

THE STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE D/B/A
EVERSOURCE ENERGY

Docket No. DE 16-___

MOTION FOR PROTECTIVE ORDER AND CONFIDENTIAL TREATMENT
REGARDING PROPOSED CONTRACT BETWEEN
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE D/B/A
EVERSOURCE ENERGY AND ALGONQUIN GAS TRANSMISSION, LLC

Public Service Company of New Hampshire d/b/a Eversource Energy (“Eversource” or “Company”), hereby moves, pursuant to Puc 203.08 and RSA Chapter 91-A, the New Hampshire Public Utilities Commission (“Commission”) to grant protective treatment to certain confidential information relating to the proposed Precedent Agreement for firm gas transportation and storage services between Eversource and Algonquin Gas Transmission, LLC (“Algonquin” or “AGT”) relative to the proposed Access Northeast (“Access Northeast” or “ANE”) pipeline project (the “ANE Contract”), filed contemporaneous with this motion. In support of this motion, Eversource states as follows:

1. In this submission, Eversource is requesting the Commission’s approval of the ANE Contract, a 20-year interstate pipeline transportation and storage contract providing natural gas capacity for use by electric generation facilities in the ISO-NE region, as well as associated proposals for effectuating the ANE Contract. The filing contains confidential prices and other terms, as well as information on the evaluation of the prices and terms. This information is competitively sensitive information that, if disclosed, could harm the competitive business position of the Eversource and its customers, as well as its contract counterparty, Algonquin. The Exhibits containing such confidential information are: EVER-JGD-2 [CONFIDENTIAL],

EVER-JMS-4 [CONFIDENTIAL], EVER-JMS-5 [CONFIDENTIAL], EVER-JMS-6 [CONFIDENTIAL], EVER-JMS-7 [CONFIDENTIAL], EVER-JMS-8 [CONFIDENTIAL], EVER-CJG-1 [CONFIDENTIAL], EVER-LBJ-2 [CONFIDENTIAL] (the “Confidential Attachments”). Accordingly, Eversource hereby requests that the prices, terms, and evaluation of the prices and terms in the Confidential Attachments, as well as the associated portions of the pre-filed testimony of James G. Daly, James M. Stephens and Christopher J. Goulding and Lois B. Jones discussing the same information, be protected from public disclosure. Eversource has submitted redacted copies of the Confidential Attachments and the pre-filed testimony deleting references to the confidential information consistent with the Commission’s requirements in Puc 201.04.

2. Pursuant to RSA 91-A:5, IV records that constitute confidential, commercial, or financial information are exempt from public disclosure. In determining whether documents are entitled to the exemption, the Commission applies a three-step analysis to determine whether information should be protected from public disclosure. *See Lambert v. Belknap County Convention*, 157 N.H. 375 (2008), *see also Public Service Company of New Hampshire*, Order No. 25,313 (December 30, 2011) at 11-12. The first step is to determine if there is a privacy interest at stake that would be invaded by the disclosure. If such an interest is at stake, the second step is to determine if there is a public interest in disclosure. The Commission has stated that 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. *Electric Distribution Utilities*, Order No. 25,811 (September 9, 2015) at 5. If both of these steps are met, the Commission balances the privacy interest with the public interest to determine if disclosure is

appropriate. *Public Service Company of New Hampshire*, Order 25,167 (November 9, 2010) at 3-4.

3. There is clearly a privacy interest in the Confidential Attachments and related testimony. Eversource notes that essentially identical information has been filed by Eversource's corporate affiliates in a similar matter in Massachusetts (D.P.U. 15-181), and that confidential treatment has been sought for that same information for the same reasons presented here. Furthermore, the prices and terms included in the Confidential Attachments are the result of a competitive solicitation for proposals and subsequent contract negotiation. The information includes competitively sensitive pricing and rate data and disclosure of that information would make it more difficult for the Company to attract bidders and to negotiate successfully in the future with potential contract partners. Eversource notes that the Commission has previously concluded that the Company has an interest in protecting potential future negotiations. *See, e.g., Public Service Company of New Hampshire*, Order No. 24,920 (December 12, 2008) at 3, 5-6, 9. Additionally, the Company notes that the Commission has recently recognized the privacy interest of similar information relating to natural gas capacity contracts. *See Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities*, Order No. 25,861 (January 22, 2016) at 4-6, and February 15, 2015 Hearings Examiner Report in Docket No. DG 14-380 at 3, affirmed by February 19, 2015 Secretarial Letter in Docket No. DG 14-380. Lastly, to the best of the Company's knowledge, the bid and price information in the Confidential Attachments is not otherwise available in the public domain, and as noted above, the Company's affiliates have taken appropriate measures to ensure that similar such information remains confidential.

4. With respect to the second criterion – whether there is a public interest in disclosure – Eversource contends that to the extent there is any public interest it is minimal.

There may be a public interest in the rates ultimately paid by customers resulting from the ANE Contract. However, the pricing and terms received and evaluated would be, at best, minimally informative to the public. Furthermore, disclosing the Confidential Attachments and associated information would do little, if anything, to inform the public about the activities of its government. The Company received and evaluated information for purposes of the negotiations leading to the ANE Contract, and thus the release of the information does not shed any light on the Commission's work but rather on Eversource's negotiations. The public interest is in understanding the Commission's review of the proposed contract and why the contract is in the public interest, and Eversource anticipates that the Commission's review will be publicly available.

5. As to the final step, balancing the relevant public and private interests, there would be significant harm to the Company from disclosure. Not only would disclosure harm Eversource's ability to negotiate in the future, and its ability to attract contracting partners, both of which would ultimately harm customers through Eversource's decreased ability to successfully negotiate advantageous contract terms, but disclosure in New Hampshire would also result in similar harms to the Company's affiliates in other states, and the customers there. The facts that such substantial harm would accrue to the Company in New Hampshire, and elsewhere, demonstrates that the interest in confidentiality clearly outweighs any minimal public interest in disclosure.

6. Accordingly, Eversource requests that the Commission issue a protective order preventing disclosure of the information in the Confidential Attachments and the related confidential testimony.

WHEREFORE, Eversource respectfully requests that the Commission:

- A. Grant this Motion and issue an appropriate protective order; and
- B. Order such further relief as may be just and reasonable.

Respectfully submitted this 18th day of February, 2016.

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE d/b/a EVERSOURCE ENERGY



By: _____

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