

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

DG 18-___

NORTHERN UTILITIES, INC.

**PETITION FOR AUTHORITY TO OPERATE
IN THE TOWN OF EPPING**

**MOTION FOR CONFIDENTIAL TREATMENT
AND PROTECTIVE ORDER**

Pursuant to N.H. Admin. Rule Puc 203.08, Northern Utilities, Inc. (“Northern” or the “Company”) respectfully requests that the New Hampshire Public Utilities Commission (the “Commission”) issue a protective order which accords confidential treatment to certain information described below. In support of this Motion, Northern states as follows:

1. In this proceeding, Northern is requesting authorization from the Commission to provide gas service to the Town of Epping pursuant to RSA 374:22. Northern currently provides gas service in the Town of Brentwood pursuant to authority granted by the Commission in *Northern Utilities, Inc.*, Order No. 25,700 (Aug. 1, 2014). The Company plans to extend its current main about a mile through the Town of Brentwood, and then construct approximately 3.5 miles of additional main to serve residential and commercial customers in Epping. In support of the Company’s Petition, it has filed the testimony of Company witnesses who provide details of the Company’s analysis of the potential customer market in Epping, the estimated penetration rates for that potential market, the estimated cost to construct mains and

service lines to serve new customers, and the Company’s discounted cash flow (“DCF”) analysis that it developed and used to evaluate this expansion project. As discussed below, the testimony and exhibits contain information that is confidential and competitively sensitive and could cause significant harm to Northern and its customers if it were disclosed publicly.

2. In accordance with N.H. Admin. Rules Puc 203.08(b) and Puc 203.02(a)(1), Northern hereby submits one public copy and seven confidential copies of the documents containing confidential information. For convenience, the table below identifies the confidential information for which the Company seeks protection:

Exhibit	Ref.¹	Description
CCDC-1	6:19-7:4	Testimony describing Northern’s plans for potential future expansions of gas distribution service
CCDC-1	8:8-12 11:9 11:16 17:3 17:7 17:11 17:15-20	Testimony describing the methodology used by Northern to assess the size of a potential market and the estimated market size for Brentwood and Epping by customer class
CCDC-1	10:15 11:1 11-5	Testimony describing the results of a confidential market analysis conducted by a third party on Northern’s behalf
CCDC-1	11:6-7 11:14 11:17	Testimony describing the Company’s conversion factors (and development of those factors) by customer class; conversion factors are used in confidential financial modeling (Exhibit CCDC-6)
CCDC-1	13:4 14:2 20:12 20:15	Testimony describing the results of DCF analysis as calculated by Northern’s proprietary financial model (Exhibit CCDC-6)
CCDC-1	14:19-20	Testimony describing cost estimates for typical generic service line installations by customer class developed in Exhibit CLKS-2
CCDC-6	N/A	Excel workbook containing Northern’s proprietary financial model that contains confidential information and analyses developed by the Company
CLKS-1	11:1-2	Table providing details of mains to be installed in

¹ References to testimony use the format “PP:LL” where “PP” is the page number and “LL” is the line number.

		Brentwood and Epping, by pipe diameter and length
CLKS-1	12:7-8	Testimony describing cost estimates for typical generic service line installations by customer class developed in Exhibit CLKS-2
CLKS-2	N/A	The document contains Northern's detailed cost estimates for mains and services and related assumptions upon which the estimates are based

3. The testimony excerpts and exhibits referenced in the table above contain competitively sensitive commercial information, including Northern's plans for future franchise expansion, propriety methodologies developed by the Company to assess competitive markets, a proprietary Excel workbook containing the DCF analysis developed by the Company to assess the financial viability of potential new markets, the results of those financial analyses, details concerning the design of the mains planned to be installed in Brentwood and Epping and the details of the Company's construction cost estimates. Northern safeguards this information and does not disclose it to anyone outside of its corporate organization and its authorized representatives. As such, the information is entitled to be protected from public disclosure under RSA 91-A:5, IV.

4. Release of the above-described confidential information would likely result in commercial harm to Northern and its customers as the Company's competitors could use the information to Northern's disadvantage. Northern competes against providers of alternative energy suppliers, including fuel oil and propane, as well as other suppliers of natural gas delivered by traditional and non-traditional methods.

5. 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. NH 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.*

6. The above-described information meets the foregoing test. For the reasons presented above, all of the information is confidential, commercial or financial, and disclosure of it would pose harm and constitute an invasion of privacy. Northern routinely safeguard this information to protect its position in the competitive marketplace. Moreover, Northern has invested time and resources developing its proprietary DCF analysis that was used to assess the viability of the Epping expansion. To avoid the possibility of “reverse engineering” the Company’s DCF model, Northern proposes to file that analysis under a protective order and only in electronic format. Public disclosure of the DCF model and the other information described herein would provide Northern’s competitors with a competitive advantage, thereby resulting in harm to Northern and its customers. Release of this confidential information would not inform the public of the government’s conduct.

7. Because Northern’s private, confidential, commercial and financial interests outweighs the public’s interest in disclosure, the information should be protected as disclosure will not inform the public of the government’s conduct.

8. Northern 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. The Company requests that the protective order also extend to any discovery, testimony, argument and briefing relative to the confidential information.

For the reasons stated above, Northern respectfully requests that the 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 the Commission deems just and appropriate in the circumstances.

Dated: June 4, 2018



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Certificate of Service

I hereby certify that on this 4th day of June, 2018, a copy of this Motion has been sent by electronic mail to the New Hampshire Office of Consumer Advocate.

Dated: June 4, 2018



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