

THE STATE OF NEW HAMPSHIRE
before the
PUBLIC UTILITIES COMMISSION

Petition for Approval Power Purchase Agreement and Renewable Energy Certificate
Option Agreement between Public Service Company of New Hampshire and
Lempster Wind, LLC

Docket No. DE 08-077

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE'S
MOTION FOR PROTECTIVE ORDER

At the hearing on the merits held on February 5, 2009 the Office of Consumer
Advocate made the following record request:

In response to Constellation Set#3 Q-CONST-014 Mr. Wicker referred to an analysis
or analyses used to evaluate the Lempster and NH Elec. Coop agreements. Please
supply those analyses

The Commission reserved Exhibit 7 for this response to the Record Request. In its
same response to Constellation Request No. 03-014, PSNH also stated that
“supplying this information would reveal the pricing terms of the agreement”.
PSNH did not supply the responsive analyses to Constellation or any party.
Pursuant to RSA 91-A:5, IV(Supp.) and N.H. Code Admin. Rule Puc § 203.08, PSNH
hereby requests protective treatment for the attachments to the record request
which contain price sensitive materials and the analysis of how PSNH would
evaluate any proposal for the sale of renewable power and/or RECs. PSNH seeks an
order preventing the public disclosure of these analyses, which PSNH considers
confidential, to avoid impairing PSNH's ability to negotiate additional purchases of
power, capacity and RECs. In support of its Motion for Protective Order, PSNH says
the following:

1. PSNH must obtain and retire certain New Hampshire Renewable Energy
Certificates (“NH RECs”) pursuant to Chapter RSA 362-F Electric Renewable
Portfolio Standard. 2007 NH Laws 26. Pursuant to that obligation, PSNH has
entered into transactions with Lempster Wind, LLC which call for the purchase of
energy, capacity and NH RECs at negotiated prices. The transactions call for

purchases of these products for fifteen years. PSNH seeks protection of the confidential information for five years.

2. PSNH would like to be able to use the structure of these arrangements with Lempster Wind, LLC to purchase additional renewable energy power and NH RECs. Disclosure of the pricing terms and PSNH's analyses thereof would alert potential suppliers of capacity, power and RECs as to the terms PSNH might accept in future contract or how PSNH would analyze future offers. As a result, disclosure would make it more likely that PSNH may never get terms as favorable as the Lempster Wind terms. PSNH does not want to be at a competitive disadvantage in future negotiations with renewable power generators, which would result if the internal analyses used to evaluate proposals was made public.

3. The Commission must use a balancing test in order to weigh the importance of creating an open record of this proceeding with the harm from disclosure of confidential, financial or competitive information. "Under administrative rule Puc 204.06, the Commission considers whether the information, if made public, would likely create a competitive disadvantage for the petitioner; whether the customer information is financially or commercially sensitive, or if released, would likely constitute an invasion of privacy for the customer; and whether the information is not general public knowledge and the company takes measures to prevent its' dissemination." *Re Northern Utilities, Inc.*, 87 NH PUC 321, 322, Docket No. DG 01-182, Order No. 23,970 (May 10, 2002).

4. The limited benefits of disclosing the information outweigh the harm done by disclosing the information. Pricing terms with power suppliers have traditionally been kept confidential. *See, Re EnergyNorth Natural Gas, Inc. dba KeySpan Energy Delivery New England*, Docket No. DG 03-068, Order No. 24,167, 88 NH PUC 221, 226 (2003). PSNH would be put at a disadvantage negotiating in the future through disclosure of the analyses of the terms of these transactions. Potential sellers would have an inside track as to how PSNH looks at proposals, and knowledge of the terms of these transactions would become the floor of any future negotiations with other

renewable energy suppliers. PSNH would be able to obtain power, capacity and NH RECs at terms no more favorable than these terms.

WHEREFORE PSNH respectfully requests the Commission issue an order preventing the public disclosure of the response to the Record Request, and to order such further relief as may be just and equitable.

Respectfully submitted,

February 17, 2009
Date

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CERTIFICATE OF SERVICE

I hereby certify that, on the date written below, I caused the attached Motion for Protective Order to be served pursuant to N.H. Code Admin. Rule Puc §203.11.

February 17, 2009
Date

Gerald M. Eaton
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