

THE STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION
DE 21-020
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
d/b/a EVERSOURCE ENERGY and
CONSOLIDATED COMMUNICATIONS OF NORTHERN NEW ENGLAND
COMPANY, LLC d/b/a CONSOLIDATED COMMUNICATIONS

Motion for Protective Order

NOW COMES New England Cable and Telecommunications Association, Inc. (“NECTA”), by and through its attorneys, and, pursuant to N.H. RSA 91-A:5, IV and N.H. Admin. Rule 203.08, respectfully moves the New Hampshire Public Utilities Commission (“the Commission”) to issue a protective order according confidential treatment to certain information described below and submitted herewith. Specifically, NECTA requests that the Commission issue an order requiring that the information contained in unredacted Confidential Attachments PDK-4 and PDK-9 submitted herewith be treated as confidential and protected from public disclosure. In support of this Motion, NECTA states as follows:

1. NECTA’s expert witness in this matter, Ms. Patricia Kravtin, has submitted prefiled testimony in this docket along with several attachments, including redacted versions of Attachments PDK-4 and PDK-9.
2. Attachment PDK-4 was prepared by Ms. Kravtin to demonstrate the estimated impact on pole attachment rates associated with the acquisition premium that Public Service Company of New Hampshire d/b/a Eversource Energy (“Eversource”) intends to pay for the pole

assets it proposes to acquire from Consolidated Consolidated Communications of Northern New England Company, LLC d/b/a Consolidated Communications (“Consolidated”).

3. Ms. Kravtin prepared Attachment PDK-4 using information in an Excel spreadsheet provided by Eversource in response to Staff Data Request 1-032 to support the information on Bates page 055 of the Joint Petitioners’ February 10, 2021 filing. In their response to Staff Data Request 1-032, the Joint Petitioners stated that consistent with Puc 203.08(d), they have a good faith basis for confidential treatment of this information and will file an appropriate motion for confidential treatment prior to the commencement of hearings in this matter.

4. Attachment PDK-9 contains financial information provided by Eversource in response to NECTA Data Request 3-001 which asks questions about the above-referenced confidential Attachment Staff 1-032. Although the response to NECTA Data Request 3-001 was not designated “Confidential” by the Joint Petitioners, the information provided relates to a response (*i.e.* Attachment 1-032) which was marked confidential.

5. NECTA is a signatory to a protective agreement by and among Eversource, Consolidated and NECTA, which governs the treatment of information shared among the parties in this proceeding which is designated confidential by the submitting party. Pursuant to that agreement, Ms. Kravtin was provided access to the above-referenced confidential information.

6. Under the terms of the above-described protective agreement, NECTA is permitted to use, for purposes of this proceeding, confidential information and documents provided by Eversource and/or Consolidated, but must redact the confidential information from any public versions of the documents containing same, and take appropriate steps to ensure that the confidentiality of the information is preserved, including filing or assenting to motions for

protective orders. Accordingly, to meet its obligations under the protective agreement, NECTA submits this Motion, and respectfully requests that the Commission accord the two documents submitted herewith confidential treatment.

7. In determining whether confidential, commercial or financial information within the meaning of RSA 91-A:5, IV is exempt from public disclosure, the Commission employs the analysis articulated in *Lambert v. Belknap County Convention*, 157 N.H. 375 (2008) and *Lamy v. N.H. Public Utilities Commission*, 152 N.H. 106 (2005). See *Unitil Energy Systems, Inc.*, DE 10-055, Order No. 26,214 (April 26, 2011) at 35. Under this analysis, the Commission first determines “whether the information is confidential, commercial or financial information ‘and whether disclosure would constitute an invasion of privacy.’” *Id. citing Union Leader Corp. v. New Hampshire Housing Finance Authority*, 142 N.H. 540, 552 (1997) (emphasis in original); see also *Northern Utilities, Inc.*, DG 19-152, Order No. 26, 308 (Nov. 13, 2019) (“In determining whether commercial or financial information should be deemed confidential, we first consider whether there is a privacy interest that would be invaded by the disclosure.”). Second, when a privacy interest is at stake, the Commission assesses the public’s interest in disclosure. *Northern Utilities, Inc.*, Order No. 26, 308 at 6. In making that assessment, the Commission examines whether disclosure would inform the public of governmental conduct, and if the information does not serve that purpose, disclosure is not warranted. *Id.* When there is a public interest in disclosure, the Commission must balance that interest against any privacy interests in non-disclosure. *Id.*

8. The Joint Petitioners have asserted that the information contained in the two attachments submitted herewith is confidential and therefore should not be publicly disclosed. It is NECTA’s understanding that Joint Petitioners intend to file a Motion for Protective Order in

this docket which asserts that public disclosure of this type of information could place Consolidated at a competitive disadvantage vis-à-vis its ability to negotiate fees, pricing, and contractual terms for future asset sale transactions with other parties in other locations.

9. In view of the foregoing, NECTA requests that the Commission issue an appropriate order protecting the unredacted, confidential versions of Attachments PDK-4 and PDK-9 submitted herewith from public disclosure. NECTA also requests that the protective order also extend to any discovery, testimony, argument or briefing relative to the confidential information.

WHEREFORE, NECTA respectfully requests that the Commission:

- A. Issue an appropriate order that exempts from public disclosure and otherwise protects the confidentiality of the information designated confidential in the documents submitted herewith; and
- B. Grant such additional relief as is just and appropriate.

**New England Cable and Telecommunications
Association, Inc.**
By its Attorneys,
Orr & Reno, P.A.



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Dated: January 31, 2022

Certificate of Service

I hereby certify that on the date set forth above a copy of the foregoing Motion was sent electronically to the Service List.

A handwritten signature in blue ink that reads "Susan S. Geiger". The signature is written in a cursive style with a large initial 'S'.

Susan S. Geiger

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