

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

DG 14-154

NORTHERN UTILITIES, INC.

**PETITION FOR AUTHORITY TO OPERATE IN THE
TOWN OF BRENTWOOD AND TO
CROSS STATE WATERS AND LANDS**

**MOTION FOR CONFIDENTIAL TREATMENT
AND PROTECTIVE ORDER**

NOW COMES Northern Utilities, Inc. (“Northern”), by and through its undersigned attorneys, and, pursuant to 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. In support of this Motion, Northern states as follows:

1. In accordance with N.H. Admin. Rules Puc 203.08 (b) and Puc 203.02(a)(1), Northern hereby submits one public copy and 7 confidential copies of two documents labeled Attachment Staff 1-1a and Attachment Staff 1-1b, both of which are commercial agreements with two of Northern’s new large industrial customers.

2. The above-referenced documents contain competitively sensitive commercial information (i.e. customer usage and other financial information) that Northern’s customers safeguard and that 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.

3. Release of the above-described confidential information would likely result in commercial harm to Northern's customers, as those customers' competitors could use the information to competitively disadvantage Northern's customers. In addition, public disclosure of the above-described information could result in harm to Northern, as other potential and existing customers would be reluctant to enter into similar agreements if their confidential information would be publicly revealed.

4. 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.*

5. The above-described information meets the foregoing test. For the reasons presented above, all of the information is clearly confidential, commercial or financial, and disclosure of it would pose harm and constitute an invasion of privacy. Northern and its customers routinely safeguard this information to protect their respective

bargaining positions in commercial transactions. Because Northern and its customers' private, confidential, commercial and financial interests outweighs the public's interest in disclosure, the information should be protected as disclosure will not inform the public of the government's conduct.

6. Northern 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. Northern requests that the protective order also extend to any discovery, testimony, argument or briefing relative to the confidential information.

7. In addition to the enclosed documents marked "confidential," Northern seeks confidential treatment of and a protective order for an Excel document provided to Commission Staff and the Office of Consumer Advocate in response to Staff Data Request 1-6 issued June 20, 2014. Said data request seeks data and work papers in electronic format, relating to Northern's analysis for determining the contribution in aid of construction ("CIAC") to be paid by the two customers who will be served by the main extension that is the subject of the instant docket. This electronic document consists of Northern's financial model which is proprietary and which Northern does not disclose to anyone outside of its corporate organization or its authorized representatives. As such, the electronic document is entitled to be protected from public disclosure under RSA 91-A:5, IV. *See also* RSA 350-B ("Uniform Trade Secrets Act").

8. The Excel document qualifies for protective treatment under the analysis set forth in paragraph 4, above. Northern has spent time and resources developing the CIAC financial model. Public disclosure of the document would provide companies

competing with Northern for fuel customers with a competitive advantage, thereby resulting in harm to Northern and its other customers. Release of the electronic document would not inform the public of the government's conduct. Because the harm to Northern and its customers outweighs the public's interest in disclosure, the electronic document should be protected from public disclosure.

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

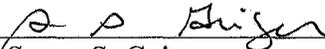
WHEREFORE, Northern respectfully requests that this honorable Commission:

- A. Issue an appropriate order that exempts from public disclosure and otherwise protects the confidentiality of the documents and information identified herein; and
- B. Grant such additional relief as it deems appropriate.

Respectfully submitted,
NORTHERN UTILITIES, INC.

By its attorneys,

Orr & Reno, P.A.

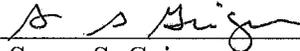
By: 

Susan S. Geiger
One Eagle Square
P.O. Box 3550
Concord, NH 03302-3550
603-223-9154
sgeiger@orr-reno.com

Date: June 25, 2014

Certificate of Service

I hereby certify that on this 25th day of June, 2014, a copy of the within Motion was sent to the Service List via electronic mail.



Susan S. Geiger

1168616_1