

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

IR 15-124

ELECTRIC DISTRIBUTION UTILITIES

**Investigation into Potential Approaches to Ameliorate
Adverse Wholesale Electric Market Conditions in New Hampshire**

MOTION FOR CONFIDENTIAL TREATMENT
AND PROTECTIVE ORDER

NOW COMES Tennessee Gas Pipeline Company, L.L.C. (“Tennessee”), by and through its undersigned attorneys, and, pursuant to N.H. Admin. Rule Puc 203.08, respectfully moves the New Hampshire Public Utilities Commission (“the Commission”) to issue a protective order which accords confidential treatment to certain information described below. In support of this Motion, Tennessee states as follows:

1. In accordance with N.H. Admin. Rules Puc 203.08 (b) and Puc 203.02(a)(1), Tennessee hereby submits one public copy and 7 confidential copies of documents labeled Illustrative Monthly Power Price in New England with and without NED. This is a supplemental response to previous questions asked by Staff in this docket.

2. The above-referenced documents contain competitively sensitive commercial information. They include projected New England average monthly power and gas prices prepared by ICF International, the company that prepared the report that Tennessee filed with the Staff in this docket on September 10, 2015. These projected prices constitute competitively sensitive information that ICF and Tennessee safeguard and that they do not disclose to anyone outside of their corporate organization or authorized

representatives. Disclosure of this information could competitively disadvantage ICF and Tennessee and the pipeline project in relation to other pipeline projects in New England and New York. As such, the information is entitled to be protected from public disclosure under RSA 91-A:5, IV.

3. Release of the above-described confidential information would likely result in commercial harm to ICF and Tennessee, as competitors could use the information to competitively disadvantage Tennessee. In addition, public disclosure of the above-described information could result in harm to ICF and Tennessee if this confidential information would be publicly revealed.

4. In determining whether confidential, commercial or financial information within the meaning of RSA 91-A:5, IV is exempt from public disclosure, the Commission employs the analysis articulated in *Lambert v. Belknap County Convention*, 157 N.H. 375 (2008) and *Lamy v. N.H. Public Utilities Commission*, 152 N.H. 106 (2005). Under this analysis the Commission first determines “whether the information is confidential, commercial or financial information, ‘and whether disclosure would constitute an invasion of privacy.’” *Unitil Energy Systems, Inc.*, DE 10-055, Order No. 25,214 (April 26, 2011), p. 35. If a privacy interest is implicated, the Commission then balances the asserted private confidential, commercial or financial interest against the public’s interest in disclosure in order to determine if disclosure would inform the public of the government’s conduct. *Id.* If it does not, then “disclosure is not warranted.” *Id.* See, e.g. *Public Service Company of New Hampshire*, Order No. 25,313 at 11-12 (December 30, 2011); see also, February 13, 2015 Hearing Examiner’s Report in DG 14-380 (granting motion for confidential treatment of pricing and other confidential terms

for Liberty Utilities' proposed agreement with Tennessee on the basis that "the material includes sensitive commercial data that, if disclosed, would harm the Company's bargaining position with Tennessee and other pipeline companies, and disclosure would not substantively serve the public interest") at 3; *see also*, *Power New England, LLC*, Order No. 25,528 at 5-7 (June 25, 2013) ("disclosure of private contractual terms could result in a competitive disadvantage to both NAPG and its vendor").

5. The above-described information meets the foregoing test. The Commission has already granted motions for confidential treatment of similar information in this docket. Order No. 25,811 (September 9, 2015). For the reasons presented above, all of the information is clearly confidential, commercial or financial, and disclosure of it would pose harm and constitute an invasion of privacy and thus a privacy interest is implicated. ICF and Tennessee and their clients and customers routinely safeguard this information to protect their respective positions in commercial transactions. Because Tennessee's private, confidential, commercial and financial interests outweigh the public's interest in disclosure, the information should be protected as disclosure will not inform the public of the government's conduct. Public disclosure of this information would not materially advance the public's understanding of the Commission or this proceeding. Finally, the harm that would occur to ICF's and Tennessee's interests outweighs the interest in disclosure. It would be extremely disadvantageous to both ICF and Tennessee if competitors were able to access the projected pricing information that is being provided as a supplemental response to the data request.

6. Tennessee requests that the Commission issue an order protecting the above-described information from public disclosure and prohibiting copying, duplication,

dissemination or disclosure of it in any form. Tennessee requests that the protective order also extend to any discovery, report, argument, minutes or briefing relative to the confidential information.

WHEREFORE, Tennessee respectfully requests that this honorable Commission:

- A. Issue an appropriate order that exempts from public disclosure and otherwise protects the confidentiality of the documents and information identified herein; and
- B. Grant such additional relief as it deems appropriate.

Respectfully submitted,
Tennessee Gas Pipeline Company, L.L.C.

By its attorneys,

Orr & Reno, P.A.

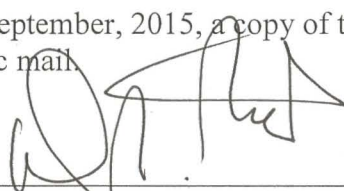
By: 

Douglas L. Patch
45 South Main St.
P.O. Box 3550
Concord, NH 03302-3550
603-223-9161
dpatch@orr-reno.com

Date: September 14, 2015

Certificate of Service

I hereby certify that on this 14th day of September, 2015, a copy of the within Motion was sent to the Service List via electronic mail.



Douglas L. Patch