STATE OF RHODE ISLAND
ENERGY FACILITY SITING BOARD

In re: The Narragansett Electric Company Revolution Wind Transmission Upgrade Project (G185N, K189, G185S, and L190) Warwick, East Greenwich, and North Kingstown, Rhode Island	: : : : :	Docket No. SB-

Motion of The Narragansett Electric Company
for Protective Treatment of Confidential Information

Now comes The Narragansett Electric Company ("TNEC" or the "Company") and hereby moves 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(4)(F).

I. INTRODUCTION

The Revolution Wind Transmission Line Upgrade Project (the "Project") is designed to address overloads identified during the impact assessment completed by TNEC and Independent System Operator – New England, Inc. ("ISO-NE") from the proposed Revolution Wind Farm by (i) rebuilding an approximately 1-mile section of the existing G185N and K189 115 kV transmission lines ("G185N Line" and "K189 Line") in Warwick, Rhode Island, and (ii) rebuilding approximately 8 miles of the G185S and L190 115 kV transmission lines ("G185S Line" and "L190 Line") in Warwick, East Greenwich, and North Kingstown, Rhode Island. The Project also includes the replacement of the existing shield wire on the K189 Line, G185N Line, and portions of the G185S Line.

Concurrently with this Motion, the Company is submitting a Notice of Intent Application ("Application") to the EFSB requesting a determination that the Project will not result in a significant impact to the environment or public health, safety and welfare, does not constitute an alteration, and may proceed without further review. The Application is being submitted with a Siting Report Volume I (the "Report") and Siting Report Mapping - Figures Volume II (the "Figures"). The redactions are found in limited sections of the Figures and are needed to avoid public disclosure of critical energy infrastructure information ("CEII"). The CEII in the Figures should not be treated as a public record under state law as the information is highly sensitive scientific and technological data about the existing distribution infrastructure, "the disclosure of which would endanger the public welfare and security." R.I.G.L. §38-2-2(4)(F). This motion seeks protection for the unredacted confidential version of the Figures and any other CEII which may be used during these proceedings (collectively, "CEII Materials").

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, 5 U.S.C. § 552; and
> 4. Does not simply give the general location of the critical information.

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

> 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).

Accordingly, the Company 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 a 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(4). 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(4)(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

The Company 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 the Company and its affiliates is to provide CEII Materials to select external audiences on a need-to-know basis after execution of Non-Disclosure Agreements. Because of national security concerns as evidenced by FERC's CEII regulations, quoted above, the Company seeks a Protective Order for the CEII Materials in this proceeding.

The benefits of protecting this information from disclosure outweigh the public interest inherent in disclosure of information pending before regulatory agencies. Maintaining the confidentiality of the electric distribution infrastructure information in the CEII Materials is critical to the safe and reliable operation of the electric distribution system and the safety of the public in general. Disclosure of this information to the public could facilitate the ability of individuals to damage the Company's electric distribution infrastructure. Further, the CEII Materials are the technical details of the distribution system which should be of no interest to the public. The fundamentals of the Project, such as the location of the Project components, the construction access routes, and environmentally sensitive areas, are not redacted from the Figures.

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 and operating information related to 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(4).[1]

IV. CONCLUSION

The Company 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.

Respectfully submitted,

The Narragansett Electric Company

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[1] 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(4)(S) which exempts from disclosure records "required to be kept confidential by federal law or regulation…"