

THE STATE OF NEW HAMPSHIRE
before the
PUBLIC UTILITIES COMMISSION

Public Service Company of New Hampshire
Petition for Approval and Long Term and Short Term Debt

Docket No. DE 10-122

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE'S
MOTION FOR PROTECTIVE ORDER RE: FINANCIAL FORECAST

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 in the above-captioned matter. PSNH contends that the information is confidential business and financial information and should be protected from public disclosure.

In support of its Motion for Protective Order, PSNH says the following:

1. The data request STAFF Set No. 1, Q-STAFF-003 is as follows:

Question:

Reference page 16, Attachment 5, page 1 of 3. Please provide a copy of the 5-year forecast referenced in footnote (a). If there is a more recent 5-year forecast than the one used in preparing the May 3, 2010 filing, please submit a copy of that forecast.

2. Public disclosure (in this docket) of this material forward looking financial information could potentially implicate the Securities and Exchange Commission’s (“SEC’s”) prohibition against “Selective Disclosure” of material financial information. The SEC’s Selective Disclosure rule prohibits material financial information from being disclosed to selected individuals (e.g., any large institutional investors and hedge funds with substantial holdings in NU stock that may monitor the public filings in this docket) “before making full disclosure of the same information to the general public” via a public filing with the SEC. *See* 65 Fed. Reg. 51716, *Selective Disclosure and Insider Trading* (Aug. 24, 2000) (SEC Release Nos. 33-7881, 34-43154, IC-24599, File No. S7-31-99).

3. Although PSNH could potentially eliminate any violation of the SEC's Selective Disclosure rule by publicly filing this financial data with the SEC, that approach would solve one problem but create a new (and more substantial) problem: Neither PSNH, nor any other NU affiliate, nor any other company we are aware of, publicly discloses this type of, and quantity of, material forward looking financial information via an SEC filing. PSNH is understandably concerned about publicly disclosing this type of, and quantity of, data via an SEC filing because doing so would create substantial confusion among investors; and it could cause NU to spend an inordinate amount of time attempting to explain to investors what the financial data means and attempting to qualify the financial projections in order to limit NU's exposure to potential future legal claims from investors who could claim that they relied on this data (to their detriment) in connection with their decision to sell or purchase NU stock.

4. NU has sought and obtained protective treatment of similar information with respect to other NU operating companies and for the disclosure related reasons noted above seeks consistent treatment among NU affiliates.

5. Additionally, the information contained in PSNH's financial forecasts is confidential and competitive information which falls within the exemption from public disclosure of RSA 91-A:5, IV and N.H. Admin. Rules, Puc 204.06. The limited benefits of disclosing the information outweigh the harm done by disclosing the information.

6. No party or intervenor to this proceeding will be prejudiced by the protection of this information because each such party can obtain access to this data (on a confidential basis) in accordance with the terms of a Protective Order in this docket. Federal securities law prohibits the parties and intervenors in this docket (who obtain access to this data pursuant to a Protective Order) from using this material non-public data to influence decisions to sell or purchase shares of NU stock.

7. 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).

8. PSNH does not circulate financial forecasts widely within the Company and such analyses are not disclosed outside of PSNH. The Commission has previously afforded protective treatment to financial forecasts and projected earnings finding such information exempted from public disclosure pursuant to RSA 91-A:5, IV and N.H. Admin. Rules, Puc 204.06. *Re: PSNH*, Docket No. DE 98-016, Order No. 22,923, slip op. at 2-3. Further, the Commission has recognized that the protection of this type of information was specifically contemplated when N.H. Admin. Rules, Puc 204.06 was adopted. *Id.* at 2.

WHEREFORE PSNH respectfully requests the Commission issue an order preventing the public disclosure of responses of the above-noted Data Requests, and to order such further relief as may be just and equitable.

Respectfully submitted,
Public Service Company of New Hampshire

7/16/10
Date

By: Catherine E. Shively
Catherine E. Shively
Senior Counsel

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.

7/16/10
Date

Catherine E. Shively
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