

**THE STATE OF NEW HAMPSHIRE**

**BEFORE THE**

**PUBLIC UTILITIES COMMISSION**

**LIBERTY UTILITIES (GRANITE STATE ELECTRIC) CORP.  
D/B/A LIBERTY UTILITIES**

**Docket No. DE 14-211**

**MOTION FOR PROTECTIVE ORDER AND CONFIDENTIAL TREATMENT**

Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty Utilities (“Liberty” or the “Company”), in accordance with Puc 203.08, hereby moves the New Hampshire Public Utilities Commission (the “Commission”) to grant protective treatment to certain confidential information provided to Staff and the Office of Consumer Advocate (“OCA”) in connection with the Company’s filing in this docket. In support of this motion, the Company states as follows:

1. On September 11, 2014, the Company participated in a technical session in this docket with Staff and OCA. At that technical session, the Company discussed with Staff and the OCA its proposal on how it would procure Energy Service requirements for its customers in the event that it had an unsuccessful competitive solicitation to meet those requirements. As part of that discussion, the Company provided Staff and OCA with a document that describes how the Company would determine prices for the energy, capacity and ancillary services under that contingent scenario. By this motion, the Company requests confidential treatment of that document because it contains confidential pricing information that if released to the public would significantly harm the Company’s ability to procure least cost energy, capacity and ancillary services for its Energy Service customers.

2. RSA 91-A:5,IV exempts from public disclosure records that constitute confidential, commercial, or financial information. Based on *Lambert v. Belknap County Convention*, 157 N.H. 375 (2008), the Commission applies a three-step analysis to determine whether information should be protected from public disclosure. *See, e.g. Public Service Company of New Hampshire*, Order No. 25,313 at 11-12 (December 30, 2011). The first step is to determine if there is a privacy interest at stake that would be invaded by the disclosure. If such an interest is at stake, the second step is to determine if there is a public interest in disclosure. The Commission has held that disclosure that informs the public of the conduct and activities of its government is in the public interest; otherwise, public disclosure is not warranted. *See, e.g. Public Service Company of New Hampshire*, Order 25,167 at 3 (November 9, 2010). If both of these steps are met, the Commission balances those interests in order to weigh the importance of keeping the record public with the harm from disclosure of the material for which protection is requested. *Id.* at 3-4.

3. The first inquiry is whether there is a privacy interest in the Company's methodology for determining Energy Service prices under its contingency plan. The Company has a privacy interest in the information because it reflects the methodology the Company would use to translate forward market pricing information into a price per kilowatt-hour to charge its customers. Effectively, this is no different than what competitive suppliers currently do when bidding on the Company's Energy Service requirements. They use a proprietary methodology to develop prices that they believe are appropriate based on the market. Here, the Company would be developing those prices because of insufficient response by competitive suppliers to an RFP solicitation. The Company's interest in how it develops those prices is no different than suppliers' privacy

interest in developing their prices, an interest which the Commission has recognized in its rules. (See Puc 201.06(a)(30)(h) which protects from disclosure commodity and fuel pricing routinely submitted in default service proceedings).

4. The next step in the analysis is to consider whether there is a public interest in disclosure of the information, including whether release of the information lends any insight into the workings of government as it relates to this case. Public disclosure of the Company's pricing methodology does not provide any information about how the Commission works. The Company would note that the public does not now have access to information on how competitive suppliers determine their prices. There is no reason that the Company's pricing methodology should be treated differently. For these reasons, the Company asserts that there is no public interest in disclosure of the methodology. Even if one were to conclude that there is a public interest in disclosure of the settlement agreement, that public interest is outweighed by the harm that could occur as a result of that disclosure. If competitive suppliers had access to the Company's pricing methodology, suppliers could use this information to determine prices that the Company would charge customers in the event of an unsuccessful bidding process. Suppliers could then determine prices that they would submit in response to a Company RFP that would be just below what the Company would charge in the event of a failed solicitation, instead of determining what prices they would charge based on market information only. This could easily lead to a scenario where suppliers might include an additional margin in their proposed prices thereby resulting in prices that are higher than they would otherwise bid. The harm that would occur to customers – higher Energy Service rates - could be significant. Given that there is no public interest in disclosing the Company's pricing methodology, the Commission should protect it to avoid any potential financial harm to the Company's customers.

5. For these reasons, Liberty requests that the Commission issue a protective order preventing the public disclosure of its pricing methodology used for this contingency plan.

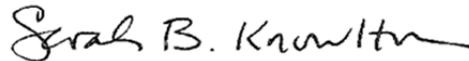
WHEREFORE, Liberty respectfully requests that the Commission:

- A. Grant this Motion for Protective Order and Confidential Treatment; and
- B. Such other relief as is just and equitable.

Respectfully submitted,

LIBERTY UTILITIES (GRANITE STATE ELECTRIC)  
CORP.  
D/B/A LIBERTY UTILITIES

By its Attorney,



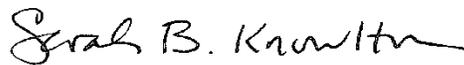
Date: September 22, 2014

By: \_\_\_\_\_

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Certificate of Service

I hereby certify that on September 22, 2014, a copy of this Motion has been forwarded to the Consumer Advocate via electronic mail.



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Sarah B. Knowlton