

**STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION**

Public Service Company of New Hampshire d/b/a Eversource Energy

Docket No. DE 19-XXX

2019 Least Cost Integrated Resource Plan

MOTION FOR CONFIDENTIAL TREATMENT AND PROTECTIVE ORDER

Public Service Company of New Hampshire d/b/a Eversource Energy, (“Eversource” or the “Company”) respectfully requests, pursuant to Puc 203.08, Puc 306.10, RSA 91-A, and 18 CFR 388.113, that the New Hampshire Public Utilities Commission (“Commission”) grant confidential treatment and issue an appropriate protective order to protect from public disclosure certain confidential information provided by the Company in this proceeding. Specifically, the Company requests that the Commission issue an order requiring confidential treatment for confidential energy infrastructure information, including information that is deemed Critical Energy Infrastructure Information under Federal law, and for confidential personnel information. In support of this motion, the Company states as follows:

1. On June 14, 2019, the Commission issued Order No. 26,262 in Docket No. DE 15-248 partially granting a waiver requested by Eversource relative to the requirements of a Least Cost Integrated Resource Plan (“LCIRP”). In granting its waiver, the Commission ordered that Eversource make a more limited filing. Specifically, the Commission ordered:

Our prior approval of Eversource's 2015 LCIRP contained a number of specific deliverables and we will require updates of those no later than August 25, as listed below:

- Confirmation that the utility is currently following the process of system planning utilizing those established procedures, criteria, and policies outlined in its 2015 LCIRP, and achieving the objectives included in its 2015 LCIRP;
- A copy of the Eversource-UES and Eversource-NHEC Joint Recommendations Report from each of the most recent joint planning meetings with UES and with NHEC;
- 2019 Organization charts for field distribution operations, planning, and engineering;
- An updated crew complement report (include bucket crews, digger crews, and troubleshooters assigned to each area work center in all five regions) for 2017, 2018, and 2019;
- The Company's evaluation of targeted energy efficiency solutions for potential projects for 4 & 12 kV substations due to loading;
- An update on the HeatSmart customer recertification results;
- A copy of the most recent list of proposed capital projects which were presented to senior management for consideration of approval; and
- Details regarding the steps taken through each state of the Planning Process Flow for each of the highest-cost distribution capital projects with a status of In Service, Under Construction, or Planned, within the prior two years, and a demonstration of how the LCIRP plan was followed through the planning process.

Order No. 26,262 at 6-7. Consistent with the Commission's directive, Eversource has made the required filings contemporaneously with the filing of this motion.

2. Included in the Company's filing are numerous documents that contain confidential information regarding the configuration and status of the Eversource electric system. By this motion, Eversource requests that the Commission issue an order protecting that information from disclosure.

3. Pursuant to Federal law, certain information is exempt from mandatory disclosure pursuant to the Freedom of Information Act, 5 U.S.C. § 552. Among the classes of information exempt from disclosure are those pertaining to Critical

Electric/Energy Infrastructure Information (“CEII”). The Federal Energy Regulatory Commission (“FERC”) has defined that information as:

specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that:

- (i) Relates details about the production, generation, transportation, transmission, or distribution of energy;
- (ii) Could be useful to a person in planning an attack on critical infrastructure;
- (iii) Is exempt from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552; and
- (iv) Does not simply give the general location of the critical infrastructure.

18 CFR 388.113(c)(2). The FERC imposes a duty on those entities creating or maintaining CEII to protect that information from unauthorized disclosure. 18 CFR 388.113(h).

4. Eversource has reviewed the information in certain of the attachments to its submission that contain CEII and has noted or identified that information in the attachments. Specifically, the information Eversource understands constitute CEII (and which has been redacted) are substation one-line diagrams or substation maps relating to bulk substations, as well as information on transformer ratings or loading information, and information about the status of bulk substations. In Eversource’s assessment, the specified information Eversource is requesting be protected is entitled to protection under Federal law, and Eversource asks that the Commission hold this information confidential consistent with the requirements of Federal law.

5. Similarly, pursuant to the Commission’s rules, each utility is to develop and implement a written physical security plan designed to protect the utility’s critical equipment and facilities from breaches of security. Puc 306.10(a). Under the Commission’s definition, critical equipment and facilities includes infrastructure without

which the utility could not provide safe and reliable service to its customers. *Id.*

Eversource has such a plan in place. Protecting from disclosure certain information about Eversource's electric system as designated in the attachments to its filing is consistent with the requirements of Eversource's plan and disclosure would undermine the purpose and intent of the plan as well as the Commission's rule. Accordingly, Eversource has an additional basis for seeking confidential treatment of the identified information.

6. Furthermore, pursuant to RSA 91-A:5, certain records are exempt from public disclosure, including:

Records pertaining to matters relating to the preparation for and the carrying out of all emergency functions, including training to carry out such functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life.

RSA 91-A:5, VI. To the extent that the Commission develops records as result of Eversource's submission that would identify critical portions of the State's electric system, disclosure of those records would run directly counter to the exemption above. Accordingly, for the above reasons, Eversource requests that the Commission protect the infrastructure information designated by Eversource from disclosure.

7. Further, Eversource has redacted an additional category of information for which a protective order is sought. In other contexts, Eversource has provided the names and/or titles of certain Company employees down to the Manager level, but not beyond. Included in various of Eversource's attachments are the names of employees below the Manager level that have been redacted. Pursuant to RSA 91-A:5, IV, records "pertaining to internal personnel practices; confidential, commercial, or financial information . . . and other files whose disclosure would constitute invasion of privacy" are exempt from

disclosure. In determining whether documents are entitled to an exemption from disclosure under RSA 91-A, 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 No. 25,167 (November 9, 2010) at 11-12.

The Company's employees have a privacy interest in not having their names and other identifying information disclosed. The included documents were, and are, treated as confidential within the Company. Moreover, the identified employees were merely fulfilling the requirements of their positions without any expectation that their information would be disclosed. As for the public interest in this information, it is effectively non-existent. Eversource is not seeking to protect from disclosure any information about the relevant projects, the costs it has incurred, or about its system (other than as described above pertaining to CEII). All relevant information is included and available, and disclosing the names of certain employees, or former employees, will do nothing to further any public interest in the activities of the Commission. In weighing

the relevant interests, the scale clearly tips in favor of the employees' privacy interests and their names should not be disclosed.

WHEREFORE; the Company respectfully requests that the Commission grant this Motion and issue an appropriate protective order.

Respectfully submitted this 23th day of August 2019.

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE d/b/a Eversource Energy

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