

public disclosure under RSA 91-A, as it constitutes confidential estimated project costs exchanged between the parties that will, if disclosed, impair the City's ability to receive competitive pricing for its proposed streetlight conversion project.

2. UES's request for a protective order is consistent with the public disclosure requirements of New Hampshire's Right to Know law. RSA 91-A. RSA 91-A:5(IV) expressly exempts from the public disclosure requirements any records pertaining to "confidential, commercial or financial information." RSA 91-A:5, IV; *Union Leader Corp. v. New Hampshire Housing Finance Authority*, 142 N.H. 540 (1997). Application of this exemption requires "analysis of both whether the information sought is confidential, commercial, or financial information, and whether disclosure would constitute an invasion of privacy." *Unitil Corp. and Unitil Energy Systems, Inc.*, DG 08-048, Order No. 25,014 (Sept. 22, 2009) at 2. The Commission's rule on confidential treatment of public records, Puc 203.08, also recognizes that confidential commercial or financial information may be appropriately protected from public disclosure pursuant to an order of the Commission. The determination of whether to disclose confidential information involves a balancing of the public's interest in full disclosure with the countervailing commercial or private interests for non-disclosure.

3. Staff 1-1 requests, *inter alia*, information regarding certain project costs, including the cost of new fixtures, the cost of installing new fixtures, and the value of legacy fixtures. The estimated cost of new fixtures, as well as the estimated cost of installing those fixtures, are figures provided to Unitil by the City of Concord; upon information and belief, the City received these preliminary estimates from an outside consultant on a confidential basis. Similar information is contained in the confidential

model prepared by the Company and attached as Attachment 1 to the Company's response to Staff 1-3. The City has not yet issued a Request for Proposals (RFP) for its streetlight conversion project, and disclosing the confidential cost estimates in Staff 1-1 may impair the City's ability to conduct a competitive solicitation for a vendor to manage the conversion.

4. Furthermore, the estimates of the undepreciated value of the legacy fixtures represent confidential estimates exchanged between the Company and the City for the purposes of determining the overall estimated cost of the project. The Company is still determining a final cost of the estimated values and negotiating a payment arrangement with the City. The Company also notes that the undepreciated value of legacy fixtures is not a cost to be covered by the loan at issue in this docket, which must be applied to the installation of new fixtures. The undepreciated value of the legacy fixtures, and the manner in which the Company recovers that value, is a separate matter of negotiation unrelated to the loan and project costs at issue in this docket, and as such the disclosure of this information will do nothing to advance the public's understanding of the Commission's decision-making process.

5. The Company's response to Staff 1-1 is minimally redacted to ensure that the greatest amount of responsive information is publicly available. Disclosure of the minimal amount of information that has been redacted would impair the parties' respective business and negotiating positions, an unnecessary infringement upon the parties' privacy interests that significantly outweighs any public interest in disclosure of the information. Disclosure of the information would not provide the public with information about the conduct or activities of the Commission or other parts of the New

Hampshire State or local government. Accordingly, disclosure is not warranted.

Moreover, UES has provided this information directly to Commission Staff as well as the Office of Consumer Advocate, affording these entities opportunity to investigate and consider the substance of the reports.

II. Staff 1-2

6. Staff 1-2 requests, among other things, an estimate of the monthly and annual savings that will accrue to the City of Concord. As with the estimated lighting fixture costs discussed in the Company's response to Staff 1-1, the estimated energy bill savings were provided to the Company by the City. Upon information and belief, the City received these estimates on a confidential basis from a third party consultant. For the same reasons discussed above, the City's ability to fairly and accurately conduct a competitive bidding process if confidential information is disclosed in advance of the issuance of an RFP.

7. The information described above constitutes "confidential, commercial or financial information" that is exempt from public disclosure. RSA 91-A:5, IV; *Union Leader Corp.*, 142 N.H. 540 (1997). Applying the same legal framework set forth in paragraph 2 above, the Commission should grant the Company's request for confidential treatment in connection with this information. As with the information provided in response to Staff 1-1, the confidential customer bill savings estimates in Staff 1-2 were provided to Unitil by the City of Concord. Upon information and belief, the City received these estimates on a confidential basis from a third party consultant. The City has not yet issued a RFP for its streetlight conversion project, and disclosing the confidential customer bill savings estimates in Staff 1-2 may impair the City's ability to conduct a competitive solicitation for a vendor to manage the conversion.

8. The Company's response to Staff 1-2 is minimally redacted to ensure that the greatest amount of responsive information is publicly available. Disclosure of the minimal amount of information that has been redacted would impair the parties' respective business and negotiating positions, an unnecessary infringement upon the parties' privacy interests that significantly outweighs any public interest in disclosure of the information. Disclosure of the information would not provide the public with information about the conduct or activities of the Commission or other parts of the New Hampshire State or local government. Accordingly, disclosure is not warranted. Moreover, UES has provided this information directly to Commission Staff as well as the Office of Consumer Advocate, affording these entities opportunity to investigate and consider the substance of the reports.

WHEREFORE, UES respectfully requests that the Commission issue an order protecting the confidential information specified herein from public disclosure.

Respectfully submitted,

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