

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Docket No. DG 09-201

NORTHERN UTILITIES, INC.
PETITION FOR APPROVAL OF
SECOND AMENDMENT TO SPECIAL CONTRACT
WITH NATIONAL GYPSUM COMPANY

MOTION FOR PROTECTIVE ORDER AND CONFIDENTIAL TREATMENT

NOW COMES Northern Utilities, Inc. (“Northern”), by and through its undersigned attorneys, and, pursuant to RSA 91-A:5, IV and N.H. Admin. Rule Puc 203.08, respectfully moves the New Hampshire Public Utilities Commission (“the Commission”) to issue a protective order which accords confidential treatment to certain information described below and submitted herewith. In support of this Motion, Northern states as follows:

1. Northern is filing contemporaneously with this Motion responses to Staff’s First Set of Data requests, some of which contain confidential information. The above-referenced confidential information is contained in Northern’s response to Staff Data Request 1-5 and in Attachment 1-1. Pursuant to N.H. Admin. Rule Puc 203.08 (b), Northern submits herewith unredacted copies of the above-referenced documents for which confidential treatment is sought.

2. Northern’s response to Staff Data Request 1-5 contains information regarding the annual usage of one of its customers, National Gypsum Company. Attachment 1-1

contains Northern's internally-generated calculations of the estimated costs for the customer to bypass Northern's system. This information is competitively sensitive commercial information which Northern does not disclose to anyone outside of its corporate organization or its authorized representatives. As such, the information is entitled to be protected from public disclosure under RSA 91-A:5, IV. *See also* RSA 350-B ("Uniform Trade Secrets Act").

3. Northern seeks to exempt the above-referenced documents from public disclosure in order to protect Northern's competitive position. Release of the above-described confidential information would likely result in harm to Northern in the form of being disadvantaged in its bargaining position with other customers seeking special contracts who have alternative service options, whether through bypass or from alternative energy sources. Public disclosure of the confidential information would impair Northern's future bargaining position and thus its ability to obtain the maximum possible contribution to fixed costs. Additionally, disclosure of the information would provide Northern's competitors all of the information they would need to undercut Northern in its customer-specific proposals.

4. The Commission has previously issued a protective order for similar confidential information submitted with the original special contract between Northern and National Gypsum in Docket DG 99-123. *See Re Northern Utilities, Inc.*, 84 NH PUC 529 (October 5, 1999).

5. Under the balancing test set forth in *Union Leader Corp. v. New Hampshire Housing Fin. Auth.*, 142 N.H. 540 (1997), the above-described interests of Northern and its customers in non-disclosure outweigh the public's interest in gaining access to the

information. The Commission has employed the above-referenced test in according confidential treatment to competitively sensitive financial and commercial data submitted by another gas utility in connection with its request for approval of a special contract. *See Re Energy North Natural Gas, Inc.*, DR 97-057, 82 NH PUC 404, 406 (1997).

WHEREFORE, Northern respectfully requests that this honorable Commission:

A. Issue an appropriate order that exempts from public disclosure and otherwise protects the confidentiality of the information contained in the documents submitted herewith;

B. Grant such additional relief as it deems appropriate.

Respectfully submitted,
NORTHERN UTILITIES, INC.

By its attorneys,
Orr & Reno, P.A.

Date: November 20, 2009

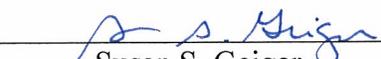


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Certificate of Service

I hereby certify that on this 20th day of November, 2009, a copy of the within Motion has been sent either by U.S. Mail or electronic mail to the Service List.



Susan S. Geiger