

DG 99-171

**NORTHERN UTILITIES, INC.**

**Petition for Approval of  
Special Firm Gas Transportation Agreement**

**Order on Motion for Protective Treatment**

**O R D E R    N O.    23,370**

**December 20, 1999**

On November 5, 1999, Northern Utilities, Inc. ("Northern") filed a motion for protective treatment in connection with this docket, which seeks approval of a special contract with Foss Manufacturing Company (Foss). Northern seeks confidential treatment of the pricing information, cost information, customer-specific marginal cost information and financial analyses it has submitted in connection with its request for approval of its special firm gas transportation agreement with Foss. According to Northern, a protective order is appropriate because the public disclosure of the information in question would place it at an unfair disadvantage in negotiations with other customers that, like Foss, are in a position to obtain fuel, including but not limited to gas, from alternative suppliers.

Northern invokes RSA 91-A:5, IV, which authorizes a state agency to exempt from public disclosure "confidential, commercial, or financial information." Consistent with the requirement in such circumstances that we weigh "the public's interest in disclosure" against the asserted privacy interest,

see *Union Leader Corp. v. N.H. Housing Fin. Auth*, 142 N.H. 540, 553 (1997), we apply a balancing test to such requests. See, e.g, *Public Service Co. of N.H.*, Order No. 23,090 (December 21, 1998). In the realm of special contracts, "[t]he degree of competition within a particular market will affect the degree of confidentiality which will be granted." *New England Telephone & Telegraph Co.*, 80 NH PUC 437, 446 (1995).

In Foss' case, the customer has multiple alternative fuel capabilities and the contract is proposed to meet this existing competition and increase the customer's choice of natural gas. Northern's request is consistent with the degree of confidentiality we accorded two recent and similar special contract filings involving this utility. See Order No. 23,213 (October 5, 1999). As in that order, when the requisite balancing test is applied, and taking into consideration the degree of competition in the market, we conclude that Northern is entitled to the confidential treatment it has requested in its motion.

**Based upon the foregoing, it is hereby**

**ORDERED**, that the motion of Northern Utilities for protective treatment is granted; and it is

**FURTHER ORDERED**, that this Order is subject to the

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ongoing rights of the Commission, on its own motion, the motion of Staff, any party or any member of the public, to reconsider this order in light of RSA 91-A, should circumstances so warrant.

By order of the Public Utilities Commission of New Hampshire this twentieth day of December, 1999.

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Douglas L. Patch  
Chairman

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Susan S. Geiger  
Commissioner

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Nancy Brockway  
Commissioner

Attested by:

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Claire D. DiCicco  
Assistant Secretary