

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION
DE 11-___

UNITIL ENERGY SYSTEMS, INC.

MOTION FOR PROTECTIVE ORDER
AND CONFIDENTIAL TREATMENT

NOW COMES Unitil Energy Systems, Inc., (“UES” or “the Company”), by and through its undersigned attorneys, and, pursuant to RSA 91-A:5, IV and N.H. Code of Administrative Rules (“N.H. Admin. Rules”) Puc 203.08, respectfully moves the New Hampshire Public Utilities Commission (“Commission”) to issue a protective order which accords confidential treatment to certain customer usage and financial information contained in Schedule UES-1 filed with the Company’s Petition for Declaratory Ruling and Approval of Adjustments to Certain Account Balances (“Petition”). UES has filed this information with the Commission with the understanding it will be maintained confidential until the Commission rules on the within Motion.

In support of this Motion, UES states as follows:

1. UES’s Petition requests a declaratory ruling from the Commission relative to the amount of a refund owed to a customer that was overcharged for electricity service for several years, as well as a ruling regarding adjustments to certain account balances. In support of the Petition, UES has submitted unredacted and redacted Schedules UES-1

containing detailed information about the customer's monthly electricity usage, and rates and amounts paid by the customer for electricity provided by a competitive supplier.

2. UES seeks a protective order and confidential treatment for the unredacted usage and financial information in order to protect the customer's ability to seek and negotiate for competitive supply options. If the unredacted information were publicly disclosed, the customer's ability to fairly negotiate with competitive suppliers would be harmed.

3. 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). 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.'" *Unitil Energy Systems, Inc.*, DE 10-055, Order No. 25,214 (April 26, 2011), p. 35. If a privacy interest is implicated, the Commission then balances the asserted private confidential, commercial or financial interest against the public's interest in disclosure in order to determine if disclosure would inform the public of the government's conduct. *Id.* If it does not, then "disclosure is not warranted." *Id.*

4. The unredacted information meets the foregoing test. The information is clearly confidential, commercial and financial because it relates to the amount of electricity the customer uses on a monthly basis, as well as the rates and amounts paid by the customer to a competitive electricity supplier. Disclosure of the information would harm the customer's ability to fairly negotiate with others for competitive electricity

supply and also constitutes an invasion of privacy, as judged by an objective standard. It is objectively reasonable for this customer to believe that its monthly electricity usage and the amounts and rates it pays to its competitive supplier will not be available to other suppliers or to the general public. In addition, such disclosure will not inform the public of the government's conduct. Thus, because the customer's interest in protecting the unredacted information outweighs the public's interest in disclosure, the information should be protected.

5. UES requests that the Commission issue an order protecting the above-described information from public disclosure and prohibiting copying, duplication, dissemination or disclosure of it in any form. UES further requests that the protective order also extend to any discovery, testimony, argument or briefing relative to the confidential information.

WHEREFORE, UES respectfully requests that the Commission:

- A. Issue an appropriate order that exempts from public disclosure and otherwise protects as requested above the confidentiality of the above-described information designated confidential and submitted herewith; and
- B. Grant such additional relief as it deems appropriate.

Respectfully submitted,

UNITIL ENERGY SYSTEMS, INC.

By its attorneys,

A handwritten signature in black ink, appearing to read "Gary Epler". The signature is fluid and cursive, with the first name "Gary" and the last name "Epler" clearly distinguishable.

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CERTIFICATE OF SERVICE

I certify that I have caused copies of Unitil Energy System's, Inc., "Petition For Declaratory Ruling and Approval of Adjustments to Certain Account Balances" to be served on the following parties or individuals:

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Dated at Hampton, New Hampshire this 13th day of May, 2011.



Gary Epler