggregator will use the information, and specific steps for protecting such information from further dissemination.

Typically, it is necessary for the Municipal Aggregator to, in turn, provide some or all of the information to be secured from National Grid to its contracted Non-Regulated Power Producer for

account enrollment purposes or to assist with the administration of customer notices. The PUC may wish to strictly limit the Municipal Aggregator's dissemination of customer information only to the Non-Regulated Power Producers that have signed an electric services agreement ("ESA") with the Municipal Aggregator. Further, the PUC may wish to direct that any ESA include provisions that preclude the Non-Regulated Power Producer from using customer information obtained by the Municipal Aggregator for any activities outside the company's specific responsibilities pursuant to the ESA. For example, it is standard and successful practice for aggregation contracts in Massachusetts to include strict provisions prohibiting the Non-Regulated Power Producer from then sharing the information to others or using such information for its own marketing purposes. The consequence of violating such a provision would be the risk of contract termination and being subject to financial damages.

The timing of National Grid's providing such information is also important. National Grid proposes to provide such information only *after* the PUC has reviewed and approved the plan submitted by the Municipal Aggregator. This is a significant and important element of consumer protection because no customer-specific information shall be provided to the Municipal Aggregator until after it has first satisfied all the requirements and preconditions established by statute and the PUC. Further, National Grid is proposing to send the information only to the Municipal Aggregator.

In its initial comments in this proceeding, Colonial proposed additional language in National Grid's proposed Tariff (in Section 4B(1)) wherein a Municipal Aggregator could obtain from National Grid customer contact information for all residents and business owners within the jurisdiction of the Municipal Aggregator. This data set would be valuable to the Municipal Aggregator for the purpose of sending program promotional materials to increase customer awareness of their electricity options. Such outreach would be invaluable to address a range of educational and consumer protection objectives. However, this data set can be limited to only customer contact information, and exclusive of account numbers or four-character keys, thereby limiting information transfer to only what is necessary.

Colonial appreciates the opportunity to offer its comments and perspectives regarding the sharing of customer information. Colonial would be pleased to respond to any questions or provide further background information if useful for the Commission's consideration.

Dated: December 8, 2020