

DG 99-109

DG 99-123

NORTHERN UTILITIES, INC.

Petitions for Approval of Special Firm Gas Transportation Orders

Order on Motions for Protective Treatment

O R D E R N O. 23,313

October 5, 1999

On August 25, 1999, Northern Utilities, Inc.

("Northern") filed motions for protective treatment of certain information Northern submitted in these two dockets, both of which involve special contracts with industrial customers that are potentially in a position to obtain gas service via the pipeline recently constructed by the Portland Natural Gas Transmission System and Maritimes and Northeast Pipeline, LLC. As to each of the contracts, Northern's motions sought confidential treatment of the name of the customer involved, the negotiated price, the duration of the contract, certain cost information submitted to the Commission, including marginal cost information, and financial analyses filed with the Commission. On September 14, 1999, counsel for Northern advised the Commission by letter that, following discussions with Commission Staff, Northern would narrow its request for confidential treatment by agreeing to public disclosure of the customer names and contract durations.

Northern invokes RSA 91-A:5, IV, which authorizes a state agency to exempt from public disclosure "confidential,

commercial, or financial information." Consistent with the requirement in such circumstances that we weigh "the public's interest in disclosure" against the asserted privacy interest, see *Union Leader Corp. v. N.H. Housing Fin. Auth*, 142 N.H. 540, 553 (1997), we have typically applied a balancing test to such requests. See, e.g., *Public Service Co. of N.H.*, Order No. 23,090 (December 21, 1998). In the realm of special contracts, "[t]he degree of competition within a particular market will affect the degree of confidentiality which will be granted." *New England Telephone & Telegraph Co.*, 80 NH PUC 437, 446 (1995).

Applying the requisite balancing test, and taking into consideration the degree of competition in the market, we agree with Northern that it is entitled to the confidential treatment it has requested in its motion, as modified by its subsequent letter. Withholding the price information, and the data used to inform the calculation and negotiation of those prices, is appropriate given the existence of other potential suppliers of fuel to industrial customers in coastal areas in close proximity to the new pipeline, and the potential damage to Northern's ability to negotiate with other customers who might seek to balance Northern against other suppliers. Conversely, disclosing the names of the contracting parties and the duration of the contracts serves the public interest by allowing for at least some public scrutiny of the process by which special contracts

are approved.

Based upon the foregoing, it is hereby

ORDERED, that the motions of Northern Utilities for protective treatment filed in these dockets, as modified by its letter of September 14, 1999, are granted; and it is

FURTHER ORDERED, that this Order is subject to the ongoing rights of the Commission, on its own motion, the motion of Staff, any party or any member of the public, to reconsider this order in light of RSA 91-A, should circumstances so warrant.

By order of the Public Utilities Commission of New Hampshire this fifth day of October, 1999.

Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary