

THE STATE OF NEW HAMPSHIRE
before the
PUBLIC UTILITIES COMMISSION

Public Service Company of New Hampshire
Reconciliation of Energy Service and Stranded Costs
Docket No. DE 11-094

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE'S
MOTION FOR PROTECTIVE ORDER RE: POWER PURCHASING GUIDANCE
AND CONSIDERATIONS

Pursuant to RSA 91-A:5,(IV)(Supp.) and N.H. Code Admin. Rules Puc § 203.08, Public Service Company of New Hampshire ("PSNH" or the "Company") hereby requests protective treatment for the unredacted attachments to a response to a data request propounded by the Commission Staff at a technical session in this proceeding held on August 24, 2011. The attachments describe the guidance and considerations PSNH uses in making supplemental purchases and sales of energy. PSNH asserts that its power purchasing and sales considerations are confidential commercial information potentially eligible for protection from public disclosure under RSA 91-A:5,(IV). In support of its Motion for Protective Order, PSNH says the following:

1. The data request is as follows:

Tech Session TECH 01, Q-TECH-002

Question:

Please provide the PSNH write up of PSNH's approach to supplemental energy purchases and sales noted in these responses.

2. Before granting confidential treatment, the Commission must use a three step process in order to weigh the importance of keeping the record public with the harm from disclosure of confidential information.

In determining whether commercial or financial information should be deemed confidential and private, we consider the three-step analysis applied by the New Hampshire Supreme Court in *Lambert v. Belknap County Convention*, 157 N.H. 375, 382 (2008). First, the analysis requires an evaluation of whether there is a privacy interest at stake that would be invaded by the disclosure; when commercial or financial information is

involved, this step includes a determination of whether an interest in the confidentiality of the information is at stake. If no such interest is at stake, the Right-to-Know law requires disclosure. *Id.* at 382-83. Second, when a privacy interest is at stake, the public's interest in disclosure is assessed. *Id.* at 383. Disclosure should inform the public of the conduct and activities of its government; if the information does not serve that purpose, disclosure is not warranted. *Id.* Finally, when there is a public interest in disclosure, that interest is balanced against any privacy interests in nondisclosure. *Id.* Docket No. DG08-048, Order No. 25,014, slip op. at 3, *cited in* Order No. 25,254 (June 14, 2011).

“Under administrative rule Puc §204.06 [predecessor to Puc§ 203.08], the Commission considers whether the information, if made public, would likely create a competitive disadvantage for the petitioner; whether the customer information is financially or commercially sensitive, or if released, would likely constitute an invasion of privacy for the customer; and whether the information is not general public knowledge and the company takes measures to prevent its' dissemination.” *Re Northern Utilities, Inc.*, 87 NH PUC 321, 322, Docket No. DG 01-182, Order No. 23,970 (May 10, 2002).

3. PSNH has a privacy interest in keeping its internal purchasing and sales strategies and recent 2010 experience from public disclosure. PSNH may from time to time be out in the market looking for bilateral purchases or short term purchases to meet its responsibilities to energy service customers or sales of excess energy. In order to maintain the maximum bargaining power with market participants, PSNH's strategies should not be available publicly. The limited benefits of disclosing the information outweigh the harm done by disclosing the information to the public. If this information were made available to the public, all potential suppliers of supplemental power to PSNH would know of the guidelines which PSNH follows in accumulating its supplemental power supplies for PSNH. PSNH would thus be at a distinct disadvantage with respect to all other participants in the ISO-New England markets and may not be able to optimize its purchases on behalf of Energy Service customers. The information would not shed additional light on how the Commission conducts its business.

4. PSNH is providing confidential unredacted copies of the attachments to the Commission and the Office of Consumer Advocate. The unredacted copies have

been marked to show what passages have been redacted with light gray shading of those passages.

WHEREFORE PSNH respectfully requests the Commission issue an order preventing the public disclosure of the response to TECH-01, Q-TECH-002 and to order such further relief as may be just and equitable.

Respectfully submitted,

Public Service Company of New Hampshire

September 13, 2011
Date

By: Gerald M. Eaton
Gerald M. Eaton
Senior Counsel
780 North Commercial Street
Post Office Box 330
Manchester, New Hampshire 03105-0330
(603) 634-2961

CERTIFICATE OF SERVICE

I hereby certify that, on the date written below, I caused the attached Motion for Protective Order to be served pursuant to N.H. Code Admin. Rule Puc §203.11.

September 13, 2011
Date

Gerald M. Eaton
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