

THE STATE OF NEW HAMPSHIRE
before the
PUBLIC UTILITIES COMMISSION

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

Docket No. DE 24-070

Request For Change In Distribution Rates

MOTION FOR CONFIDENTIAL TREATMENT AND PROTECTIVE ORDER

Public Service Company of New Hampshire d/b/a Eversource Energy (“Eversource” or the “Company”) hereby requests that the New Hampshire Public Utilities Commission (“Commission”) grant pursuant to RSA 91-A:5 and Puc 203.08 protection from public disclosure of certain confidential, sensitive and proprietary information submitted in this docket. Specifically, the Company requests that the Commission grant confidential treatment of the Excel files contained in Confidential Attachment ES-ACOSS-2 and Confidential Attachment ES-ACOSS-3 that contain proprietary modeling prepared by the Company’s outside consultant, Amparo Nieto, Principal at the Charles River Associates (the “Confidential Materials”). The Company also reserves the right to claim confidential treatment of sensitive or protected materials that are disclosed over the course of this docket, up to and including the final hearings on the merits of this case, consistent with existing New Hampshire law and Puc rules. In the event that additional confidential materials are disclosed over the course of this docket, Eversource will provide a statement that the Company has a good faith confidentiality claim, as required by Puc 203.08(d), and follow that statement with an additional motion for confidential treatment consistent with Puc 203.08(e) before the final hearings on the merits in this case.

In support of this motion, Eversource states as follows:

I. LEGAL STANDARD

Puc 203.08(a) states that the Commission shall, upon motion, “issue a protective order providing for the confidential treatment of one or more documents upon a finding that the document or documents are entitled to such treatment pursuant to RSA 91-A:5, or other applicable law.” The motion is to contain: “(1) The documents, specific portions of documents, or a detailed description of the types of information for which confidentiality is sought; (2) Specific reference to the statutory or common law support for confidentiality; and (3) A detailed statement of the harm that would result from disclosure and any other facts relevant to the request for confidential treatment.” Puc 203.08(b).

RSA 91-A:5, IV exempts certain governmental records from public disclosure, including “[r]ecords pertaining to internal personnel practices; confidential, commercial, or financial information . . . ; and personnel . . . and other files whose disclosure would constitute invasion of privacy.” In determining whether documents are entitled to exemption pursuant to RSA 91-A:5, IV, 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 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 25,167 (November 9, 2010) at 3-4.

II. DESCRIPTION OF CONFIDENTIAL MATERIALS

On June 11, 2024, Eversource filed a petition requesting that the Commission change distribution rates. The Commission docketed this matter as DE 24-070. The Company's filing does not include any confidential materials; however, on the day following the filing the Company submitted the Excel spreadsheets supporting all schedules and models that were provided in the filing in pdf form, along with all supporting workpapers to the various regulatory authorities: the Commission, the Office of Consumer Advocate and the Department of Energy. Among these Excel spreadsheets is the allocated cost of service analysis, which includes embedded proprietary formulas created by the Company's consultant. Consistent with Order 27,029, the Company will also provide copies of the Excel spreadsheets to interested intervening parties to this docket, including the Confidential Materials, subsequent to the successful execution of a non-disclosure agreement with each interested party.

III. DISCUSSION

The Confidential Materials contain proprietary models, including formulas, developed by the Company's outside consultant Amparo Nieto, Principal at Charles River Associates. The Confidential Materials should be protected from public disclosure because the modeling contained therein constitutes proprietary formulas and information that is the property of the Company's consultant for which she has a significant privacy interest, and is competitively sensitive. The consultant's model was created by the consultant for use in providing analytical and other services to her business clients, including the Company. The formulas and other information contained in the Excel files are not available in the public domain, nor may the public access such information

and resultant data compilation and presentation absent a binding contract for services with the consultant. Disclosure of the Confidential Materials could harm the competitive business position of the outside consultant, as well as put potential future expert consultants on notice that their proprietary information may be disclosed to their business competitors or entities seeking to access the proprietary information without appropriate compensation. This would have a chilling effect on the competitiveness of future RFPs the Company issues for consultant services.

If the Company were required to disclose these materials publicly in this docket, the Company would experience substantial difficulty in the future in negotiating successfully with potential contract partners, particularly in terms of obtaining potential third-party experts to conduct independent analyses that are not easily replicable by the Company, and be unable to acquire those services at competitive costs. As a result, disclosure of the Confidential Materials would have a chilling effect on the Company's ability to: (1) attract contract partners who may fear that the Commission will ultimately release proprietary algorithms, analyses and information to their business competitors or potential clients, and (2) secure attractive pricing from contract partners for the benefit of the Company's customers.

The Company has provided an unredacted PDF version of the data reflected in the Excel files that provides the public with the data and results of the allocated cost of service analysis. Moreover, the unredacted Confidential Materials have been provided to the Commission, the Department of Energy and the Office of Consumer Advocate, which allows the underlying details of the analysis to be subject to investigation and scrutiny on behalf of all Eversource customers. Therefore there is nominal, if any, interest in public disclosure of the Confidential Materials, as the purpose for disclosure is served by scrutiny by the relevant New Hampshire regulatory agencies through their participation in this docket.


IV. CONCLUSION

Based on the foregoing, the Company and its consultant have substantial privacy interests at stake that would be invaded by disclosure of information in the Confidential Materials. In addition, the disclosure of the Confidential Materials is not necessary to inform the public of the conduct and activities of its government and would not serve that purpose, and therefore disclosure is not warranted. *See Electric Distribution Utilities*, Order No. 25,811 (September 9, 2015) at 5. On balance, any possible interest served by public disclosure is substantially outweighed by the harm stemming from such disclosure and therefore the need for confidential treatment.

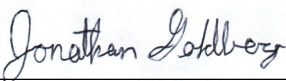
For the above reasons, the Company requests that the Commission grant this motion for confidential treatment and protective order.

Respectfully submitted,

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

By: 

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Date: July 10, 2024

CERTIFICATE OF SERVICE

I hereby certify that, on the date written below, I caused the attached to be served pursuant to N.H. Code Admin. Rule Puc 203.11.



Jessica A. Chiavara
Senior Counsel
Public Service Company of New Hampshire
d/b/a Eversource Energy

Date: July 10, 2024