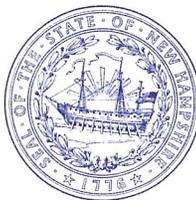


THE STATE OF NEW HAMPSHIRE

CONSUMER ADVOCATE
Meredith A. Hatfield

ASSISTANT CONSUMER ADVOCATE
Kenneth E. Traum



TDD Access: Relay NH
1-800-735-2964

Tel. (603) 271-1172

FAX No. 271-1177

Website:
www.oca.nh.gov

OFFICE OF THE CONSUMER ADVOCATE
21 S. FRUIT ST., SUITE 18
CONCORD, NEW HAMPSHIRE 03301-2429



Debra A. Howland, Executive Secretary and Director
Public Utilities Commission
21 South Fruit St., Ste. 10
Concord, NH 03301

Re: **DG 10-017 National Grid NH distribution rate case
OCA Response to Commission Inquiry about Confidential Treatment of
Utility Officer and Director Compensation Information**

Dear Ms. Howland:

On February 26, 2010, EnergyNorth Natural Gas, Inc. d/b/a National Grid NH (Company) filed a request for an increase in distribution rates. Included within the filing was a Motion for Protective Order and Confidential Treatment Regarding Compensation Information (Motion) for the Company’s officers and directors. In its Motion, the Company cited RSA 91-A:5, IV (“personnel . . . and other files whose disclosure would constitute an invasion of privacy”), and took the position that the compensation information “requires protection because the data produced is confidential and not publicly available, and its disclosure would constitute an unwarranted invasion of personal privacy.” Motion, p. 1, paras. 1 and 2.

At the April 8, 2010 prehearing conference, the Commission directed the Company to review a recent ruling in a pending proceeding, Order No. 25,037 (Public Service of New Hampshire, DE 09-035, October 30, 2009), concerning protective treatment of compensation information filed pursuant to Puc 1604.01(a)(14), and to file an amended motion if necessary. See Transcript at p. 10, line 13, through p. 11, line 8. On April 23, the Company filed a response, stating its intention not to amend its Motion. Although the OCA did not respond to the Company’s Motion, the OCA now offers the following comments on the Commission’s inquiry and the Company’s response thereto.

In its response, the Company stated that it reports certain compensation information publicly with the Commission, in its Annual Reports. To the extent that such information has been previously disclosed to the public, the OCA takes the position that this information may not be redacted from the Company’s Puc 1604.01(a)(14) compliance filing in this case. In addition,

NHPUC MAY04 10 PM12:02



notwithstanding the Company's position on this issue, the OCA disagrees that information about executive compensation is entitled to protection from disclosure pursuant to RSA 91-A:5, IV.

The purpose of RSA 91-A is "to ensure both the greatest possible public access to the actions, discussions and records of all public bodies, and their accountability to the people." RSA 91-A:1. This statute helps fulfill the State Constitutional requirement that the public's right of access to governmental proceedings and records shall not be unreasonably restricted. N.H. Const. pt. 1, art. 8. Under RSA 91-A, there is a presumption in favor of disclosure, which requires that exemptions from disclosure, such as the one cited by the Company in support of its Motion, be construed narrowly.

Utility executive compensation is funded entirely by rates paid by utility customers and the Commission's rules expressly require a utility to file information about the costs associated with its compensation of officers and directors when the utility seeks an increase in base rates. *See* Puc 1604.01(a)(14). Also, the Commission and its Staff consider the compensation costs when assessing whether a utility's proposed rates are just and reasonable. *See, e.g.,* RSA 378:28. Consequently, the utility's customers, as well as other members of the general public, have a legitimate interest in the disclosure of the compensation information filed with the Commission and in knowing how this information is used by the Commission to set rates. Allowing the public access to this information ensures the accuracy and integrity of the Commission's ratemaking process. Even if the officers and directors have any privacy in protecting the information, such interest is outweighed by the public's right to know.

Thank you for this opportunity to comment.

Sincerely,



Meredith A. Hatfield
Consumer Advocate

cc: Service List