

THE STATE OF NEW HAMPSHIRE
before the
PUBLIC UTILITIES COMMISSION

Public Service Company of New Hampshire
Default Energy Service Rate

Docket No. DE 09-180

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE'S
MOTION FOR PROTECTIVE ORDER RE: POWER PURCHASING POLICIES

Pursuant to RSA 91-A:5,(IV)(Supp.) and N.H. Code Admin. Rules Puc § 203.08, Public Service Company of New Hampshire ("PSNH" or the "Company") hereby requests protective treatment for the responses to a data request propounded by TransCanada Power Marketing, Ltd. ("TransCanada"). The request asks for internal documents relied on by personnel who make power purchases for PSNH. PSNH asserts that its power purchasing procedures are confidential commercial information potentially eligible for protection from public disclosure under RSA 91-A:5,(IV). PSNH also requests that service of the response not be required for the competitive/alternative power suppliers who have intervened in this proceeding: Freedom Logistics, LLC, Halifax-American Energy Company, LLC, (collectively "Freedom/Halifax") TransCanada, and the New England Power Generators Association, Inc. ("NEPGA"). In support of its Motion for Protective Order, PSNH says the following:

1. The data request is as follows:

TransCanada 01, Q-TC-013

Question:

Please provide copies of any guidelines, standard operating procedures or other forms of guidance relied upon by the individuals who make power purchases on behalf of PSNH.

2. The Commission must use a balancing test in order to weigh the importance of keeping open the record of this proceeding with the harm from disclosure of confidential financial or competitive information. "Under administrative rule Puc § 204.06 [predecessor to Puc § 203.08], the Commission

considers whether the information, if made public, would likely create a competitive disadvantage for the petitioner; whether the customer information is financially or commercially sensitive, or if released, would likely constitute an invasion of privacy for the customer; and whether the information is not general public knowledge and the company takes measures to prevent its' dissemination.” *Re Northern Utilities, Inc.*, 87 NH PUC 321, 322, Docket No. DG 01-182, Order No. 23,970 (May 10, 2002).

3. The limited benefits of disclosing the information outweigh the harm done by disclosing the information and the potential harm to the owners of the facilities from disclosure. The procedures include information unrelated to the procurement of power which PSNH would like to protect from disclosure, as well as strategic considerations utilized in the procurement of supplemental power supplies for PSNH's Energy Service. There are specific dollar limits, volume limits, and authorization limits associated with when certain purchases can be made. If this information were made available to the public, all potential suppliers of supplemental power to PSNH would know of the day-to-day procedures employed by personnel who procure supplemental power supplies for PSNH. PSNH would thus be at a disadvantage with respect to all other participants in the ISO-New England markets and may not be able to optimize its purchases on behalf of Energy Service customers.

4. It has been customary practice to grant confidential treatment to confidential commercial information and to restrict dissemination to intervenors who are competitive suppliers. In *Re Kearsarge Telephone Company*, Docket No. DT 07-027, a competitive local access telecommunications provider, SegTel, Inc., sought access to competitive information from the petitioning incumbent local telecommunications carriers. Order No. 24,820, 292 NH PUC 441, 443 (2007). In that decision the Commission stated, “It is well-established in the context of administrative proceedings that due process is a flexible concept, varying with the nature of the

governmental and private interests that are implicated. *Matthews v. Eldridge*, 424 U.S. 319, 334 (1976).” *Id.* It is reasonable to restrict access to this information from the competitive and alternative suppliers in this proceeding. *See*, Secretarial Letter of November 4, 2009 limiting intervention to non-confidential material; RSA 541-A:32, III. The Commission in this case so limited the intervention of TransCanada and the other competitive and alternative suppliers: “...the Commission has determined to grant the motions to intervene of TransCanada, Freedom, Halifax and NEPGA subject to limitations on access to confidential information.” Secretarial Letter, November 4, 2009; *see also*, PSNH’s Response to Freedom/Halifax Letter and Memorandum re: Intervention.

5. PSNH is providing unredacted copies of the procedures to the Commission and the Office of Consumer Advocate. PSNH is also providing redacted copies to TransCanada, Freedom/Halifax and NEPGA. The unredacted copies have been marked to show what passages have been redacted with underlining of those passages. Some text, such as reporting procedures after a power purchase transaction has been made, have also been redacted as they do not relate to the specific data request for procedures relied upon by personnel up to the point of the confirmation of a transaction.

WHEREFORE PSNH respectfully requests the Commission issue an order preventing the public disclosure of the response to TransCanada-01, Q-TC-013 and to order such further relief as may be just and equitable.

Respectfully submitted,

Public Service Company of New Hampshire

December 1, 2009
Date

By: Gerald M. Eaton
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CERTIFICATE OF SERVICE

I hereby certify that, on the date written below, I caused the attached Motion for Protective Order to be served pursuant to N.H. Code Admin. Rule Puc §203.11.

December 1, 2009
Date

Gerald M. Eaton
Gerald M. Eaton

Public Service Company of New Hampshire
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Witness: James R. Shuckerow Jr., David A. Errichetti
Request from: TransCanada

Question:

Please provide copies of any guidelines, standard operating procedures or other forms of guidance relied upon by the individuals who make power purchases on behalf of PSNH.

Response:

See attached.