

THE STATE OF NEW HAMPSHIRE
before the
PUBLIC UTILITIES COMMISSION

Public Service Company of New Hampshire
Default Energy Service Rate for 2012

Docket No. DE 11-215

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE'S
MOTION FOR PROTECTIVE ORDER RE: SUPPLEMENTAL POWER SUPPLY

Pursuant to RSA 91-A:5, IV 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 the response to a data request propounded by the Staff. The attachment contains details of the supplemental power purchase contracts entered into by PSNH for calendar year 2012. PSNH asserts that this information is confidential commercial information potentially eligible for protection from public disclosure under RSA 91-A:5, IV. In support of its Motion for Protective Order, PSNH says the following:

1. The data request is as follows:

NSTF-01 Q- STAFF-010

Question:

Regarding September 23, 2011 filing. Reference Attachment RAB-2, page 3, lines 24-25. For the known purchases, please provide a list of the contracts including the dates they were executed, the duration of the contracts, the contracting party, the quantity purchased and the purchase prices. Please also describe any financial assurances required in the contracts.

The attachment to the response to Staff No. 10 contains supplemental power supply information including the contracting party, date of execution, duration, quantity and price of power secured through bilateral purchases that have been entered into for the upcoming Default Energy Service rate period.

2. Before granting confidential treatment, the Commission must determine if there is a privacy interest of PSNH's to protect. Then the Commission determines if

there is a public interest in disclosure. If both of these steps are met then the Commission will use a balancing test in order to weigh the importance of keeping the record public with the harm from disclosure of the material for which protection is requested. Docket No. DE 10-121, Order No. 25,167, slip op. at 3-4; DE 10-257, Order No. 25187, slip op. at 8, *citing, Lambert v. Belknap County Convention*, 157 N.H. 375, 382 (2008).

3. PSNH has a privacy interest in protecting the confidentiality of purchased power contracts. Release of this information would put PSNH at a disadvantage with respect to negotiations in the future with suppliers of supplemental power. Traditionally these purchased power contracts and purchased power agreements have been kept confidential to protect both parties. Power supply contracts have been approved by the Commission with the specific pricing terms being afforded confidential treatment. *See, Lempster Wind, LLC* (Docket No. DE 08-077). Fewer power suppliers may be willing to negotiate future supply contracts if they assume that the information in the final contract will be made public prior to their disclosure at the FERC. Fewer suppliers would mean a less competitive arena in which PSNH supplemental power supplies are procured. A similar motion was granted in the previous Default Energy Service rate setting docket. Docket No. DE 10-257, Order No. 25,187, slip op. at 10 (December 29, 2010).

4. “Disclosure that informs the public of the conduct and activities of its government is in the public interest; otherwise disclosure is not warranted.” Order No. 25,167, slip op. at 4. PSNH uses these supplemental energy costs to compute its estimated default service rate. “The public disclosure of these costs would allow for a detailed understanding of the various cost components in ES rates.” Order No. 25,187 at 9. It is arguable, therefore, that there is some public interest in disclosure of the details of the Company’s planned supplemental energy purchases for 2012; however, disclosure sheds little light on how the Commission conducts its activities.

5. “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).

6. The limited benefits of disclosing the information outweigh the harm done by disclosing the information and the potential harm to the other contracting parties from disclosure. Pricing terms with power suppliers and fuel suppliers have traditionally been kept confidential. *See, Re EnergyNorth Natural Gas, Inc. dba KeySpan Energy Delivery New England*, Docket No. DG 03-068, Order No. 24,167, 88 NH PUC 221 , 226 (2003). PSNH is only requesting confidential treatment until the wholesale suppliers disclose information regarding the supplies in their Electric Quarterly Reports at the Federal Energy Regulatory Commission. Docket No. DE 10-121, Order No. 25,1767, at 16 (November 9, 2010).

WHEREFORE PSNH respectfully requests the Commission to issue an order preventing the public disclosure of the attachment to the response NSTF-01, Q-STAFF-010 and to order such further relief as may be just and equitable.

Respectfully submitted,

Public Service Company of New Hampshire

November 16 2011
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.

November 16 2011
Date

Gerald M. Eaton
Gerald M. Eaton

Public Service Company of New Hampshire
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Witness: Frederick White
Request from: New Hampshire Public Utilities Commission Staff

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Response:

Please see the attached table.

** The requested information is being filed under a Motion for Protective Order.