STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DG 10-017

ENERGYNORTH NATURAL GAS, INC. D/B/A NATIONAL GRID NH

Petition for Permanent Rate Increase

Order on Motion for Confidential Treatment

O R D E R N O. 25,208

March 23, 2011

On January 26, 2010, EnergyNorth Natural Gas, Inc. d/b/a National Grid NH (National Grid or Company) filed a notice of intent to file rate schedules to seek an increase in its annual distribution revenues. In the investigation following the submission of its rate filing the Company submitted various information for which it claimed to have a good faith basis for requesting confidential treatment, and for which a motion for confidential treatment would follow. *See* Puc 203.08. On January 13, 2011, National Grid filed a Motion for Protective Order and Confidential Treatment relative to numerous items it had provided during the course of its rate case. The information for which the Company now seeks confidential treatment was generated in discovery, responses to the Commission's audit, and in the supplemental testimony of Frank Lombardo. Generally, the Company contends that the information should be protected because disclosure would either be an invasion of personal privacy or reveal competitively sensitive information. No one has objected to the motion. We note also that the Company has provided both public and confidential versions of the information for which it now seeks confidential treatment. Thus, any grant of the motion will cover the information contained in the confidential versions and the public versions will remain disclosed. Also, we commend the

Company for tailoring its requests to seek protection for only so much information as is necessary, rather than attempting to widely shield information in its submissions.

I. Motion Concerning Potential Invasions of Privacy

First, the Company seeks to have the Commission extend its ruling in *EnergyNorth Natural Gas, Inc. d/b/a National Grid NH*, Order No. 25,119 (June 25, 2010) (*Confidential Order*) to include information submitted with data responses to OCA 1-7; OCA 2-43; Staff 1-69; Staff 1-71 and Audit Requests 18 and 30. All of these submissions contain information about the compensation paid to the Company's officers. In Order No. 25,119, the Company requested, among other things, that certain information about officer compensation required for a rate case filing, *see* Puc 1604.01(a)(14), be treated as confidential. The Commission granted the request to keep individual compensation information confidential, but required that certain aggregated compensation information and allocations be disclosed. National Grid now contends that the same concerns are at work with the information in the above-referenced responses and that the same analysis controls. According to the Company, the officers have a privacy interest in the protection of this information, and, given the other disclosures the Company has made in the course of the proceeding, no significant public interest will be advanced by disclosure of this information.

As noted in Order No. 25,119, with regard to claims of invasion of privacy through the disclosure of information such as personnel files, we engage in a three-step analysis when considering whether disclosure of public records constitutes an invasion of privacy under RSA 91-A:5, IV.

> First, we evaluate whether there is a privacy interest at stake that would be invaded by the disclosure. If no privacy interest is at stake, the Right-to-Know Law mandates disclosure. Next, we assess the public's interest in disclosure. Disclosure of the requested information should inform the public about the conduct and activities of their government. Finally, we balance the public interest in disclosure against the government interest in nondisclosure and the individual's privacy interest in nondisclosure.

Confidential Order at 6 (*quoting Lamy v. N.H. Pub. Utilities Commn.*, 152 N.H. 106, 109 (2005) (citations omitted)). Further, the party resisting disclosure bears a heavy burden to shift the balance towards nondisclosure. *Id.* Moreover, "[w]hether information is exempt from disclosure because it is private is judged by an objective standard and not by a party's subjective expectations. . . ." *Id*.

The responses to OCA 1-7 and 2-43, Staff 1-71 and Audit Responses 18 and 30 include specific amounts and allocations for individually named officers. As summarized by the Company:

> a. Data responses OCA 1-7 and 2-43 contain confidential compensation amounts of Company officers, as well as the allocation percentages applied to each officer's compensation to derive the amount charged to the Company.
> . . . .
> c. Data response Staff 1-71 contains, *inter alia*, the dollar value of indirect compensation received by the officers listed on Schedule 1604.01(a)(14) in the Company's rate case filing for the years 2008 and 2009.
> d. Responses to Audit Staff Requests 18 and 30 provide a revised version of Schedule 1604.01(a)(14) that adds a column containing the requested allocation percentages for each officer of the Company, but is in all other respects identical to the information for which the Commission granted confidential treatment in Order No. 25,119.

Motion at 4. In that this information is essentially the same as the individually identifiable financial information for which confidential treatment was granted in Order No. 25,119, for the reasons discussed in that order we likewise conclude here that this information should not be

disclosed. As to the information in Staff 1-69, which is covered in part b of the Company's above description, that response contains information about a bonus paid to a particular officer including the total amount, and the component elements of the award. National Grid has contended that its bonuses, which it refers to as "incentive" or "performance" awards, are part of the total compensation package paid to employees. *See* Pre-Filed Rebuttal Testimony of Frank Lombardo at 9-10 of 31. As such, they are essentially an element of an employee's total pay rather than some extra money above any regular pay the employee could expect. Without expressing any opinion on the treatment of bonus pay as a component of an employee's pay, for purposes of this order, we conclude that this incentive pay is financial information which is entitled to protection on the same basis as the other compensation information. Accordingly, we extend the ruling of Order No. 25,119 to grant confidential treatment to the information in OCA 1-7; OCA 2-43; Staff 1-69; Staff 1-71 and Audit Requests 18 and 30.

National Grid next contends that information in responses to OCA 2-101, part of Staff 3-6, Staff 3-9, and Staff 1-137, is entitled to confidential treatment. Specifically, these responses cover information about expenses of certain non-officer employees. National Grid seeks to protect only the names of those employees from disclosure while the expense descriptions and amounts would remain public. According to the Company's motion, its "non-officer employees have an expectation of privacy in their names when linked to specific expenditures, and while it is expected that certain expenses or activities of such employees will be subject to scrutiny in a rate case, it is not expected that the fact that an individual employee incurred particular expenses or engaged in a particular activity will be subject to public disclosure." Motion at 7.

Regarding the privacy interest at stake, in other contexts we have noted that as to non-officer employees, the disclosure of their information could cause harm by making it easier for other companies to recruit the employees away from the utility and potentially causing discord among individuals within the company. *Pennichuck East Utilities, Inc.*, Order No. 24,784 (Aug. 24, 2007) at 6; *see also Northern Utilities, Inc.* Order No. 23,970 (May 10, 2002) at 8, and *Pennichuck Water Works, Inc.*, Order No. 23,842 (Nov. 16, 2001) at 4. Accordingly, we find that there is a privacy interest at stake here.

Next, in reviewing the public interest in disclosure, we agree with the Company that the public interest here is in the level of Company expenses for which rate recovery is sought. We also agree, however, that information about the individual employees incurring those expenses will not be especially informative about the workings of the Commission. The public's interest is in the expense information and not the names of the employees. Weighing these interests against each other, we conclude that the public interest does not outweigh the individuals' privacy interests. Because the interest is in the expense information, and that information will remain public, the public interest is served without revealing the employees' names. Accordingly, confidential treatment is granted to the names of the individuals in OCA 2-101, Staff 3-6, Staff 3-9 and Staff 1-137 as described in the Company's motion.

Next the Company seeks confidential treatment for customer information disclosed in response to OCA 2-118 and 3-2 and Staff 1-13, 1-213, 2-25, 2-88, and 3-28. Responses to these requests contain various information identifying individual residential and commercial customers and include, in many instances, names, addresses and account numbers as well as arrearage and payment information for some customers. As described aptly in the Company's motion:

a. The attachments to the Company's response to OCA 2-118 contain the names and account numbers of the six commercial and industrial customers and six residential customers whose accounts represent the largest charge-off amounts for each respective class, as well as charts detailing collections activity specific to each listed account.
b. Attachment OCA 3-2 comprises field reports from a 2007 walking survey conducted by KeySpan Energy Delivery in Concord, New Hampshire. Each field report includes the street address of a customer.
c. Supplemental Attachment Staff 1-13(b) is a spreadsheet containing the names, home addresses, account numbers, and meter identification numbers of thousands of residential and commercial customers with arrearages from 2005 to 2009.
d. Attachment Staff 1-213 is a table showing new customers that came onto the Nashua system between July 2007 and June 2009. The table includes the account numbers and street addresses of individual customers. Attachment Staff 2-25 is a table including account numbers for individual customers, as well as corresponding arrearage amounts.
e. Many of the Company's answers to the questions in Staff 2-88 contain individual customer account numbers, as well as corresponding balance of arrearage information.
f. Attachments Staff 3-28 (a) and (b) are tables detailing the monthly bill amounts for the individual residential and commercial customers identified by name and account number in Attachment OCA 2-118(b). These customers are identified by account number in Attachments Staff 3-28 (a) and (b).

Motion at 9-10. At least insofar as residential customers are concerned, there is a recognized privacy interest in individually identifiable customer information, particularly where that information is tied to financial information. *See Lamy v. N.H. Pub. Utils. Comm'n*, 152 N.H. 106, 110 (2005); *see also Confidential Order* at 7. Moreover, while a commercial customer's privacy interest may not be coextensive with that of a residential customer, *Lamy*, 152 N.H. at 109, we conclude that in this case – *i.e.*, where the indentifying information is tied to information about the commercial customers' payments, arrearages, payment arrangements and responses to collection activities – there is sufficient basis to conclude that the commercial customers also have a privacy interest. This is particularly the case because the information here concerns the financial status of these commercial customers, disclosure of which could harm their competitive

positions. *See e.g., Union Leader Corp. v. NH. Housing Fin. Auth.,* 142 N.H. 540, 554 (1997) (in determining the existence of a privacy interest, the Court found instructive the federal test for confidential information under which a privacy interest could be found if disclosure was likely to cause substantial harm to the competitive position of the person from whom the information was obtained); *Unitil Corporation and Northern Utilities, Inc.*, Order No. 25,014 (Sept. 22, 2009) at 3, fn. 2.

With regard to the public interest in the information, we find that there is little information about the activities of government to be gained from disclosure. The information at issue is that compiled and used by the utility for its own internal record keeping and tracking. As such, there is no significant public interest in disclosure of the information. *See Lamy*, 152 N.H. at 111. In weighing these interests we find that the interests of the customers in non-disclosure outweigh the interests of the public in disclosing the information. Accordingly, the motion is granted as to OCA 2-118 and 3-2 and Staff 1-13, 1-213, 2-25, 2-88 and 3-28.

II. Motion Concerning Confidential, Commercial, or Financial Information

The Company next requests confidential treatment for a host of information said to contain competitively sensitive information of the Company and of entities with which the Company does business. Specifically, the Company seeks to protect information contained in: OCA 1-43, 1-120, and 2-28; Staff 1-2, 1-15, 1-61, 1-80, 1-137, 1-142, 3-49, and 3-55; Audit Request 31; and Attachment FL-S1 to the Supplemental Testimony of Frank Lombardo. Each request is discussed below.

As with information that might invade privacy, RSA 91-A also exempts from disclosure confidential commercial or financial information. *See* RSA 91-A:5, IV. Relevant to such

motions, the New Hampshire Supreme Court has interpreted the exemption for confidential, commercial, or financial information to require an analysis of both whether the information sought is confidential, commercial, or financial information, *and* whether disclosure would constitute an invasion of privacy. *Unitil Corporation and Northern Utilities, Inc.*, Order No. 25,014 (Sept. 22, 2009) at 2 (*quoting Union Leader Corp. v. NH Housing Fin. Auth.*, 142 N.H. 540, 552 (1997)). The asserted private confidential, commercial, or financial interest must be balanced against the public's interest in disclosure, since these categorical exemptions mean not that the information is *per se* exempt, but rather that it is sufficiently private that it must be balanced against the public's interest in disclosure. *Id*. As a result, the analysis for the confidentiality of sensitive commercial information is essentially the same as for that regarding potential invasions of privacy, but for the fact that the information must also be determined to be confidential, commercial, or financial information, in addition to being information in which there is a privacy interest.

Turning to the Company's first request respecting OCA 1-43, in response to that request the Company provided information about specially negotiated contracts with a customer. The Company now seeks to protect the name of the customer from disclosure. The Company contends that because this is a negotiated contract, both the Company and the customer have an interest in protecting the information and that disclosing the information could harm the customer by exposing its information including its amount of energy usage. Further, the Company contends that since it is only seeking to protect the identity of the customer and not the amounts in issue, the Commission and the public have all necessary information to make

informed decisions and disclosing the name of the customer would do nothing to add to that understanding.

As this is a contract regarding the Company's continuing sales and the associated revenues, it is undoubtedly commercial in nature. Further, given that it is an individually negotiated contract with a particular customer, we conclude that the Company and the customer have recognizable privacy interests in the information and that disclosure could potentially reveal information about the customers' operations and costs and could benefit competitors. As to the interests of the public, the Company acknowledges in its motion that the public has an interest in knowing the source of the Company's operating revenues as they were submitted in the rate case. Therefore there is a public interest at stake. In weighing these interests, we agree with the Company that since only the name of the customer is to be withheld and not the amount of the revenues, the public interest in disclosure does not outweigh the privacy interest in the information. Accordingly, we grant the motion on OCA 1-43.

Next, the Company seeks confidential treatment for information in responses to OCA 1-120, OCA 2-28, and Staff 3-49. These responses contain various iterations of the accounting cost of service study and the marginal cost of service study in this case, as well as supporting documentation for the studies. According to the Company, these spreadsheets contain proprietary models created by its consultant Management Applications Consulting, Inc. (MAC), and are confidential trade secrets. The Company argues that MAC has a privacy interest in its proprietary models and that there is no public interest to be served by disclosing those models since the Company is not trying to protect the underlying information, but only the models.

Further, the Company argues that not granting confidential treatment will harm its future ability to retain consultants with specialized knowledge.

We agree with the Company that the proprietary models created by MAC are commercial information in which a strong privacy interest resides. Further, competitive harm may befall MAC if its models are disclosed. *See Union Leader Corp.,* 142 N.H. at 554. We also agree that since the underlying information is disclosed, the public interest in the disclosure of the models themselves is, at best, slight. Thus, in weighing these interests we conclude that the motion for confidential treatment should be granted at to the information in OCA 1-120, OCA 2-28 and Staff 3-49. This position is consistent with what we have previously concluded regarding MAC's proprietary models. *See Unitil Energy Systems, Inc.*, Order No. 24,677 (Oct. 6, 2006) at 13-14, 23.

The Company next seeks to protect the rate and pricing information of outside service providers that is included in the attachments to Staff 1-2. The attachments contain proposals from various outside providers, internal documentation about the proposals, and the contracts with the providers. The Company argues that the proposals from the providers contain sensitive information such as cost estimates, pricing for services and hourly billing rates and that disclosing the information will cause competitive harm because it will allow competitors to know what these providers charge for their services and may impact the providers' ability to bid for work in the future.

We conclude that the information in these attachments is confidential commercial or financial information in that it impacts the financial positions of both the Company and its providers. Further, the Company and its providers have a privacy interest in the information

because, for these types of engagements, rates and pricing are key pieces of information and are the basis on which much competition is based. *See Union Leader Corp.*, 142 N.H. at 554.

As to the public interest, the Company contends that any public interest is minimal. We do not agree with this assessment. The public does have an interest in knowing that the Commission is scrutinizing the prices paid by the Company for the consultants and service providers it uses because the Company intends to recover those costs through rates. Further, the public has an interest in knowing how the Company procured the services for which it expects ratepayers to pay. While this information may be available in its non-redacted form for the Commission to review in evaluating and approving the amount of expenses to be recovered, that availability does not undercut the public interest in knowing whether the Company is paying reasonable rates for the services it uses.

Balancing these interests, we conclude in this case that the interests of the Company and its providers outweigh those of the public. The disclosure of this information may place the Company and its service providers at a disadvantage with respect to those with whom they would do business in the future. We have found such arguments credible in the past. *See EnergyNorth Natural Gas, Inc d/b/a National Grid NH*, Order No. 25,064 (Jan. 15, 2010) at 12. Also, because there will ultimately be a review of these costs in a public manner when the costs of rate case consultants are submitted for recovery, the public interest is served. Accordingly, we conclude that the information in the attachments to Staff 1-2 is entitled to confidential treatment.

Next, the Company seeks confidential treatment for the information provided in response to Staff 1-15 regarding the amounts of liquefied natural gas (LNG) displaced by vaporizations in Massachusetts and then delivered to New Hampshire, and the associated cost savings. The

Company contends that the cost information is contained in a negotiated contract between it and a LNG supplier and that disclosing the pricing information could harm both of their positions in negotiating future contracts for LNG. Therefore, the Company seeks protection for the pricing information as well as some savings information from which the pricing information may be determined.

We find that the information here regarding the prices in a negotiated contract are confidential commercial or financial information. Moreover, in that both the Company and the supplier have interests in protecting the information in order to protect their future bargaining positions and abilities to obtain the best prices, we conclude that they both have privacy interests in the information.

In its motion the Company does not identify any public interest implicated by this information. Much like the information about the Company's service providers, however, we find that there is a public interest in the information because it bears upon whether the Company is making cost-effective decisions in procuring its gas supplies. In weighing these interests, we find that the interests of the Company outweigh the interests of the public. Disclosing this information could harm the ability of the Company and its supplier to obtain the best prices for LNG, and could harm the Company's ability to make cost-effective decisions by hampering its bargaining position. Moreover, there is a redacted version of the response disclosing some information about the savings the Company has achieved. Accordingly, we grant confidential treatment to the information in Staff 1-15.

The Company next argues for confidential treatment of specific information in its response to Staff 1-61. In that response the Company identified certain aspects of a new office

supply contract with Staples, including information about a sign-on bonus to the Company. The Company seeks only to protect the amount of that bonus. Similar to the above, the Company contends that this supplier information should be protected from disclosure to protect the bargaining positions of the parties to the contract. Further, the Company contends that the information would not provide any insight to the public and therefore there is no public interest in the information. Similar to the analysis regarding Staff 1-15, we conclude that this is confidential commercial information in which the Company and Staples have a privacy interest. Moreover, we conclude that the public interest is slight. This is especially so since the Company is seeking to protect only the amount of the sign-on bonus and not the other aspects of the contract. In weighing these interests we conclude that the interests of the Company and Staples outweigh that of the public and that confidential treatment of the sign-on bonus in Staff 1-61 is warranted.

Next, the Company's motion seeks confidential treatment for information in Staff 1-80 relating to negotiated 2009 and 2010 rates for medical and dental employee plans at National Grid. According to the Company, it, and the medical and dental benefits providers with whom it deals, have privacy interests in the rates the Company pays for these plans and that disclosure would harm future bargaining prospects. Similar to the Company's previous requests we conclude that this is confidential commercial information in which the Company and its various providers have a privacy interest. Moreover, while the public does have an interest in the rates the Company pays for its services, we find that that interest is outweighed by the interest of the Company in maintaining a strong bargaining position with relation to these expenses. Accordingly, we grant confidential treatment to the rate information in Staff 1-80.

Staff 1-137 requested that the Company supply certain information relative to its account initiation process[1] and the study from Experian related to this process. National Grid requests that confidential treatment be accorded the proposed pricing information from Experian as included in Attachment Staff 1-137(b) to that response. Again, National Grid contends that disclosure will injure Experian's ability to effectively bid for future work and will harm the Company because it will disclose what the Company is willing to pay for such services. Further, the Company argues that disclosure would render it more difficult to contract with other parties in the future since confidentiality could not be assured.

Much like the information in the prior requests, we conclude that this is confidential commercial information in which the Company and Experian have a privacy interest. As to the public's interest, there is some value to the public in knowing the costs incurred by the Company in operating its business. In balancing the interests we find that the interests of the Company and Experian outweigh the interest of the public. In this instance, the attachments provided by the Company are extensive and cover the majority of the information exchanged between the Company and Experian and only the pricing information is to be protected. Thus, there is substantial information about the Company's processes and the pricing information will do little to enhance that understanding. Thus, we grant confidential treatment to the information in Staff 1-137.

In response to Staff 1-142 the Company provided information about the terms and conditions of a proposed sale of a portfolio of its bad debt. As part of that response, the

[1] The account initiation process, among other things, confirms customer identification, checks credit scores, and reviews potential arrearage amounts.

Company included the name of the potential buyer of that portfolio and, as Attachment 1-142(b), the proposed purchase agreement containing the negotiated terms of the sale. The sale was never made and the Company now seeks to protect the name of the potential buyer and the negotiated terms in the attachment. According to National Grid, it and the potential buyer entered the transaction with an expectation of privacy and disclosure could make it so that entities might be reluctant to deal with the Company in future instances. Additionally, the Company contends that "the fact that a potential purchaser sought to purchase a portfolio of bad debt from the Company but ultimately did not do so is demonstrative of a business strategy that competitors can evaluate and use to their competitive advantage." Motion at 22-23. Further, the Company argues that because the deal was never completed, and because the other company in the deal is not regulated by the Commission, there is a minimal public interest in the information.

While it appears clear that this is legitimately confidential commercial or financial information, it is less clear what the privacy interest is. As noted above, the privacy interest is to be measured objectively and not based upon the subjective expectations of the parties. *See Confidential Order* at 6. In this case, the fact that National Grid and the buyer had expected confidentiality is of limited relevance. More relevant, however, is the contention that there would be future harm to the Company and the potential buyer in disclosing the buyer's name and the negotiated terms of their deal because it would harm their future abilities to enter similar arrangements. As above, we find that this is a legitimate privacy interest, though not a strong one. Moreover, we are not convinced that this information, given the specific nature of the portfolio of bad debt at issue, is meaningfully demonstrative of a business strategy, the disclosure of which would result in particular harm to the Company or the buyer.

On the issue of the public interest, given that the Company was attempting to sell to a third party a collection of accounts making up a portion of its bad debt, there is a public interest in knowing how the Company managed the accounts and determined which ones were appropriate to shed to a third party for collection or other treatment.

Balancing these interests we find, that the interests of the Company and the buyer outweigh the public interest in disclosure. The primary reason for this conclusion is the fact that the deal was never closed and thus no sale was ever made. Therefore, the Company and the buyer did not have a contractual relationship for this sale and the information about the Company's customers as captured in that portfolio of bad debt was not shifted to a third party. Accordingly, there is little information to be gained about the functions of the Commission and its review of the Company by disclosing the name of the buyers and terms of a deal that never came to fruition. Accordingly, we grant confidential treatment as requested on Staff 1-142.

Staff 3-55 requested information about the Company's parent company's (National Grid plc in the United Kingdom) earnings per share targets and earnings per share performance for purposes of calculating the Company's incentive pay and gain sharing amounts. The Company seeks confidential treatment of the dollar amounts of the earnings per share targets and the actual earnings per share performances in this response. According to the Company this information is commercially sensitive and could cause it competitive harm by disclosing information to competitors about the Company's projections for its potential earnings. The Company also argues that it would provide investors with non-public information about the relationship of the Company's parent company's actual earnings and management's view of the Company's financial performance.

For the reasons outlined by the Company we conclude that information about the earnings per share targets is confidential commercial or financial information in which the Company has a legitimate privacy interest. This is particularly so where the public may obtain internal projections or analyses that are not properly public information from an investment perspective. Further, while there may be interest in the information from members of the public, we do not find that there is any real public interest at stake. While the public may have some interest in the amounts paid and the recovery of those amounts in the Company's rates, how these amounts are derived is of lesser import. In other words, there is little information to be gained by the public about the workings of the Commission through disclosure of the information. It is less clear what privacy interest exists relative to the actual earnings per share, which we understand is information available to the general investing public. It may be that because this information relates to the Company's ultimate corporate parent in the UK, it is not particularly informative about the earnings of the Company. Relevance, however, is not a determining factor in deciding confidentiality. The only privacy interest we are able to discern is that by knowing the actual earnings a person could, somehow, derive the target amounts, but there is no explanation of how that could be done. Thus, we do not find a privacy interest at stake. Additionally, there is no explanation of any harm that could result from the public being aware of information that is already public in another forum. Accordingly, we conclude that the information in Staff 3-55 relating to earnings per share targets is entitled to confidential treatment, but the information about the actual earnings per share is not.

In the course of the audit conducted in conjunction with the Company's rate filing, the Company responded to Audit Request 31 with information about internal audit reports. The

requested information consisted of detailed internal audits of the Company including the identification of certain operational matters. The Company seeks confidential treatment for the material contending that because disclosure of the information would provide competitors with detailed information about internal processes, it has a recognizable privacy interest in this commercial information. It further contends that the competitive harm that would result from disclosure would harm both the Company and ratepayers since ratepayers benefit from improvements the Company is able to make as a result of the internal audit process.

Initially, we conclude that the Company has a legitimate interest in the privacy of this commercial and competitively sensitive information. As pointed out by the Company, maintaining the privacy of these reports also encourages candid internal review, which would be lost if they are disclosed. As to the public interest, we find that there is a public interest in the internal evaluations of the Company that would allow the public to understand how the Company's internal measures comport with those of the Commission when making its varied analyses of the Company's performance. In balancing those interests, we find that the Company's interest outweighs that of the public. While there may be some benefit in understanding how the Company's measures compare to those offered to the Commission, these are ultimately the Company's internal analyses of its own performance and thus do not inform the public about the working of the government. Accordingly, we grant confidential treatment to the materials in Audit Request 31.

Lastly, National Grid seeks confidential treatment for certain information in Attachment FL-S1 to the supplemental testimony of Frank Lombardo. In that testimony, Mr. Lombardo identified various expatriate-related expenses that it would be removing from its proposed

revenue requirement. Specifically, pages 4 and 5 of Attachment FL-S1 contain itemized expenses with the name of various third-party rental agents. The Company is concerned that disclosure of the names of these agents could expose them to potential harassment. Also, the Company argues that disclosure could expose those individuals or entities with whom the rental agents dealt to harassment. According to the Company, since it is no longer seeking to recover this money, it is no longer relevant to the rate case and does not provide any meaningful information for the public.

This information is more in line with that of an invasion of privacy, rather than a disclosure of confidential commercial or financial information. As such, we apply the invasion of privacy standard. Under that analysis, we conclude that there is a privacy interest at stake in this information, though not a substantial one. While National Grid states that the third-party rental agents or those to whom they rented would be subject to possible harassment, it does not state why inclusion of these expenses would result in harassment. Mr. Lombardo's testimony indicates that these costs are relocation expenses, furniture rental, rent expense, and utility costs for certain employees which were paid directly by the Company. Pre-Filed Supplemental Testimony of Frank Lombardo at 4 of 5. He states that through the Company's review it became apparent that some costs should be borne by shareholders and not customers. Pre-Filed Supplemental Testimony of Frank Lombardo at 2 of 5. It would thus appear that the source of the harassment would be that initially customers were expected to bear various employee expenses to third parties that should not have been charged to customers. We find that those entities have a privacy interest at stake.

As to the public interest, the Company contends that since these expenses have been removed from the revenue requirement, there is no lingering public interest in them and disclosure would not inform the public about the government. We agree. Because these expenses have been removed from the rate case they are little different than any other expense that the Company assigns to shareholders as opposed to customers. Further, such expenses are not generally part of the Commission's review and, therefore, disclosing them will not aid the public in understanding the Commission's functions. Accordingly, we accord confidential treatment to the information on pages 4 and 5 of Attachment FL-S1 to the Supplemental Testimony of Frank Lombardo.

Based upon the foregoing, it is hereby

ORDERED, the motions for confidential treatment are granted as set forth above except to the extent that the information may have been publicly disclosed elsewhere since the motions were filed, and provided that, consistent with Puc 203.08(k), the ruling granting the motions for confidential treatment is subject to the Commission's on-going authority, on its own motion, on the motion of Staff, or on the motion of any member of the public, to reconsider the Commission's determination.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of March, 2011.

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WITH THE EXCEPTION OF DISCOVERY, FILE 7 COPIES (INCLUDING COVER LETTER) TO:

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