

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 23-091**

**DE 24-032**

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

**Petition for Adjustment of Stranded Cost Recovery Charge**

**Burgess Plant Bankruptcy Settlement Review Pursuant to RSA 365:28 and  
Allied Statutes**

**Order Removing Provisionality from SCRC Rates and  
Approving Two Eversource Motions for Confidential Treatment**

**ORDER NO. 27,084**

**December 5, 2024**

By this order, the Commission removes the provisionality from the Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource or the Company) Stranded Cost Recovery Charge (SCRC) rates, established by Order No. 26,938 (January 26, 2024), and approves the Company's two outstanding motions for confidential treatment made pursuant to the provisions of RSA Chapter 91-A.

**I. BACKGROUND**

On January 26, 2024, the Commission issued Order No. 26,938 in Docket No. DE 23-091, relating to the Company's petition for adjustment of its SCRC rates, effective from February 1, 2024, to January 31, 2025. Since that time, Docket No. DE 23-091 was consolidated with Docket No. DE 24-032, which was established for the Commission's review of the Burgess Plant<sup>1</sup> bankruptcy matters, to which certain of the Company's SCRC accounting schedules were related.

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<sup>1</sup> Berlin Station, LLC and Burgess BioPower, LLC, (collectively referred to in this Order as 'Burgess Plant').

In Order No. 26,938, the Commission approved the Company's SCRC rates, for effect on a service-rendered basis for the twelve-month period beginning February 1, 2024, as presented in the Company's petition, on a provisional basis, pending further review and hearing in this proceeding. Order No. 26,938 at 8. Subsequently, the Commission engaged, with the participation of the Company, the New Hampshire Department of Energy, and the Office of the Consumer Advocate, in a series of hearings, a Commission-attended technical conference, and Commission record requests propounded on the Company with the goal of resolving the Burgess Plant-related matters arising in the SCRC rate structure. As part of this effort, the Commission issued Order No. 27,053 (August 30, 2024), Order No. 27,066 (October 16, 2024), and held a Commission-attended technical conference on October 28, 2024. Ultimately, the Company filed a compliance Tariff with updated schedules on October 29, 2024, which the Commission found compliant (memorializing this in a letter issued on October 30, 2024, *see* Docket No. DE 23-091, Tab 62).

Within the context of this proceeding, Eversource filed two motions for confidential treatment for certain materials included in its record request responses to the Commission, under the operative standards of RSA Chapter 91-A. On January 23, 2024, Eversource filed a motion for confidential treatment pertaining to its response to Commission Record Request #1, which contained certain historical energy production data for the Burgess Plant that, the Company asserted, was not otherwise publicly available. This motion also sought confidential treatment for the Company's response to Commission Record Request #3, which contained information regarding energy price adjustment and specific quarterly Renewable Energy Certificate (REC) purchase quantities, which, Eversource asserted, was commercially-sensitive information, not otherwise publicly available, that could have an impact on competitive markets

relevant to Eversource. Eversource also stated in its January 23 motion that this material was specifically embraced by the confidentiality provisions of the Purchase Power Agreement (PPA) between Eversource and Burgess Plant.

On February 20, 2024, the Company filed a second motion for confidential treatment under the operative standards of RSA Chapter 91-A, pertaining to certain pricing, energy production, and purchase quantity information provided by Eversource in its responses to Commission Record Request #6 and Record Request #9, which, Eversource asserted, was commercially-sensitive, confidential financial information, not otherwise publicly available. Eversource also stated that this information fell under the scope of the confidentiality provisions of its PPA with Burgess Plant.

No objections to the Company's motions for confidential treatment were filed by any party during the pendency of this proceeding.

Order No. 26,938, Order No. 27,053, the Eversource motions for confidential treatment, and all relevant docket filings, other than any information subject to confidential treatment, are available on the Commission's website at <https://www.puc.nh.gov/Regulatory/Docketbk/2023/23-091.html> and <https://www.puc.nh.gov/Regulatory/Docketbk/2024/24-032.html>.

## **II. COMMISSION ANALYSIS**

Having found the Company's SCRC rate schedules to be compliant as pertaining to the Burgess Plant issues as of October 30, 2024, the Commission hereby REMOVES the condition of provisionality from this year's SCRC rates for Eversource, which are in effect until January 31, 2025, with the proviso that if Burgess-Plant developments require the revisiting of these SCRC rates during this period, the Commission reserves the right to re-impose the condition of provisionality and hold further proceedings in this matter. The Commission also notes that the SCRC rate

proposal by Eversource, for effect February 1, 2025, and filed in Docket No. DE 24-112, may require certain technical adjustments to the Company's SCRC supporting rate schedules associated with historical Burgess Plant references, but these would be taken up in the DE 24-112 proceeding.

As pertaining to the Eversource motions for confidential treatment, the New Hampshire Supreme Court has interpreted the exemption for confidential, commercial, or financial information to require an "analysis of both whether the information sought is confidential, commercial, or financial information, and whether disclosure would constitute an invasion of privacy." *Union Leader Corp. v. NH Housing Fin. Auth.*, 142 N.H. 540, 552 (1997) (quotations omitted). "Furthermore, the asserted private confidential, commercial, or financial interest must be balanced against the public's interest in disclosure, since these categorical exemptions mean not that the information is per se exempt, but rather that it is sufficiently private that it must be balanced against the public's interest in disclosure." *Id.* at 553 (citation omitted). The burden of proving that the information is confidential and private rests with the party seeking non-disclosure. *See Goode v. NH Legislative Budget Assistant*, 148 N.H. 551, 555 (2002).

RSA 91-A:5, IV expressly exempts from public disclosure requirements any "records pertaining to ... confidential, commercial or financial information ... " In furtherance of the Right-to-Know law, the Commission's rule on requests for confidential treatment, Puc 203.08, is designed to facilitate the balancing test required by the relevant case law. The rule requires petitioners to: (1) provide the material for which confidential treatment is sought or a detailed description of the types of information for which confidentiality is sought; (2) reference specific statutory or common law authority favoring confidentiality; and (3) provide a detailed statement of

the harm that would result from disclosure to be weighed against the benefits of disclosure to the public. *See* Puc 203.08(b).

The Supreme Court has stated that the determination of whether information is confidential or private must be made "objectively, and not based on the subjective expectations of the party generating it." *See Union Leader Corp. v. NH. Housing Fin. Auth.*, 142 N.H. at 553. Moreover, the Court has found instructive the federal test for confidential information under which "the party resisting disclosure must prove that disclosure is likely to: (1) impair the State's ability to obtain necessary information in the future; or (2) cause substantial harm to the competitive position of the person from whom the information was obtained." *Id.* at 554 (quotation and brackets omitted).

In this case, through two separate motions, the Company seeks protection for various categories of financial and business information (including information pertaining to RECs, which is routinely protected by the Commission) under RSA 91-A:5, IV. We agree with Eversource, as delineated in its motions, that the information contained within the applicable filings in this docket constitutes confidential and sensitive commercial or financial information under RSA 91-A:5, IV, and that Eversource, or their business counter-parties (i.e., Burgess Plant), possess a privacy interest in protecting the information in question. We therefore conclude that the Eversource, or counter-party, interest(s) in nondisclosure of the information identified in Eversource's motions outweighs the public's interest in disclosure of that information. Although the public may have an interest in that information to aid in understanding the Commission's analysis of the issues presented in this proceeding, we find that the public's interest in disclosure is outweighed by the Eversource, or counter-party, privacy interests in information that, if disclosed, could pose legitimate financial harm to or privacy risk to Eversource or its counter-parties.

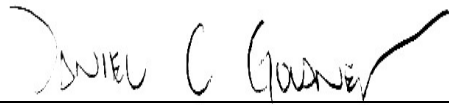
Accordingly, pursuant to Puc 203.08(a), we GRANT the Eversource January 23, 2024 and February 20, 2024 motions for protective order and confidential treatment. Consistent with past practice and Puc 203.08(k), the protective treatment provisions of this order are subject to the ongoing authority of the Commission, on its own motion or on the motion of any party or member of the public, to reconsider this protective order under RSA 91-A, should circumstances so warrant.

**Based upon the foregoing, it is hereby**

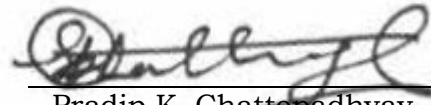
**ORDERED**, that the condition of provisionality for the Eversource SCRC rates in effect until January 31, 2025 is hereby REMOVED, subject to the conditions delineated in this order; and it is

**FURTHER ORDERED**, that the January 23, 2024 and February 20, 2024 Eversource motions for protective order and confidential treatment are GRANTED.

By order of the Public Utilities Commission of New Hampshire this fifth day of December, 2024.



Daniel C. Goldner  
Chairman



Pradip K. Chattopadhyay  
Commissioner

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Docket#: 23-091

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