

**STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION**

Public Service Company of New Hampshire d/b/a Eversource Energy

Docket No. DE 19-057

MOTION FOR CONFIDENTIAL TREATMENT AND PROTECTIVE ORDER

Public Service Company of New Hampshire d/b/a Eversource Energy, (“PSNH” or the “Company”) respectfully requests, pursuant to Puc 203.08 and RSA 91-A, that the New Hampshire Public Utilities Commission (“Commission”) grant confidential treatment and issue an appropriate protective order to protect from public disclosure certain confidential information provided by the Company in this proceeding. Specifically, the Company requests that the Commission issue an order requiring confidential treatment for pricing information provided in Attachment PMC-1 (Perm), because that information is the product of confidential negotiations and represents competitively sensitive information. In support of this motion, the Company states as follows:

1. As part of a “full rate case” as defined in the Commission’s Puc 1600 rules, a petitioning utility is required to file a number of documents with its rate case, including written direct testimony. *See* Puc 1604.02(a).

2. The Company has included the written direct testimony of Penelope M. Conner as part of its rate case filing in the instant proceeding. Along with Ms. Conner’s testimony, the Company has provided a copy of a Third-Party Payment Processing Agreement as an attachment. That document is marked as Attachment PMC-1 (Perm) in the filing. That agreement sets out the terms and conditions under which the Company’s

counter party, SpeedPay, Inc., would provide the services necessary to offer credit/debit card transactions to the Company's residential customers on a "fee free" basis, if the Company's proposal for that service is approved. Included with that agreement are certain pricing terms relating to the service SpeedPay is proposing to supply. PSNH is requesting that those pricing terms be granted confidential treatment in this proceeding.

3. Attachment PMC-1 (Perm) is the product of negotiations between the contracting parties and contains confidential pricing information that was never intended to be made public. The Company has diligently reviewed and redacted only those limited portions of Attachment PMC-1 (Perm) that contain confidential and commercially valuable pricing information. If the Commission permitted public disclosure of this information, both the Company and third-party vendors would be at a disadvantage in the negotiations of future similar agreements with other parties and any future negotiating positions would be compromised by such a release. Accordingly, the Company requests that the pricing information designated as confidential in Attachment PMC-1 (Perm) be protected from public disclosure. The Company has submitted redacted and confidential versions of Attachment PMC-1 (Perm) consistent with the requirements of Puc 201.04.

4. Pursuant to RSA 91-A:5, IV, records that constitute confidential, commercial, or financial information are exempt from public disclosure. In determining whether documents are entitled to the exemption, the Commission applies a three-step analysis to determine whether information should be protected from public disclosure. *See Lambert v. Belknap County Convention*, 157 N.H. 375 (2008); *see also Public Service Company of New Hampshire*, Order No. 25,313 (December 30, 2011) at 11-12. The first step is to determine if there is a privacy interest at stake that would be invaded by the

disclosure. If such an interest is at stake, the second step is to determine if there is a public interest in disclosure. The Commission has stated that disclosure should inform the public of the conduct and activities of its government; if the information does not serve that purpose, disclosure is not warranted. *Electric Distribution Utilities*, Order No. 25,811 (September 9, 2015) at 5. If both of these steps are met, the Commission balances the privacy interest with the public interest to determine if disclosure is appropriate. *Public Service Company of New Hampshire*, Order No. 25,167 (November 9, 2010) at 11-12.

5. The Company has a substantial privacy interest in Attachment PMC-1 (Perm), and, in particular, the specific confidential pricing terms for which protection is sought. The Company takes all reasonable measure to keep this pricing information out of the public domain. The release of vendor pricing information that was the result of negotiations would seriously undermine the Company's negotiating position in the market in the future, and thus jeopardize the ability of the Company to ensure that customers are being served by the lowest cost option from the widest possible array of vendors and service providers. The Commission has recognized this concern and has previously granted confidential treatment to information that, if disclosed, will put the moving party at a disadvantage in future negotiations. *See e.g., Abenaki Water Co. Inc.*, Order No. 25,945 (September 26, 2016) at 7; *National Grid plc, et al.*, Order No. 24,777 (July 12, 2007) at 86 ("If public disclosure of confidential, commercial or financial information would harm the competitive position of the person from whom the information was obtained, the balance would tend to tip in favor of non-disclosure"). Furthermore, the release of the confidential pricing information could result in third-party vendors determining not to bid on the Company's future requests for proposals ("RFPs") because

of the competitive disadvantages that might arise from potential public disclosure. *See, e.g., Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty Utilities*, Order No. 26,209 (January 17, 2019) at 43-44 (finding that vendor pricing information provided to Liberty was confidential because, in part, the vendor considered the information highly confidential and competitively sensitive).

6. The second criterion of the Commission's analysis is whether there is a public interest in disclosure. This motion seeks protection of only those very limited portions of Attachment PMC-1 (Perm) that contain pricing information and the remainder of the document is being filed in the public record. A confidential version of Attachment PMC-1 (Perm) is provided to Commission Staff, and the Office of the Consumer Advocate, which allows the pricing information to be subject to investigation and scrutiny. Thus, even with the limited redactions proposed by PSNH there is ample opportunity to understand the Company's proposals and the Commission's activities relative to it.

7. As to the final requirement of the Commission's analysis, balancing the relevant public and private interests, there is strong potential that it would be commercially damaging to the Company and its vendor if the confidential pricing terms in Attachment PMC-1 (Perm) were disclosed in the public record. Moreover, as stated above, the public interest in obtaining the lowest possible cost through competitive RFPs and a confidential negotiation process outweighs the interest in public disclosure and ultimately redounds to the benefit of customers. *EnergyNorth Natural Gas, Inc.*, Order No. 25,064 (January 15, 2010) at 12 (“[D]isclosing the information may place the Company and its service providers at a disadvantage with respect to those with whom it would do business, ultimately causing harm to the Company's ratepayers in future rate cases.”).

WHEREFORE, the Company respectfully requests that the Commission grant this Motion and issue an appropriate protective order.

Respectfully submitted this 28th day of May 2019.

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE d/b/a Eversource Energy

By its Attorney,



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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list in this proceeding.

Dated at Manchester, New Hampshire this 28th day of May 2019.



Matthew J. Fossum