

**STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION**

**RE: PSNH PEAKSMART
PLUS PROGRAM**

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) **DOCKET NO. DE 09-158**
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MOTION FOR CONFIDENTIAL TREATMENT

NOW COMES Granite State Electric Company d/b/a National Grid (“National Grid”) and hereby moves pursuant to N.H. Code of Administrative Rules Puc 203.08 for confidential treatment by the Commission with respect to the response to Staff 1-4 which requests the customer names, class and total kW claimed by National Grid’s customers who are participating in ISO-NE demand response programs administered by National Grid during the Forward Capacity Market transition period.

I. LEGAL STANDARD

N.H. Code of Administrative Rules Puc 203.08 provides in pertinent part that “the 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).” Documents exempted from public disclosure under RSA 91-A:5, IV include “records relating to...confidential, commercial, or financial information...” In addition, RSA 91-A:5, IV exempts from public disclosure “other files whose disclosure would constitute an invasion of privacy.”

In interpreting the statute, the New Hampshire Supreme Court has held that the privacy exception means that “financial information and personnel files and other information necessary to an individual’s privacy need not be disclosed.” Lamy v. NH PUC, 152 N.H. 106, at 109 (2005). The required analysis proceeds in three steps:

First, we evaluate whether there is a privacy interest at stake that would be invaded by the disclosure. If no privacy interest is at stake, the Right-to-Know Law mandates disclosure. Next, we assess the public’s interest in disclosure. Disclosure of the requested information should inform the public about the conduct and activities of their government. Finally, we balance the public interest in disclosure against the government interest in nondisclosure and the individual’s privacy interest in nondisclosure. Id.

Thus, a Company must prove that: (1) the information for which protection is sought constitutes confidential information for which the customer has a privacy interest at stake that would be invaded by disclosure; and (2) that the public’s interest in disclosure does not outweigh the government’s interest in nondisclosure and the individual’s privacy interest in nondisclosure.

II. BASIS FOR CONFIDENTIALITY

National Grid submits that the names, class and total kW claimed by National Grid’s customers who are participating in ISO-NE demand response programs administered by National Grid constitutes confidential information in which these customers have a legitimate privacy interest. It is well established that customers and people, in general, consider their identifying information such as their names, electric usage data and participation in specific utility administered programs to be private and confidential. Furthermore, the Commission has previously recognized the relevant privacy interest that a business has in data that would reveal the amount of electricity consumed by the enterprise insofar as this information would be useful to direct

competitors because it would reveal to them one of that business's key costs, particularly in a time of rising electricity rates and perhaps reveal information about business operations and methods of production. Order No. 24,612 at 5-6 (April 6, 2006). Revealing such information could provide competitors with information they might not otherwise have access to, giving them unfair competitive business advantages. Id.

Although the information contained within the response to Staff 1-4 does not reveal the customers' usage data, public disclosure of this information would certainly provide insight into the customers' business operations because it would allow competitors to ascertain the amount of load that these customers have committed to and are able to shed during a demand response event. Furthermore, in order to encourage future participation in ISO-NE administered demand response programs, National Grid's customers must be willing to rely on National Grid's commitment not to disclose their commercially sensitive information about their business and operations, e.g., production methods. This is information which customers would not otherwise reveal. National Grid's customers would be understandably reluctant to enroll in utility administered or facilitated demand response programs in the future if they cannot be assured that the details of their commitments and business operations will not be disclosed to the public. Moreover, the public's interest in disclosure of this information does not outweigh the legitimate privacy interests of these customers because the information does not facilitate a better understanding of how government funds are being spent, rather it relates to customers' private demand response commitments.

Thus, the limited information for which the Company is requesting confidential treatment qualifies for confidential treatment under State law and Commission rules, and as such, should be protected.

WHEREFORE, National Grid respectfully requests that the Commission grant confidential treatment for the above-referenced information contained in its response to Staff 1-4. In accordance with N.H. Code of Administrative Rules Puc 203.08(g), this information should, at minimum, be labeled "Confidential," held in a secure location within the Commission's offices, and not be disclosed other than to the Commission staff without National Grid's consent.

Respectfully submitted,

GRANITE STATE ELECTRIC
COMPANY D/B/A NATIONAL GRID
By its attorney,



October 16, 2009

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Motion for Confidential Treatment has been served this date to the Office of Consumer Advocate and to the parties named to the Service List in this proceeding via first class mail or electronic mail.

Alexandra E. Blackmore

October 16, 2009

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