

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 23-050

VANESSA VALENTINO

Complaint of Vanessa Valentino against Unitil Energy Systems, Inc.

Procedural Order Re: Motion for Confidential Treatment

On May 25, 2023, Complainant Dr. Vanessa Valentino filed a motion for confidential treatment under N.H. Code of Administrative Rule Puc 203.08. Dr. Valentino requests her home address, email address, and phone number be treated as confidential information and removed from all public filings in this docket. Dr. Valentino argues disclosing this information could subject her to harassment and threats to her physical safety, in part because of her professional duties. No party filed an objection to Dr. Valentino's motion.

I. LEGAL STANDARD FOR CONFIDENTIALTY

New Hampshire RSA Chapter 91-A – commonly known as the “Right-to-Know Law” – ensures public access to information concerning the official conduct and activities of New Hampshire governmental entities. This includes the Commission. As a result, disclosure of records and information held by the Commission may be required by law. *See* RSA 91-A:4. Additionally, to keep the public informed of its work, the Commission routinely places all filings received in docketed matters on its website in publicly accessible virtual dockets. Filings are publicly posted without redaction unless a party provides an unredacted version, a redacted version for public posting, and a motion seeking confidential treatment of the redacted information. *See* N.H. Admin. R. Puc 201.04; 203.08. When a motion for confidential treatment is filed, the Commission must grant the motion upon determining

the information sought to be protected is entitled to confidentiality. N.H. Admin. R. Puc 203.08(a).

Under RSA 91-A:5, IV certain information that if made public constitutes an invasion of privacy is exempt from disclosure, but protection of information under RSA 91-A:5, IV requires both the privacy interest and interest in nondisclosure to outweigh the public's interest in disclosure. *Union Leader Corp. v. Town of Salem*, 173 N.H. 345, 355 (2020). As laid out by the New Hampshire Supreme Court, to make this determination the Commission engages in a three-step balancing test. *See, e.g., Lambert v. Belknap County Convention*, 157 N.H. 375, 382-383 (2008). Under this test, the first step is to determine whether the information involves a privacy interest. *Id.* The second step is to determine whether there is a public interest in disclosure. *Id.* This step includes assessing whether disclosure will inform the public about the conduct and activities of its government. *Id.* Finally, the Commission must balance the competing interests and decide whether disclosure is appropriate. *Id.*

II. COMMISSION'S LEGAL ANALYSIS

Dr. Valentino did not cite a specific law or other legal standard as a basis for granting her motion, but the Commission assumes she seeks confidential treatment under RSA 91-A:5, IV. As a result, the Commission must balance Dr. Valentino's privacy interest in the information she seeks to protect with the public's interest in disclosure for the purpose of understanding the Commission's actions.

(1) Mailing Address and Telephone Number

The Commission finds Dr. Valentino has shown that her address and phone number merit confidential treatment. The New Hampshire Supreme Court has held that a residential utility customer has a privacy interest in the ability to "retreat to the seclusion

of one's home....." *See Lamy v. N.H. Pub. Utilities Comm'n*, 152 N.H. 106, 110 (2005) (citations omitted).

Accordingly, under step one of our analysis, we find Dr. Valentino has a privacy interest in preventing public disclosure of her mailing address and phone number. *See id.* Not only do all residential utility customers have some interest in their home address and phone number remaining private, but Dr. Valentino asserts a particularly strong privacy interest due the nature of her work.

Moving to step two, the Commission finds disclosing this information provides little, if any, benefit to the public in understanding the Commission's work. *See id.* at 111. And, under the balancing required by step three, we find the interest in nondisclosure outweighs the public's interest in disclosure. Therefore, the Commission grants Dr. Valentino's motion with respect to her mailing address and phone number.

All participants to this docket shall follow the requirements of Puc 203.08(j) with respect to this information. The Commission will redact any references to this information in all filings currently posted to the docket. The Commission notes, however, that it is Dr. Valentino's responsibility to redact any confidential information subject to this order in her future filings. *See N.H. Admin. R. Puc 201.04.*

(2) Email Address

With respect to the email address she provided the Commission, Dr. Valentino has failed to show this information is entitled to confidential treatment. Under step one, the Commission finds Dr. Valentino does maintain some privacy interest in a personal email address. For instance, Dr. Valentino has an interest in avoiding unwanted and unsolicited messages. *See, e.g., Lamy*, 152 N.H. at 110.

But under step two, the public also has an interest in the public disclosure of Dr. Valentino's email address. Dr. Valentino is a participant in a public docket before the

Commission. Members of the public have an interest in the disclosure of some method of communicating with her to participate in this docket. Dr. Valentino listed her email address on her complaint and has participated in this docket by using email.

The public's interest in disclosure is supported by the Commission's rules on service and public participation in its dockets. Any person who files a petition with the Commission is required to either disclose an email address in the initial filing or submit an affidavit indicating that he or she is unable to communicate electronically. N.H. Admin. R. Puc 203.05(a)(5). The Commission is required to maintain service lists that include an email address for each participant, or a mailing address if the participant is unable to receive electronic mail. *See* N.H. Admin. R. Puc 202.02(a)(5). Service lists are not confidential, and any member of the public can obtain a service list for any docket. These service lists are necessary so that other participants can provide notice of their filings under Puc 203.11. In addition, the Commission's dockets are open to the public and all members of the public have the right to review the filings in a docket and seek to intervene by filing a motion to the service list. *See* RSA 541-A:32, I(b) (requiring intervenors to send notice of a petition to intervene to all parties named in the notice of a hearing). Members of the public thus have a strong interest in being able to communicate with Dr. Valentino using the email she disclosed.

The final step is to weigh the competing private and public interests. On balance, the Commission finds that the public interest in the disclosure of a form of communication with Dr. Valentino outweighs her interest in avoiding unwanted communications to her email address. The Commission finds her email address should not be confidential under RSA 91-A:5, IV.

We note the above determination may change if Dr. Valentino provides an alternative method for participating in this docket. For example, if Dr. Valentino provides

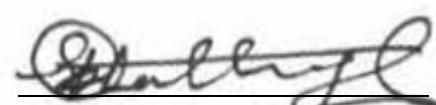
an alternative email address, she may ask the Commission to remove her current email from the service list and redact it from her previous filings. But, if no alternative is provided, the Commission will retain the current email address on its service list and will not redact the address on any filings already public.

The motion is **GRANTED** with respect to Dr. Valentino's mailing address and phone number and **DENIED** without prejudice with respect to her email address.

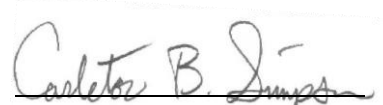
So ordered, this fifth day of June, 2023.



Daniel C. Goldner
Chairman



Pradip K. Chattopadhyay
Commissioner



Carleton B. Simpson
Commissioner

Service List - Docket Related

Docket#: 23-050

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