

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

DG 18-103

NORTHERN UTILITIES, INC.

**PETITION FOR AUTHORITY TO OPERATE AS A
PUBLIC UTILITY IN THE TOWNS OF ATKINSON AND KINGSTON**

**MOTION FOR CONFIDENTIAL TREATMENT
AND PROTECTIVE ORDER**

Pursuant to N.H. Admin. Rule Puc 203.08, Northern Utilities, Inc. (“Northern” or the “Company”) respectfully requests that the New Hampshire Public Utilities Commission (the “Commission”) issue a protective order which accords confidential treatment to certain information described below. In support of this Motion, Northern states as follows:

1. In this proceeding, Northern requested authorization from the Commission pursuant to RSA 374:22 and :26 to provide natural gas service as a public utility in the Town of Kingston and for an expansion of its existing authority to provide natural gas service as a public utility in the Town of Atkinson. The Commission granted the Company’s request in Order 26,178 dated October 3, 2018 (the “Order”). In its Order, the Commission also granted the Company’s Motion for Confidential Treatment in connection with its discounted cash flow (“DCF”) analyses that it developed and used to evaluate the Atkinson and Kingston expansion projects. Order 26,178 at 15. Northern now requests that the Commission extend the previously granted confidential treatment to the Company’s updated DCF analysis for the Atkinson expansion, which the Company is providing in compliance with Order 26,178. As stated in the

Company's initial motion, public disclosure of this information could cause significant harm to Northern and its customers.

2. Commission Order 26,178 directed the Company to "file actual costs and revenues for the first year of operation and an updated DCF analysis within 30 days following the first year of operations, with actual costs and revenue margins for the first year and estimated costs and margins for the following four years." Consistent with this direction, the Company is submitting the required information with respect to the Atkinson expansion, which was gassed on May 24, 2019.

3. Updated Exhibit CC-6, the Atkinson DCF model, is a proprietary Excel workbook containing the DCF analysis developed by the Company to assess the financial viability of the Atkinson expansion projects. The Company's DCF analyses are competitively sensitive commercial information that would place Northern and its customers at a competitive disadvantage if they were disclosed publicly. Northern safeguards this information and does not disclose it to anyone outside of its corporate organization and its authorized representatives. As such, the information in Exhibit CC-6 is entitled to be protected from public disclosure under RSA 91-A:5, IV.

4. Release of the above-described confidential information would likely result in commercial harm to Northern and its customers as the Company's competitors could use the information to Northern's disadvantage. Northern competes against providers of alternative energy suppliers, including fuel oil and propane, as well as other suppliers of natural gas delivered by traditional and non-traditional methods.

5. In determining whether confidential, commercial or financial information within the meaning of RSA 91-A:5, IV is exempt from public disclosure, the Commission employs the

analysis articulated in *Lambert v. Belknap County Convention*, 157 N.H. 375(2008) and *Lamy v. NH Public Utilities Commission*, 152 N.H. 106 (2005). Under this analysis the Commission first determines “whether the information is confidential, commercial or financial information, ‘and whether disclosure would constitute an invasion of privacy.’” *Unitil Energy Systems, Inc.*, DE 10-055, Order No. 25,214 (April 26, 2011), p. 35. If a privacy interest is implicated, the Commission then balances the asserted private confidential, commercial or financial interest against the public’s interest in disclosure in order to determine if disclosure would inform the public of the government's conduct. *Id.* If it does not, then “disclosure is not warranted.” *Id.*

6. The above-described information meets the foregoing test. For the reasons presented above, all of the information is confidential, commercial or financial, and disclosure of it would pose harm and constitute an invasion of privacy. Northern routinely safeguard this information to protect its position in the competitive marketplace. Moreover, Northern has invested time and resources developing its proprietary DCF analysis that was used to assess the viability of the Atkinson expansion project. To avoid the possibility of “reverse engineering” the Company’s DCF model, Northern proposes to file that analysis under a protective order and only in electronic format. Public disclosure of the DCF model and the other information described herein would provide Northern’s competitors with a competitive advantage, thereby resulting in harm to Northern and its customers. Release of this confidential information would not inform the public of the government's conduct.

7. Because Northern’s private, confidential, commercial and financial interests outweighs the public's interest in disclosure, the information should be protected as disclosure will not inform the public of the government's conduct.

8. Northern requests that the Commission issue an order protecting the above-

described information from public disclosure and prohibiting copying, duplication, dissemination or disclosure of it in any form. The Company requests that the protective order also extend to any discovery, testimony, argument and briefing relative to the confidential information.

For the reasons stated above, Northern respectfully requests that the Commission:

- A. Issue an appropriate order that exempts from public disclosure and otherwise protects the confidentiality of the documents and information identified herein; and
- B. Grant such additional relief the Commission deems just and appropriate in the circumstances.

Respectfully submitted,

Northern Utilities, Inc.

By Its Attorney,



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Dated: June 23, 2020

Certificate of Service

I hereby certify that on this 23rd day of June, 2020, a copy of this Motion has been sent by electronic mail to the New Hampshire Office of Consumer Advocate.

Dated: June 23,2020



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