

THE STATE OF NEW HAMPSHIRE
before the
PUBLIC UTILITIES COMMISSION

Public Service Company of New Hampshire
Default Energy Service Rate for 2013

Docket No. DE 12-292

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE'S
MOTION FOR PROTECTIVE ORDER RE: REVIEW OF PSNH'S GENERATION COSTS

Pursuant to RSA 91-A:5, IV 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 Review of PSNH's Generation Costs ("Report") prepared pursuant to the requirements of Order No. 25,380. The Report contains a review of staffing, budgets, internal management assessments and other proprietary information about PSNH's business and operations. PSNH asserts that the Report, in its entirety, is confidential commercial information potentially eligible for protection from public disclosure under RSA 91-A:5. In support of its Motion for Protective Order, PSNH says the following:

1. In Order No. 25,380 issued June 27, 2012 in Docket No. DE 11-215, the Commission required that PSNH undertake:

A systematic review of operation, materials and capital costs, including personnel costs, associated with the operations of its fossil fuel plants given the low capacity factors of these units in recent years and the current expectation of them remaining low over the next few years. The review should also include any costs that are billed to the fossil plants such as engineering and regulatory support. PSNH shall provide details regarding its review and analysis at the time it makes its next energy service rate filing. The Company shall also provide actual cost calculations for calendar year 2011 and develop an updated forecast of costs and expenses associated with the operation of its fossil fuel plants for calendar years 2012 and 2013 for the Commission's review and

evaluation. For the units at Merrimack Station, the directive is limited to non-Scrubber related operations and other costs.

2. In response to this directive, PSNH prepared a comprehensive Report covering the items identified by the Commission. The Report contains extensive information about the operations and expenses of PSNH's generating stations and PSNH has not provided this information to anyone outside of the Company.

3. Before granting confidential treatment, the Commission must determine if there is a privacy interest of PSNH's to protect. Then the Commission determines if there is a public interest in disclosure. If both of these steps are met then the Commission will use a balancing test in order to weigh the importance of keeping the record public with the harm from disclosure of the material for which protection is requested. *See Public Service Company of New Hampshire*, Order No. 25,167 (Nov. 9, 2010) at 3-4.

4. PSNH has a privacy interest in the information in the Report because there are detailed analyses of the costs, budgets, staffing levels, and internal management assessments relating to PSNH's generating units. Releasing the information in the Report would put PSNH at a distinct competitive disadvantage relative to other generators who would gain extensive knowledge about PSNH's current and forecasted operations of its units and the costs of those operations. This disadvantage will persist as long as PSNH is supplying Default Energy Service and as long as PSNH owns generation. Moreover, disclosure would reveal information about PSNH's use of contractors, which may make it more difficult for PSNH to negotiate with potential contractors in the future. Further,

disclosure would reveal information about proposed work at PSNH's generating units, which may permit the competitive market to know when PSNH must replace the production from major generating stations to supplement its normal energy needs. The disadvantages created by disclosure would result in PSNH's generating units potentially being less competitive, which would lead to higher costs for PSNH's customers.

5. In that PSNH has a privacy interest in the above described information, the Commission must now determine whether there is any public interest in disclosure of the information. "Disclosure that informs the public of the conduct and activities of its government is in the public interest; otherwise disclosure is not warranted." *See Public Service Company of New Hampshire*, Order No. 25,167 at 3. PSNH acknowledges that there is information in the report relating to the costs of PSNH's generating units and that PSNH uses these costs to compute its estimated default service rate. Therefore, it is arguable that there is some public interest in disclosure of the report. Disclosure, however, would shed little light on how the Commission conducts its activities, and, as such, any public interest is minimal.

6. When there is a public interest, that interest must be balanced against any privacy interest in non-disclosure. *Public Service Company of New Hampshire*, Order No. 25,332 (Feb. 6, 2012) at 17. In balancing these interests, the Commission has previously considered whether disclosure of the information would place the utility and its service providers at a disadvantage with respect to those with whom they would do business. *See EnergyNorth Natural Gas, Inc. d/b/a/ National Grid NH*, Order No. 25,208 (Mar. 23, 2011) at 11. In

addition, the Commission has previously concluded that since keeping certain information relating to generating units confidential helps produce lower rates, the public interest in disclosure does not outweigh the benefits of confidentiality. *See, e.g. Public Service Company of New Hampshire*, Order No. 25,187 (Dec. 29, 2010) at 9-10 and *Public Service Company of New Hampshire*, Order No. 25,061 (Dec. 31, 2009) at 23-24, 27.

7. The limited benefits of disclosing the information at issue here are outweighed by the harm done by disclosing the information. PSNH prepared the Report to identify operational and budgetary issues as directed by the Commission, and in so doing outlined various issues regarding staffing, budgets, and management assessments for its generating stations that would otherwise not be disclosed. In that PSNH has a strong privacy interest in the Report and the information in it, and that there is limited public interest in disclosure, confidential treatment is warranted.

WHEREFORE PSNH respectfully requests the Commission issue an order preventing the public disclosure of the report of PSNH's generation costs and to order such further relief as may be just and equitable.

Respectfully submitted,

Public Service Company of New Hampshire

12/12/12

Date

By: 

Matthew J. Fossum

Counsel

780 North Commercial Street

Post Office Box 330

Manchester, New Hampshire 03105-0330

(603) 634-2961
Matthew.Fossum@nu.com

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.

12/12/12
Date


Matthew J. Fossum