

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 10-017

ENERGYNORTH NATURAL GAS, INC. D/B/A/ NATIONAL GRID NH

Petition for Permanent Rate Increase

Order Granting Reconsideration of Motion for Confidential Treatment

ORDER NO. 25,250

July 13, 2011

On March 23, 2011, the Commission issued Order No. 25,208 in the above docket. In that order, the Commission made various rulings on portions of the motion for confidential treatment filed by EnergyNorth Natural Gas, Inc. d/b/a National Grid NH (National Grid or Company). In the course of those rulings, the Commission addressed the Company's request for confidential treatment of its response to Staff Data Request 3-55, which related to National Grid's parent company's earnings per share targets and earnings per share performance for the purpose of calculating incentive pay and gain sharing amounts. As stated in the order, National Grid sought "confidential treatment of the dollar amounts of the earnings per share targets and the actual earnings per share performances in this response." *EnergyNorth Natural Gas, Inc. d/b/a National Grid NH*, Order No. 25,208 (Mar. 23, 2011) at 16.

The Commission concluded that the earnings per share targets were entitled to confidential treatment, but that the actual earnings per share were not. The basis for this conclusion was that information about actual earnings per share is "information available to the general investing public." *Id.* at 17. Since the Commission understood the information to be available publicly, and because the Company did not explain what harm would be caused by

revealing that which was already available, confidential treatment of the actual earnings per share was denied. The Company now seeks rehearing or reconsideration of that ruling.

To prevail on a motion for rehearing, a moving party must demonstrate that an administrative agency's order is unlawful or unreasonable. *See* RSA 541:3 and RSA 541:4. Good cause for rehearing may be shown by producing new evidence that was unavailable prior to the issuance of the underlying decision, or by showing that evidence was overlooked or misconstrued. *Hollis Telephone, Inc., Kearsarge Telephone Co., Merrimack County Telephone Co., and Wilton Telephone Co.*, Order No. 25,088 (April 2, 2010) at 14 (*citing Dumais v. State*, 118 N.H. 309, 312 (1978)).

In its motion for reconsideration, National Grid states that while its parent company:

does release actual earnings data to the general investing public, the actual earnings per share data used for purposes of the incentive compensation plan and included in response to Staff 3-55 is not the same data as the information that is publicly released. . . . The data used for purposes of the incentive compensation plan . . . includes adjustments that differ from [accounting] standards, and results in earnings data that is not available to or readily understandable by the investing public. These adjustments reflect items that would not be appropriate for purposes of the plan and relate to matters such as exceptional items (e.g., significant restructurings, write-downs or impairments of non-current assets), remeasurements, currency fluctuations, and the like.

Motion for Rehearing and/or Reconsideration of Order No. 25,208 at 3. By this statement the Company makes clear that the "actual earnings per share" is something other than earnings information that is customarily made available to the investing public.

Taking into account this new explanation of the meaning of earnings per share data relative to the Company's incentive plan and gain sharing, we grant reconsideration of the ruling in Order No. 25,208 relating to the data included in the response to Staff Data Request 3-55. The

Company's explanation of the information clarifies that it is not publicly available, and that it reflects private and confidential internal decisions of the Company that it does not disclose. Accordingly, we conclude that the Company has a privacy interest in the information. Further, because the data includes certain adjustments by the Company apart from those used by the general investing public, we conclude that there is a limited public interest in the information because it will not inform the public of the workings of the Commission. In balancing these interests, we conclude that the Company's interests outweigh those of the public and that confidential treatment should be granted.

For the above reasons, we grant reconsideration of the ruling relative to the information contained in the Company's response to Staff Data Request 3-55 concerning the earnings per share information and accord that information confidential treatment.

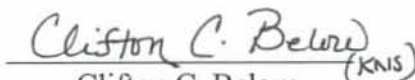
Based upon the foregoing, it is hereby

ORDERED, that National Grid's motion for reconsideration is granted as set out above and the Company's response to Staff Data Request 3-55 is accorded confidential treatment.

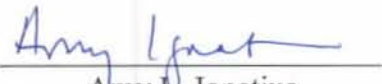
By order of the Public Utilities Commission of New Hampshire this thirteenth day of July, 2011.



Thomas B. Geiz
Chairman



Clifton C. Below
Commissioner



Amy L. Ignatius
Commissioner

Attested by:



Debra A. Howland
Executive Director

GEORGE BRIDEN
SNAKE HILL ENERGY RESOURCES INC
17 CODY DR
NORTH SCITUATE RI 02857
gbriden@cox.net

DORENE HARTFORD
CONSERVATION LAW FOUNDATION
27 NORTH MAIN ST
CONCORD NH 03301
dhartford@clf.org

JINJUE PAK
MCLANE GRAF RAULERSON & MIDDLEBURY
PO BOX 459
PORTSMOUTH NH 03801
jinjue.pak@mclane.com

STEVEN V CAMERINO
MCLANE LAW FIRM
11 SOUTH MAIN ST STE 500
CONCORD NH 03301
steven.camerino@mclane.com

MEREDITH A HATFIELD
OFFICE OF CONSUMER ADVOCATE
21 SOUTH FRUIT ST STE 18
CONCORD NH 03301
meredith.a.hatfield@oca.nh.gov

N JONATHAN PERESS
CONSERVATION LAW FOUNDATION
27 NORTH MAIN ST
CONCORD NH 03301-4930
njperess@clf.org

STEPHEN R ECKBERG
OFFICE OF CONSUMER ADVOCATE
21 SOUTH FRUIT ST STE 18
CONCORD NH 03301
stephen.r.eckberg@oca.nh.gov

MELISSA HOFFER
CONSERVATION LAW FOUNDATION
27 N MAIN ST
CONCORD NH 03302
mhoffer@clf.org

AMY RABINOWITZ
NATIONAL GRID USA
40 SYLVAN RD
WALTHAM MA 02451
amy.rabinowitz@us.ngrid.com

DAN FELTES
NEW HAMPSHIRE LEGAL ASSISTANCE
117 N STATE ST
CONCORD NH 03301-4407
dfeltes@nhla.org

RORIE HOLLENBERG
OFFICE OF CONSUMER ADVOCATE
21 SOUTH FRUIT ST STE 18
CONCORD NH 03301-2429
rorie.e.p.hollenberg@oca.nh.gov

LEE SMITH
LA CAPRA ASSOCIATES
ONE WASHINGTON MALL 9TH FLR
BOSTON MA 02108
lees@lacapra.com

ART FREITAS
LA CAPRA ASSOCIATES
1 WASHINGTON MALL STE 9
BOSTON MA 02108-2603
artf@lacapra.com

ALAN LINDER
NH LEGAL ASSISTANCE
117 N STATE ST
CONCORD NH 03301-4407
alinder@nhla.org

PATRICK H TAYLOR
MCLANE LAW FIRM
PO BOX 326
MANCHESTER NH 03105
patrick.taylor@mclane.com

BRUCE A GAY
MONTICELLO CONSULTING
4209 BUCK CREEK CT
NORTH CHARLESTON SC 29420
bruce@monticelloconsulting.com

CELIA B O'BRIEN
NATIONAL GRID NH
40 SYLVAN RD
WALTHAM MA 02451
celia.obrien@us.ngrid.com

JOHN W WILSON
JW WILSON & ASSOCIATES INC
ROSSLYN PLAZA C
1601 NORTH KENT ST STE 1104
ARLINGTON VA 22209
john@jwwa.com

07/13/11 Order No. 25,250 issued and forwarded to all parties. Copies given to PUC Staff.

Docket #: 10-017-1 Printed: July 13, 2011

FILING INSTRUCTIONS:

- a) Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with: DEBRA A HOWLAND
EXEC DIRECTOR & SECRETARY
NHPUC
21 S. FRUIT ST, SUITE 10
CONCORD NH 03301-2429
- b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.
- c) Serve a written copy on each person on the service list not able to receive electronic mail.