



**Public Service
of New Hampshire**

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The Northeast Utilities System

September 21, 2009

Debra Howland
Executive Director and Secretary
New Hampshire Public Utilities Commission
23 South Fruit Street, Suite 10
Concord, New Hampshire 03301-2429

Re: Tariff Filing to Modify PeakSmartPlus Programs
Docket No. DE 09-158

Dear Secretary Howland:

Enclosed please find an original and seven copies of a Motion for Protective Order Re: Customer Specific Data regarding a responses to a data request from the Commission Staff. The request asks for customer specific participation information as well as monthly expenses charged by the ISO New England approved Internet-Based Communication System provider.

Copies of the Motion have been provided to the Staff pursuant to Puc § 203.02 and Puc § 203.11(a). A copy of the Motion and the confidential attachment have been provided to the Office of Consumer and Advocate.

Very truly yours,

A handwritten signature in black ink, appearing to read "Gerald M. Eaton". The signature is fluid and cursive.

Gerald M. Eaton
Senior Counsel

Enclosures

cc: Attorney Lynn Fabrizio
Attorney Meredith A. Hatfield

THE STATE OF NEW HAMPSHIRE
before the
PUBLIC UTILITIES COMMISSION

TARIFF FILING TO MODIFY
PEAKSMARTPLUS PROGRAM

Docket No. DE 09-158

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE'S MOTION FOR
PROTECTIVE ORDER RE: CUSTOMER-SPECIFIC DATA

Pursuant to RSA 91-A:5,(IV)(Supp.) and N.H. Code Admin. Rules Puc § 203.08, Public Service Company of New Hampshire ("PSNH" or the "Company") hereby requests protective treatment for the response to a data request propounded by the Staff. The request asks for customer specific data on each of the customer's participation in the PeakSmartPlus Program. In support of its Motion for Protective Order, PSNH says the following:

1. The data request is as follows:

STAFF-01, Q-STAFF-006

Question:

Please provide details of the PeakSmartPlus for the duration of the program to date. Please include information on capacity commitment, monthly expenses, equipment expenses, monthly payments, number of interruptions, length of interruptions, and peak price during interruptions for each of the 24 participants.

The attachment to the response will disclose historical participation data for each customer. This information is customer-specific information which is never made public by PSNH without the customers' permission. The amount of financial incentives paid is also customer-specific information kept confidential by PSNH for the purpose of encouraging continued participation in the PeakSmartPlus Program. For the reason stated below, this information should not be disclosed publicly.

2. The Commission must use a balancing test in order to weigh the importance of keeping the record of this proceeding public with the harm from disclosure of confidential financial, competitive or customer specific information. “Under administrative rule Puc § 204.06 [now § Puc 203.08], 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). The limited benefits of disclosing the information outweigh the harm done to the customers.

3. PSNH is bound by commission rule not to disclose customer specific information. Under N.H. Code Admin. Rule Puc § 2004.08:

- (a) No CEPS, aggregator or electric distribution company shall release confidential customer information without written authorization from the customer, unless otherwise required by law.
- (b) Confidential customer information shall include but not be limited to:
 - (1) Customer name, address and telephone number;
 - (2) Customer usage data; and
 - (3) Customer payment information.

Although this rule applies to the sharing of information with competitive electric suppliers, it codifies a long-standing practice of PSNH and Commission policy. There are private, independent firms that solicit customers to participate in the ISO New England demand response programs (enrolling participant). If PSNH is proscribed by Puc § 2004.08 from disclosing customer specific information to competitive electric suppliers, it follows that customer specific information should not be made available to the general public, including the enrolling participants.. There is no independent legal obligation that the information be disclosed.

4. The fact that these customers have chosen to participate in the PeakSmartPlus program suggests that energy is a significant portion of their operating expenditures. Disclosure of participation information could reveal customers' confidential financial information. Furthermore, the monthly expenses reflect charges made by the ISO-New England approved Internet-Based Communication System provider (ICBS). This provider is in competition with other IBCS providers; therefore, disclosure of this firms fees charged to participants could create a competitive disadvantage for the ICBS provider that PSNH has chosen.

5. The fact that these customers are commercial customers does not diminish their need for confidential treatment. In *Brian Lamy v. Public Utilities Commission*, 152 N.H. 106 (2005), the Supreme Court found that commercial customers had no protected privacy interest in their names and address that were already part of a public record, by way of the Form E-1 Reports filed by PSNH with the Commission. The customer specific data regarding these customer's historical participation in the PeakSmartPlus program have yet to become part of the public record. The Commission has in the past agreed with PSNH that the limited benefits of disclosing participation in energy efficiency programs is outweighed by the potential deterrent that disclosure would have on participation by these customers and the resulting loss of the public benefit conferred on all customers by the efficiency improvements made by large customers. *Re Public Service Company of New Hampshire*, Docket No. DR 97-183, Order No. 22,788, 82 NH PUC 808 (November 18, 1997).

WHEREFORE PSNH respectfully requests the Commission issue an order preventing the public disclosure of the response to STAFF-01, Q-STAFF-006, and to order such further relief as may be just and equitable.

Respectfully submitted,

Public Service Company of New Hampshire

September 21, 2009
Date

By: Gerald M. Eaton
Gerald M. Eaton
Senior Counsel
780 North Commercial Street
Post Office Box 330
Manchester, New Hampshire 03105-0330
(603) 634-2961

CERTIFICATE OF SERVICE

I hereby certify that, on the date written below, I caused the attached Motion for Protective Order to be to be served pursuant to N. H. Code Admin. Rules §§ 203.02 and 203.11.

September 21, 2009
Date

Gerald M. Eaton
Gerald M. Eaton

Public Service Company of New Hampshire
Docket No. DE 09-158

Data Request STAFF-01
Dated: 09/10/2009
Q-STAFF-006
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Witness: Gilbert E. Gelineau Jr
Request from: New Hampshire Public Utilities Commission Staff

Question:

Please provide details of the PeakSmartPlus for the duration of the program to date. Please include information on capacity commitment, monthly expenses, equipment expenses, monthly payments, number of interruptions, length of interruptions, and peak price during interruptions for each of the 24 participants.

Response:

Please see details of the PeakSmartPlus from July 2008 to August 2008.

PSNH is providing this information under a Motion for Protective Order.

* Bulk material provided to NHPUC only.