

STATE OF NEW HAMPSHIRE  
BEFORE THE  
PUBLIC UTILITIES COMMISSION

National Grid USA, National Grid NE 2 Holdings LLC,  
Granite State Electric Company d/b/a National Grid,  
EnergyNorth Natural Gas, Inc. d/b/a National Grid NH,

- and -

Liberty Energy Utilities Co. and Liberty Energy Utilities (New Hampshire) Corp.

Docket No. DG 11-040

**MOTION FOR PROTECTIVE ORDER AND CONFIDENTIAL TREATMENT**

National Grid USA (“National Grid”), National Grid NE Holdings 2 LLC, Granite State Electric Company d/b/a National Grid (“Granite State”), EnergyNorth Natural Gas, Inc. d/b/a National Grid NH (“EnergyNorth”, collectively with Granite State the “Companies”), Liberty Energy Utilities Co. (“Liberty Energy”), and Liberty Energy Utilities (New Hampshire) Corp. (“Liberty Energy NH”) (collectively referred to as the “Movants”), in accordance with Puc 203.08, hereby move the New Hampshire Public Utilities Commission (the “Commission”) to grant confidential treatment to certain information provided to the Commission Staff and Office of Consumer Advocate in the course of the discovery process in the above-captioned docket. In support of its motion, the Movants state as follows:

1. During the course of the discovery process, the Movants provided responses to several hundred data requests propounded by the Staff, Office of the Consumer Advocate (“OCA”), and intervenors Pamela Locke, John Martino, The Way Home, and United Steelworkers of America. Nine (9) of these responses contained confidential information that the Movants provided to the Staff and OCA only. Rather than seek confidential treatment for each

data response, the Movants submitted their confidential responses accompanied by written statements of intent to file a motion pursuant to Puc 203.08(d). The data request responses for which the Movants seek protective treatment are as follows: Staff 2-39; 2-94; 3-30; 3-37; 3-39; 3-77; 4-87; and Staff TS 2-22 Supplemental.<sup>1</sup>

2. Administrative Rule Puc 203.08 provides in pertinent part that “[t]he Commission shall upon motion issue a protective order providing for the confidential treatment of one or more documents upon a finding that the document or documents are entitled to such treatment pursuant to RSA 91-A:5, or other applicable law, based upon the information submitted pursuant to [Puc 203.08(b)].” N.H. Code of Admin. Rules Puc 203.08.

3. Records that contain “confidential, commercial, or financial information” and “personnel and other files whose disclosure would constitute an invasion of privacy” are expressly exempt from public disclosure. RSA 91-A:5, IV.

4. In determining whether to grant protective treatment, the Commission applies a three-step analysis developed by the New Hampshire Supreme Court. *Unitil Corp. & Northern Utilities*, DG 08-048, Order No. 25,014 at 3 (September 22, 2009) (citing *Lambert v. Belknap County Convention*, 157 N.H. 375, 382 (2008)). The analysis first requires an evaluation of whether there is a privacy interest at stake that would be invaded by the disclosure. Second, where such a privacy interest is at stake, the public’s interest in disclosure is assessed. *Lambert*, 157 N.H. at 382-83. Disclosure should inform the public of the conduct and activities of its

---

<sup>1</sup> On May 20, 2011, the Movants submitted a response to data request Staff 2-43 accompanied by redacted and confidential versions of Attachment Staff 2-43 and gave notice of their intent to submit a motion seeking confidential treatment of the information contained in the attachment. The Movants filed a confidential response with the understanding that the contractual information set forth in Attachment Staff 2-43 was subject to a confidentiality clause. However, the Movants have subsequently learned that the contract at issue has been disclosed publicly by a party not related to the Movants notwithstanding any confidentiality clause, and as such they withdraw their request for confidential treatment relative to Attachment Staff 2-43.

government; if the information does not serve that purpose, disclosure is not warranted. *Id.*

Finally, when there is a public interest in disclosure, that interest is balanced against any privacy interest in non-disclosure. *Id.*

**I. The Commission Should Grant Protective Treatment to Personal Employee Information to Avoid an Unwarranted Invasion of Privacy**

5. The information submitted in response to data requests Staff 2-94, 3-39, and 3-77 should be exempted from disclosure pursuant to RSA 91-A:5, IV, which protects “personnel . . . and other files whose disclosure would constitute an invasion of privacy.” As the Commission has frequently noted, New Hampshire courts apply a three-step analysis when considering whether disclosure of governmental records constitutes an invasion of privacy. First, the Court evaluates whether there is indeed a privacy interest at stake that would be invaded by disclosure; second, whether there is a public interest in disclosure; and third, whether the public interest in disclosure outweighs the individual privacy interest in nondisclosure. *See Lamy v. N.H. Pub. Util Comm’n*, 152 N.H. 106, 109 (2005); *N.H. Civil Liberties Union v. City of Manchester*, 149 N.H. 437, 440 (2003).

**a. Response to Data Request Staff 3-77**

6. Staff 3-77 requests the following: “For Granite and EnergyNorth employee expense incurred in 2010, please provide a list of job titles and for each job title[,] the primary responsibility, number of employees, average salary, average benefits and average overhead.” Attachments Staff 3-77(a) and (b) comprise 2010 salary and payroll related costs for Granite State and EnergyNorth employees, respectively, and each position listed therein corresponds to a specific, individual employee. There is a clear privacy interest in the compensation information provided in response to the above request, as each title and description is easily attributable to a specific employee. This information is not disclosed to the public, as it is the practice of

National Grid and the Companies to maintain private personnel information, including any salary information or other personal data in strict confidence.

7. The Movants seek only to protect the salary and benefit information related to the Companies' employees. Specifically, Attachments Staff 3-77(a) and (b) provide wage and salary information for Granite State and EnergyNorth employees, respectively. Only the salary and benefit information for each position has been redacted; the title and other related information have been provided.

8. RSA 91-A:5, IV exempts "personnel . . . and other files whose disclosure would constitute an invasion of privacy" from public disclosure. The Commission routinely grants confidential treatment to compensation information that is not otherwise publicly disclosed, determining that employees have a reasonable expectation of privacy with respect to this information. *See, e.g., Northern Utilities, Inc.*, DG 01-182, Order No. 23,970 at 8-9 (May 10, 2002) (protecting non-officer employee names and wages); *Pennichuck Water Works*, DW 01-081, Order No. 23, 842 at 3-4 (November 16, 2001). Furthermore, the Commission has recognized that the disclosure of such information may cause harm by making it easier for other companies to recruit employees away from an employer and potentially cause discord among individuals within the company. *See, e.g., EnergyNorth Natural Gas d/b/a National Grid NH*, Order No. 25,208 at p. 5 (March 23, 2011).

9. The Companies' employees have an expectation of privacy in the wages and benefits that they receive. While no employee names are included in the attached exhibits, given the limited number of positions in each Company, the position titles are easily linked to individual employees, and thus disclosure would effectively reveal individual employee compensation and benefit information. It is well-established that an individual's privacy interest

increases when names may be tied to financial information. *Lamy*, 152 N.H. at 110; *see also EnergyNorth Natural Gas, Inc. d/b/a National Grid NH*, DG 10-017, Order No. 25,119 at 7.

10. Public disclosure of the compensation amounts that are easily linked to non-officer employees exposes those employees to an invasion of their privacy. In each of the two above-identified attachments, the Companies only seek confidential treatment of the salary, wage, benefit or overhead information requested. Disclosure of this information will not provide the public with information about the conduct or activities of the Commission or other parts of New Hampshire state or local government, *see Public Service Co. of N.H.*, DE 09-158, Order No. 25,059 at 14-15 (December 31, 2009), and there is no public interest that outweighs the privacy interest of the Companies' employees. For these reasons, the Commission should grant confidential treatment of employee salary and benefit information.

**b. Response to Data Request Staff 2-94**

11. Staff 2-94 requests copies of offers made to and accepted by National Grid employees for employment by Liberty Energy NH. Attachments Staff 2-94 (a) through (g) provided in response to this request are official offer letters to prospective employees that contain employee names, home addresses, position titles and annual compensation and bonus amounts. All of the positions offered in these letters are non-officer positions. Only the home addresses of the recipients and the base salary and potential bonus percentages offered to them have been redacted; all other information, including position titles and employee names, has been provided.

12. These letters contain confidential personal information specific to the individuals who received them, including the home addresses and compensation packages offered and accepted by the recipient employees. There is no question that the disclosure of an individual

employee's home address would expose the employee to an unwarranted invasion of privacy, and the Commission has previously recognized and granted protective treatment to such information. *See Lamy*, 152 N.H. at 109 (“[D]isclosing a person’s name and address implicates that person’s privacy rights because the disclosure serves as a conduit into the sanctuary of the home.”); *see also Unitil Energy Systems*, DE 05-178, Order No. 24,742 at 5 (April 13, 2007) (granting protective treatment to documents containing employee home addresses).

13. Furthermore, as noted above, the Commission consistently recognizes a heightened privacy interest in the compensation information for individual non-officer employees. *See Northern Utilities, Inc.*, DG 01-182, Order No. 23,970 at 8-9 (May 10, 2002)(recognizing and protecting a privacy interest in the compensation of non-officer employees). The non-officer employees of Liberty Utilities or National Grid have an expectation of privacy in the wages and benefits that they receive, and it is well-established that an individual’s privacy interest increases when names may be tied to financial information. *Lamy*, 152 N.H. at 110; *see also EnergyNorth Natural Gas, Inc. d/b/a National Grid NH*, DG 10-017, Order No. 25,119 at 7.

14. The information contained in the offer letters provided as Attachments Staff 2-94 (a) through (g) also constitutes “confidential, commercial, or financial information” and is exempt from disclosure under RSA 91-A:5, IV. Disclosure of this information will allow competitor companies insight into Liberty Utilities’ hiring strategy and its compensation packages. Companies such as Liberty Utilities and Liberty Energy NH compete with other regulated and non-regulated companies to attract and retain employees from the same qualified pool of experienced personnel, and disclosure of compensation offered to potential employees harms Liberty Utilities’ ability to compete to attract the best, most qualified employees. As

noted above, the Commission recognizes that the disclosure of such information may cause harm by making it easier for other companies to recruit employees away from a particular employer and potentially cause discord among individuals within the company. *See, e.g., EnergyNorth Natural Gas d/b/a National Grid NH*, Order No. 25,208 at p. 5 (March 23, 2011).

15. Disclosure of this information will not provide the public with information about the conduct or activities of the Commission or other parts of New Hampshire state or local government, *see Public Service Co. of N.H.*, DE 09-158, Order No. 25,059 at 14-15 (December 31, 2009), and there is no public interest that outweighs the prospective employees' personal privacy interests in their home addresses and compensation or the interest of Liberty Utilities and Liberty Energy NH in maintaining the confidentiality of such sensitive commercial and financial information .

**c. Response to Staff Data Request Staff 3-39 Attachments (a) and (b)**

16. Staff 3-39 requests "a copy of the voluntary notice sent to CFIUS seeking its approval of the stock sale from Granite State and EnergyNorth to Liberty Energy NH," as well as "a copy of any correspondence between the Committee and the Joint Applicants, including but not limited to the Committee's approval notice." In Attachment (a) and (b) to Staff 3-39, the only information redacted by the Movants is confidential personal information of certain officers and directors of Algonquin Power and Utilities Corp. ("APUC") and Liberty Utilities. Specifically, in attachments (a) and (b), only the Social Security Numbers ("SSN") or Social Insurance Number ("SIN")<sup>2</sup> and the passport number of each officer or board member have been redacted.

---

<sup>2</sup> The Social Insurance Number, or SIN, is a national identification number and the Canadian equivalent of a U.S. citizen's Social Security Number.

17. The individual officers and directors identified in Attachments Staff 3-39(a) and (b) maintain a heightened expectation of privacy with respect to their SSNs, SINS and passport numbers. Indeed, the Commission has previously granted protection to similar, highly private information. *See Atkinson Wood Water, LLC*, DW 04-001, Order No. 24,364 at 3 (August 26, 2004) (granting protective treatment to utility company owner and principal's personal tax return containing highly sensitive information of a personal nature). Disclosure of this type of highly personal information would constitute an invasion of personal privacy and expose the identified individuals to significant personal harm, including identity theft. *See Atkinson Wood Water, LLC*, DW 04-001, Order No. 24,364 at 3 (August 26, 2004)(recognizing that potential harm might flow from disclosure of personal information).

18. Disclosure of SSNs, SINS and passport numbers for these directors and officers will not provide the public with information about the conduct or activities of the Commission or other parts of New Hampshire state or local government. *See Public Service Co. of N.H.*, DE 09-158, Order No. 25,059 at 14-15 (December 31, 2009). There is no public interest that will be served by the disclosure of this information, and the privacy interests of corporate board members and officers identified in Attachments Staff 3-39(a) and (b) in keeping this highly personal and sensitive information out of the public domain weighs in favor of confidentiality.

## **II. The Commission Should Grant Confidential Treatment to Proprietary and Competitively Sensitive Information**

19. RSA 91-A:5, IV states, in relevant part, that records pertaining to "confidential, commercial, or financial information" are exempt from public disclosure. The Commission has routinely recognized that confidential treatment should be granted to competitively sensitive or proprietary information under the 91-A:5 exemption for "confidential, commercial, or financial information." *See, e.g., Northern Utilities, Inc.*, DG 10-034, Order No. 25,085 at 9; *Unitil Corp.*



*and Northern Utilities, Inc.*, DG 08-048, Order No. 25,014 at 6 (Sept. 22, 2009). The analysis applied by the Commission for the confidentiality of sensitive commercial information “is essentially the same as for that regarding potential invasions of privacy, but for the fact that the information must also be determined to be confidential, commercial, or financial information, in addition to being information in which there is a privacy interest.” *EnergyNorth Natural Gas d/b/a National Grid NH*, Order No. 25,208 at p. 8 (March 23, 2011). For the reasons set forth below, the Commission should grant confidential treatment to responses the following data requests, all of which contain confidential, proprietary and competitively sensitive information.

**a. Response to Data Request Staff 2-39**

20. Staff 2-39 requests “documents that Liberty Energy and Algonquin have made or received from National Grid or any consultant or third party to the extent that they address either or both of the regulatory landscape in New Hampshire and implications for the acquisition.” In the response to Staff 2-39, the Movants redacted certain forward-looking financial assumptions related to a potential future rate increase for Granite State. Similarly, in Attachment Staff 2-39 (b), the amount of the rate increase that National Grid intended to seek in a future rate case for Granite State has been redacted. Public disclosure of National Grid’s forward-looking ratemaking plans would reveal National Grid’s confidential and competitively sensitive financial information to its competitors and also reveals the National Grid’s strategy with respect to ratemaking and revenue requirements. The Commission has previously granted protective treatment to forward looking financial information, release of which would likely result in a competitive disadvantage, and should again do so here. *City of Nashua*, DW 04-048, Order No., 24,583 at 3 (Jan. 27, 2006). Moreover, the redacted rate case information was based on internally prepared preliminary estimates for internal use and as such is not appropriate for

public disclosure. *See New England Telephone and Telegraph*, DT 97-180, Order 22,799 (December 8, 1997) at 1 (granting protective treatment to confidential business information compiled internally).

21. The Commission routinely recognizes that confidential treatment should be granted to competitively sensitive financial information under the 91-A:5 exemption for “confidential, commercial, or financial information.” *See, e.g., Northern Utilities, Inc.*, DG 10-034, Order No. 25,085 at 9; *Unitil Corp. and Northern Utilities, Inc.*, DG 08-048, Order No. 25,014 at 6 (Sept. 22, 2009). Where, as here, disclosure of confidential and competitively sensitive forward-looking financial information to competitors exposes a moving party to harm, protective treatment is warranted.

22. The disclosure of this information will not provide the public with information about the conduct or activities of the Commission or other parts of New Hampshire state or local government, *see Public Service Co. of N.H., DE 09-158, Order No. 25,059 at 14-15 (December 31, 2009)*. The Movants have only redacted a minimal amount of information in the response to Staff 2-39 and its attachment; to the extent that there is a public interest in disclosure of preliminary estimates related to a potential rate increase, it is not significant enough to outweigh National Grid’s interest in keeping its competitively sensitive financial and business planning strategies confidential. For these reasons, the Commission should grant confidential treatment to National Grid’s confidential business information.

**b. Response to Data Request Staff TS 2-22 Supplemental**

23. Staff TS 2-22 Supplemental requests “copies of the financing documents drafted relative to the \$135MM debt facility, including the prospectus document.” The note purchase agreement, indenture, and supplemental indenture provided as Attachments Staff TS 2-22 (a)

through (c) comprise confidential and competitively sensitive financing documents. The terms of these documents are the subject of on-going negotiations between Liberty Utilities and its lender, and as such are subject to revision prior to execution. Public disclosure of the confidential commercial and financial information contained in these documents will reveal aspects of the parties' negotiating strategies and expose the parties to the financing to competitive harm.

24. The Commission routinely recognizes that confidential treatment should be granted to competitively sensitive financial information under the 91-A:5 exemption for "confidential, commercial, or financial information." *See, e.g., Northern Utilities, Inc.*, DG 10-034, Order No. 25,085 at 9; *Unitil Corp. and Northern Utilities, Inc.*, DG 08-048, Order No. 25,014 at 6 (Sept. 22, 2009). Disclosure of the non-final financing documents provided as Attachments Staff TS 2-22 (a) through (c) would enable parties to future financings with either Liberty Utilities or the bank with which it is presently negotiating to compare the final executed document, which will be filed with the Commission following execution, to the draft version and extrapolate the negotiating strategies of Liberty Utilities or the bank. This would place Liberty Utilities at a disadvantage when seeking the most favorable financing terms in the future, and would also cause a corresponding competitive harm to the bank. As executed final versions of these documents disclosing the final, agreed-upon terms of the financing will be filed with the Commission following execution, there is no countervailing public interest that outweighs the interest of Liberty Utilities in maintaining confidentiality in these documents. *See Connecticut Valley Electric Co.*, DR 94-315, Order No. 22,046 (March 11, 1996) at 2 (upholding confidentiality of confidential information where disclosure would "jeopardize current and nearly completed negotiations").

25. Disclosure of this information will not provide the public with information about the conduct or activities of the Commission or other parts of New Hampshire state or local government, *see Public Service Co. of N.H.*, DE 09-158, Order No. 25,059 at 14-15 (December 31, 2009), and there is no public interest that outweighs the interests of Liberty Utilities in keeping the details of the indenture and other confidential, competitively sensitive, commercial information contained in sale-related documents confidential at this critical juncture in the sale negotiations. Accordingly, this information warrants protective treatment by the Commission and any balance should be struck in favor of confidentiality.

**c. Response to Data Request Staff 3-30**

26. Staff 3-30 requests information relating to the “expense budgeting process currently used by National Grid to develop the annual expense budget for Granite State Electric and EnergyNorth Gas. Please include the timeline(s) for formulating the budget and for obtaining executive management concurrence with estimates. Please provide documentation of methods, procedures, and corporate guidelines for the process(es).” The document provided in response to this request contains key dates, processes, and timelines by which National Grid’s expense budgets are developed, including competitively sensitive information regarding National Grid’s strategy relative to an anticipated rate case in another jurisdiction. The redacted information in the Movants’ response is proprietary and competitively sensitive, and its disclosure will provide National Grid’s competitors with detailed knowledge of National Grid’s internally developed business and rate case planning strategies. The redacted information is internally generated, and used internally for planning purposes. *See New England Telephone and Telegraph*, DT 97-180, Order 22,799 (December 8, 1997) at 1 (granting protective treatment to confidential business information compiled internally).

27. Disclosure of this information will not provide the public with information about the conduct or activities of the Commission or other parts of New Hampshire state or local government, *see Public Service Co. of N.H.*, DE 09-158, Order No. 25,059 at 14-15 (December 31, 2009), and to the extent there is a public interest in this information it is outweighed by the privacy interest of National Grid in keeping this confidential and competitively sensitive information out of the public domain, particularly because it does not necessarily reflect final decision-making by National Grid. For these reasons, the Commission should grant confidential treatment to the internal budgeting processes competitively sensitive commercial and financial information contained in this response.

**d. Response to Staff Data Request 3-37**

28. Staff 3-37 requests “system description, including user and technical documentation for the National Grid Energy Management Systems (EMS) – Supervisory Control And Data Acquisition (SCADA) Systems.” Attachments 3-37 (a) through (x) comprise manuals created by National Grid vendors ABB and Telvent that are subject to confidentiality agreements. These manuals are proprietary and competitively sensitive and as such are not disseminated to the public. Because these manuals are the subject of confidentiality agreements between National Grid and the vendors, the Movants are compelled to maintain their confidentiality; thus, while the Movants provided the Staff and OCA with a complete set of the confidential and proprietary manuals, the Movants did not produce corresponding redacted versions.

29. The information contained in the redacted responses comprises confidential proprietary and competitively sensitive information, the public disclosure of which will harm National Grid and the vendors by revealing the vendors’ proprietary information to its

competitors. Such disclosure would discourage vendors from contracting with National Grid in the future out of concern that their proprietary and competitively sensitive information will not be protected in accordance with confidentiality agreements. The Commission has previously granted protective status to confidentiality agreements between a company and vendor. *See, e.g., Public Service Company of New Hampshire*, DE-03-166, Order Number 24,276 (February 6, 2004) at 74 (upholding non-disclosure of trade secret of a technical nature in confidentiality agreement between company and vendor). Where, as here, disclosure of this information will not provide the public with information about the conduct or activities of the Commission or other parts of the New Hampshire state or local government, see *Public Service Co. of N.H.*, DE 09-158, Order No. 25, 059 at 14-15 (December 31, 2009), and where, as here, disclosure exposes the Companies and vendors to competitive harm and also invalidates the contractual agreements between the Companies and vendors with respect to confidentiality, any balancing of interests should be struck in favor of confidentiality.

**e. Response to Data Request Staff 3-39 Attachment (d)**

30. In Attachment (d) to Staff 3-39 National Grid redacted certain material it considers to be confidential and sensitive security-related information. Specifically, National Grid has redacted a minimal amount of information regarding access to National Grid's internal web site. This information is not disseminated to the public and National Grid's internal web site is not intended for public access. Public disclosure of detailed information regarding access to National Grid's internal site poses a security risk to National Grid and its customers, as an unauthorized breach could result in the release of confidential or proprietary information or cause a disruption in the site's operation. Though it is difficult to quantify the harm that could be done to the Company, its employees, and its customers as a result of such an unauthorized

breach, there is no question that the potential for significant damage exists. Thus, the information described above should be protected from disclosure and kept confidential pursuant to the RSA 91-A:5, IV exemptions for “files whose disclosure would constitute an invasion of privacy” and “confidential, commercial, or financial information.”

31. Furthermore, the Commission has granted protective treatment to information pertaining to energy infrastructure in the past on the grounds that there is a security interest in such information. *See, e.g., Until Energy Systems, DE 05-178, Order No 24, 677 (October 6, 2006) at 22-23; City of Nashua, DW 04-048, Order No. 24,495 at 3-5 (July 25, 2005).* While the sensitive information contained in Attachment (d) to Staff 3-39 relates to internal IT systems and not physical energy infrastructure, the potential for a security breach is nonetheless real and this information should not be disclosed publicly.

32. Where disclosure of this information will not provide the public with information about the conduct or activities of the Commission or other parts of the New Hampshire State or local government, *see Public Service Co. of N.H., DE 09-158, Order No. 25, 059 at 14-15 (December 31, 2009),* and where disclosure may both jeopardize the integrity of the National Grid’s internal web site and systems and create an unnecessary security risk and potential unauthorized access to confidential customer or proprietary information, any balancing of interests should be struck in favor of confidentiality.

**f. Response to Data Request Staff 4-87**

33. Staff 4-87 requests “an IT systems architecture diagram/chart portraying the National Grid applications that provide support for the following functions within Granite State Electric and EnergyNorth Gas: (a) Customer Service functions; (b) Customer Call Center functions; (c) Work Management functions; (d) GIS functions; (e) Work Scheduling functions;

(f) Work Management functions; (g) Billing functions; (h) Meter Reading and Processing functions.” Attachments Staff 4-87 (a), (c), (d), (i), (j), (l), (m), (n), (o), (p), (q), and (r) contain critical IT architecture information, certain elements of which have been withheld from disclosure to prevent a potential breach of National Grid’s IT systems.<sup>3</sup>

34. Public disclosure of the sensitive IT systems architecture information that has been redacted from these attachments would unnecessarily expose National Grid and its customers to a security risk. Specifically, the Movants redacted only specific internet protocol addresses, machine names, and other information that could potentially be used to gain access to National Grid’s IT systems architecture. Such intentional, unauthorized access could potentially result in access to confidential customer or proprietary information, and could otherwise cause disruption of National Grid’s IT system.

35. A breach of National Grid’s IT system could result in unauthorized access to confidential customer information or confidential proprietary information of the Company. For these reasons alone, the IT systems information described above should be protected from disclosure and kept confidential pursuant to the RSA 91-A:5, IV exemptions for “files whose disclosure would constitute an invasion of privacy” and “confidential, commercial, or financial information.”

36. Furthermore, the Commission has granted protective treatment to information pertaining to energy infrastructure in the past on the grounds that there is a security interest in such information. *See, e.g., Unitil Energy Systems, DE 05-178*, Order No 24, 677 (October 6, 2006) at 22-23; *City of Nashua, DW 04-048*, Order No. 24,495 at 3-5 (July 25, 2005). While the

---

<sup>3</sup> The confidential response to Staff 4-87 was previously filed with the Commission on August 30, 2011. Corresponding redacted versions of the attachments were not prepared and submitted at that time due to the ongoing dedication of National Grid personnel to storm-related assignments, and a redacted public version of the response will therefore be provided concurrently with this motion.



sensitive information contained in the above-described attachments to Staff 4-87 relate to IT systems architecture and not physical energy infrastructure, the potential for a security breach is nonetheless real and this information should not be disclosed publicly.

37. Where disclosure of this information will not provide the public with information about the conduct or activities of the Commission or other parts of the New Hampshire State or local government, see *Public Service Co. of N.H.*, DE 09-158, Order No. 25, 059 at 14-15 (December 31, 2009), and where disclosure may both jeopardize the integrity of the National Grid's IT systems and expose National Grid and its customers to an unnecessary security risk, any balancing of interests should be struck in favor of confidentiality.

WHEREFORE, the Movants respectfully request that the Commission:

- A. Grant this Motion for Protective Order and Confidential Treatment;
- B. Such other relief as is just and equitable.

Respectfully submitted,

National Grid USA,  
National Grid NE Holdings 2 LLC,  
Granite State Electric Company, and  
EnergyNorth Natural Gas, Inc.

LIBERTY ENERGY UTILITIES CO.  
and Liberty Energy Utilities (New  
Hampshire) Corp.

By their Attorneys

By their Attorney

MCLANE, GRAF, RAULERSON &  
MIDDLETON, P.A.

By:



Steven V. Camerino, Esq.  
Patrick H. Taylor  
11 South Main Street, Suite 500  
Concord, NH 03301  
Telephone (603) 226-0400  
steven.camerino@mclane.com  
patrick.taylor@mclane.com

By:



Shannon P. Coleman, Esq.  
Senior Regulatory Counsel  
Liberty Utilities  
shannon.coleman@libertyutilities.com

Celia B. O'Brien, Esq.  
EnergyNorth Natural Gas, Inc.  
d/b/a National Grid NH  
40 Sylvan Road  
Waltham, MA 02451  
Telephone (781) 907-1520  
Email: celia.obrien@us.ngrid.com

#### Certificate of Service

I hereby certify that a copy of this Motion for Protective Order and Confidential Treatment has been electronically served and mailed to the service list in this case.



Patrick H. Taylor