

THE STATE OF NEW HAMPSHIRE  
before the  
PUBLIC UTILITIES COMMISSION

Public Service Company of New Hampshire  
Least Cost Integrated Resource Plan

Docket No. DE 10-261

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE'S MOTION FOR  
PROTECTIVE ORDER RE: FIVE YEAR CAPITAL BUDGETS

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 attachment to a response to a data request in the above-captioned matter. The information is confidential financial information and should be protected from public disclosure.

In support of its Motion for Protective Order, PSNH says the following:

1. The data request OCA Set No. 1, Q-OCA-033 is as follows:

**Question:**

Section V starting on page 84 is an Assessment of Supply Resources. For each of PSNH's owned generating units, please provide the annual capital budget for each of the next 5 years, how the budget was derived, and the process PSNH undertakes in determining which investments to make.

2. The five year capital budgets broken down for each PSNH major generating plant clearly demonstrate when PSNH will be doing major periodic inspection and maintenance at those plants. The magnitude of changes from year to year may inform certain sophisticated market participants to predict the type of overhaul or equipment replacement that may be performed in a particular year. This information will provide an advantage for power suppliers in negotiating arrangements for supplemental power supplies to replace the generation from the PSNH-owned plants.

3. The Commission must use a balancing test in order to weigh the importance of creating an open 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).

4. PSNH does not circulate capital budgets specific to any particular plant widely within the Company and such analyses are not disclosed outside of PSNH. Disclosure of the five year capital budgets is equivalent to disclosing future maintenance schedules. The Commission has previously afforded protective treatment to major maintenance schedules at specific PSNH generating plants. *Re: PSNH*, Docket No. DE 08-113, Order No. 24,990, slip op. at 6 (December 12, 2008). The Commission has also previously granted a PSNH motion for protective order relative to five year capital and O+M budgets. Docket No. DE 09-091, Order No. 25,060, slip op. at 16-19 (December 31, 2009).

5. The limited benefits of disclosing the information outweigh the harm done by disclosing the information. PSNH would be put at a disadvantage with respect to suppliers of PSNH's supplemental power because the data contained in the response provide an advantage to supplemental power suppliers during the periods when major inspection and maintenance programs will be conducted. If the information were to become public, contractors who provide major maintenance services would have a better idea of what PSNH was expecting to spend on future capital projects. The non-confidential response adequately addresses for all parties

to the OCA's inquiry of "how the budget was derived, and the process PSNH undertakes in determining which investments to make." Data Request Q-OCA-033.

6. PSNH would be at a competitive disadvantage if its future capital budgets were to be made public and supplied to the competitive supply market participants in this proceeding. The market supplying supplemental power would be able to predict when PSNH was conducting inspection and major maintenance at each of PSNH's plants. TransCanada Power Marketing Limited and TransCanada Hydro Northeast, Inc. ("TransCanada"), Granite Ridge Energy L.L.C. ("Granite Ridge"), New England Powder Generators Association ("NEPGA") and Freedom Energy Logistics, LLC /Halifax America Energy Company, LLC ("FEL/HAEC") are participants in the power supply market at a wholesale and retail level. As participants in the market, they would have an advantage over PSNH when bidding on supplemental supply and an advantage over other, non-intervenor market participants that did not receive this confidential information.

7. It has been the Commission's practice in the past to grant protective treatment to confidential commercial information such as power supply and coal supply contracts and to restrict dissemination of that information 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, 92 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 and permissible to restrict access to this information from the competitive suppliers in this proceeding. See, RSA 541-A:32, III.

WHEREFORE PSNH respectfully requests the Commission issue an order preventing the public disclosure of response to the above-listed Data Request, to prevent dissemination of the confidential materials to the competitive supplier intervenors in this proceeding, TransCanada, Granite Ridge, NEPGA and FEL/HAEC, and to order such further relief as may be just and equitable.

Respectfully submitted,  
Public Service Company of New Hampshire

April 8 2011  
Date

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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.

April 8 2011  
Date

Gerald M. Eaton  
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