

**BEFORE THE NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DOCKET NO. IR 15-124

ELECTRIC DISTRIBUTION UTILITIES

**Investigation into Potential Approaches to Ameliorate
Adverse Wholesale
Electricity Market Conditions in New Hampshire**

**PNGTS' MOTION FOR PROTECTIVE ORDER AND
CONFIDENTIAL TREATMENT OF CERTAIN INFORMATION**

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**PNGTS' MOTION FOR PROTECTIVE ORDER AND CONFIDENTIAL TREATMENT OF CERTAIN
INFORMATION**

Portland Natural Gas Transmission System ("PNGTS") hereby respectfully requests that the New Hampshire Public Utilities Commission (the "Commission") issue a protective order governing certain confidential information submitted by PNGTS orally and in writing in the above-captioned proceeding, and treat such information confidentially, consistent with RSA 91-A:5 and N.H. Admin. Rules, PUC 203.08.

Specifically, PNGTS seeks to protect information concerning pricing and design details of facilities related to potential future expansion projects, whether submitted to the Commission orally or in writing.

In support of this Motion, PNGTS states as follows:

I.

BACKGROUND

On April 17, 2015, the Commission announced an investigation into potential approaches to ameliorate the high electricity prices in New Hampshire (the "Investigation"). Commission Staff met informally with interested stakeholders on May 12, 2015 and issued a written request for input on May 14, 2015. PNGTS and other interested stakeholders responded by filing written comments.

Staff then followed up with written questions directed toward certain individual stakeholders, including PNGTS. Staff met informally with PNGTS representatives on June 30, 2015 to discuss the

questions orally, and also asked for formal written responses. PNGTS is filing its responses ("PNGTS' Responses") concurrently with this Motion.

II.

ARGUMENT

PNGTS seeks to protect from disclosure oral and written information pertaining to pricing and design details of facilities related to potential future expansion projects. Some of this information was discussed with Staff during the aforementioned meeting of June 30, 2015. PNGTS may disclose more information in writing, pending the Commission's ruling on this Motion. For example, in PNGTS' Responses, and specifically in response to Staff's question on the unit cost of firm service on PNGTS' next expansion project, PNGTS states:

The unit costs for PNGTS' next expansion project are confidential and preliminary. However, to the extent permitted under confidentiality agreements with shippers, PNGTS would be willing to share this information with the Commission under an appropriate protective order, and with the assurance that the Commission will take all necessary action to maintain the confidentiality of this information. PNGTS is filing a motion for such protection concurrently with these responses.

PNGTS' Resp. to Initial Staff Questions, Question No. 4, filed July 31, 2015.

This pricing and design information is protected from public disclosure under the New Hampshire Right to Know Act.

i. **Applicable law.**

RSA 91-A:5, IV, states that records of "confidential, commercial, or financial information" are exempted from disclosure. RSA 91-A:5, IV; *See also Union Leader Corp. v. New Hampshire Housing Finance Authority*, 142 N.H. 540 (1997). In determining whether commercial or financial information should be deemed confidential, the Commission first considers whether there is a privacy interest that would be invaded by the disclosure, and when a privacy interest is at stake, the Commission balances it against the public's interest in disclosure, if any, to determine whether it should be protected. *Unitil*

Corp. and Northern Utilities, Inc., Order No. 25,014 (September 22, 2009) at 2-3. Additionally, disclosure is not warranted if it does not serve the purpose of informing the public of the conduct and activities of its government. *Id.* at 3.

Rule 203.08 of the New Hampshire Code of Administrative Rules also requires that the party seeking a protective order identify the harm that would result from disclosure. N.H. Admin. Rules, PUC 203.08.

ii. Analysis.

PNGTS seeks to protect information submitted to the Commission, either orally, in writing, or both, concerning the pricing of its services and/or design details of its facilities under potential future expansion projects. This information is highly confidential and competitively sensitive. If this information were released, PNGTS would lose its ability to compete and/or negotiate with other pipelines, potential shippers and customers, contractors, and other third parties. Competitors with access to this information would be able to undercut PNGTS' rates, and parties would have unfair and undue leverage over PNGTS contract negotiations. PNGTS' ability to compete and negotiate depends on this information remaining private. PNGTS has a clear privacy interest that would be invaded by disclosure of this information.

PNGTS cannot opine on the public's interest in disclosure. However, if the public has such an interest, certain facts mitigate its weight. First, these types of information, which concern potential future expansion projects in the early stages of development and design, are often not disclosed to the public. Therefore, the public does not typically have access to this information. Also, the Commission and Staff will be able to independently examine the information at issue, so the information will not go unexamined. Moreover, the public will have access to the vast majority of the information within PNGTS' responses to Staff's questions, and will be able to understand its suggested approaches to address cost and price volatility in wholesale electricity markets – the focal point of this Investigation.

Upon analysis, it is clear that PNGTS' privacy interest in the information at issue outweighs any potential public interest in its disclosure. The information therefore satisfies the standard for protection under RSA 91-A:5, IV.

Further, since the information at issue concerns PNGTS' potential future expansion plans, its disclosure would not serve the purpose of informing the public of the conduct and activities of its government, and disclosure is thus not warranted.

III.

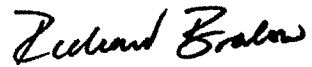
CONCLUSION

As part of this Investigation, PNGTS has provided, and may continue to provide, orally and/or in writing, information to the Commission concerning pricing and design details of facilities related to its potential future expansion projects. This information is protected from disclosure under section 91-A:5 of the New Hampshire Right to Know Act and Rule 203.08 of the New Hampshire Code of Administrative Rules. PNGTS requests that the Commission issue an appropriate protective order and treat this information as confidential.

WHEREFORE, PREMISES CONSIDERED, PNGTS respectfully requests that the Commission issue a protective order protecting the information discussed herein from public disclosure, treat such information confidentially, and for such other relief, in law and in equity, to which it is justly entitled.

Respectfully Submitted,

PORTLAND NATURAL GAS
TRANSMISSION SYSTEM

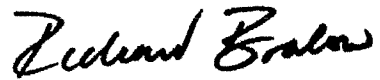


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Filed July 31, 2015

CERTIFICATE OF SERVICE

I hereby certify that, on the date written below, I caused the foregoing "PNGTS' Motion for Protective Order and Confidential Treatment of Certain Information" dated July 31, 2015 in NHPUC Docket No. IR 15-124 to be served pursuant to N.H. Code Admin. Rules, PUC 203.11.

A handwritten signature in black ink, appearing to read "Richard Bralow". The signature is fluid and cursive, with the first name "Richard" and last name "Bralow" clearly distinguishable.

Richard Bralow
July 31, 2015