

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

GRANITE STATE ELECTRIC COMPANY D/B/A NATIONAL GRID

DE 10-020

MOTION FOR PROTECTIVE ORDER AND CONFIDENTIAL TREATMENT

NOW COMES Granite State Electric Company d/b/a National Grid ("National Grid" or the "Company") and hereby moves pursuant to Puc 203.08 for confidential treatment with respect to the Transaction Confirmation between National Grid and the winning supplier, DTE Energy Trading, Inc. ("DTE"), to provide Default Service to the Large and Medium Commercial and Industrial Customer Group (the "Large Customer Group") for the three-month period February 1, 2011 through April 30, 2011. The Company also requests confidential treatment for the Default Service Procurement Summary ("RFP Summary") set forth in Schedule MMJ-2, the Company's calculations of the RPS Adders for 2011 set forth in Schedule MMJ-5, the Company's calculation of commodity costs at the retail meter set forth in Schedules MMJ-6, and the Company's REC RFP summary. In support of this Motion, National Grid states as follows:

1. National Grid and DTE entered into an agreement whereby DTE committed to provide, among other things, service to the Large Customer Group for the three-month period February 1, 2011 through April 30, 2011.
2. National Grid's Transaction Confirmation with DTE, the RFP Summary, the RPS Adders calculation, and the retail meter commodity costs calculation are being provided as separate schedules to the testimony of Margaret M. Janzen and John O. Leana which is provided as part of the Company's filing.

3. A public version of the Company's REC RFP summary is being filed with the Commission concurrently with this Motion. The confidential version was previously provided to Staff. The REC RFP summary contains a chart and other information summarizing the bids received as a result of RFPs that were issued for NH RPS Law compliance. The REC RFP summary also contains the Company's evaluation of those bids and the number of RECs required for compliance purposes.

4. Puc 203.08 provides in pertinent part that "[t]he 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)]."

5. Documents exempted from public disclosure under RSA 91-A:5, IV include "records pertaining 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." To determine whether certain information falls under this exemption and qualifies for protective treatment, the Commission applies a three-step analysis. *See Public Service of New Hampshire*, Order No. 25,174 (November 24, 2010) (citing *Lamy v. N.H. Pub. Utils. Comm'n*, 152 N.H. 106 (2005)). First, the Commission evaluates whether there is a privacy interest at stake that would be invaded by the disclosure; second, if a privacy interest is at stake, the Commission assesses the public's interest in disclosure; and third, when there is a public interest in disclosure, that interest is balanced against any privacy interests in non-disclosure. *Id.* at 12.

6. As applied to the instant case, this three-step analysis demonstrates that the Transaction Confirmation, the RFP Summary, the RPS Adders calculation, the calculation of commodity costs at the retail meter, and the REC RFP summary contain competitive energy pricing and contract terms which warrant confidential treatment.

7. The Commission has previously recognized in Order 24,000 (June 27, 2002) as well as Order 23,486 (May 22, 2000), Order 23,681 (April 19, 2001), and Order 23,834 (November 2, 2001), a privacy interest in the information contained within wholesale power contracts for Default Service, determining such data to be “confidential, commercial, or financial information”, the disclosure of which could adversely affect the business position of the parties in the future. The privacy interest at stake for protecting the Transaction Confirmation from public disclosure similarly exists for information contained within the RFP Summary, the RPS Adders calculation, the calculation of commodity costs at the retail meter, and the Company’s REC RFP summary. *See, e.g., North Atlantic Energy Corporation*, 87 NH PUC 396, 398 (2002) (“public disclosure of bids” could “result in competitive damage to bidders, and also impair the ability of the state to obtain such information in the future” as well as “chill future auction transactions, thereby limiting the results that might otherwise have been achieved”).

8. Although the public may have some interest in the disclosure of this information regarding the development of default service rates, when this interest is weighed against the privacy interests of National Grid and DTE as well as other suppliers, the balance tips significantly in favor protecting such data from public disclosure. The Transaction Confirmation, the RFP Summary, the RPS Adders calculation, the calculation of commodity

costs at the retail meter, and the REC RFP summary are commercially sensitive. Disclosing this data could be harmful to the competitive positions of National Grid, DTE, and participants in the RFP, which could chill the willingness of these suppliers to participate in providing energy services in New Hampshire in the future which ultimately will be detrimental to the Company's customers. In negotiating power supply contracts in New Hampshire, competitive suppliers are sensitive to the protection of information they deem confidential or commercially sensitive. The parties have taken steps to protect the confidentiality of this information and the disclosure of such information could adversely affect the business positions of the parties in the future.

9. For the reasons stated above, the Transaction Confirmation, the RFP Summary, the RPS Adders calculation, the calculation of commodity costs at the retail meter, and the REC RFP summary qualify for confidential treatment under state law and Commission rules and, as such, should be protected from disclosure. The Company requests that copying, duplication, dissemination or disclosure in any form should be prohibited, except for use in this proceeding as part of a closed record or subject to similar protections. The protective order should also be extended to any discovery, testimony, argument or briefing relative to the confidential information.

WHEREFORE, National Grid respectfully requests that the Commission:

- A. Issue an order protecting the information described above;
- B. Hold the information described above in a secure location within the Commission's offices, and not disclose such information to the public or any of the parties in this proceeding other than the Commission; and
- C. Grant such other and further relief as may be just and equitable.

Respectfully submitted,

GRANITE STATE ELECTRIC COMPANY D/B/A
NATIONAL GRID

By Its Attorneys,

MCLANE, GRAF, RAULERSON &
MIDDLETON, P.A.

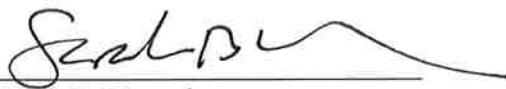
Date: December 13, 2010

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Certificate of Service

I hereby certify that a copy of this Motion for Protective Order and Confidential Treatment has been forwarded to all parties on the service list in accordance with the Commission's rules.

Dated: December 13, 2010


Sarah B. Knowlton