

REDACTED

State of New Hampshire  
Public Utilities Commission

**Docket No. DE 19-064**

**LIBERTY UTILITIES (GRANITE STATE ELECTRIC) CORP.  
d/b/a LIBERTY UTILITIES**

**Distribution Service Rate Case**

**Motion for Protective Order Related to Discovery Response to Staff 2-3**

Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty Utilities, through counsel, respectfully moves the Commission pursuant to Puc 203.08 for a protective order preserving the confidentiality of a single data response provided during discovery related to the first step adjustment in this matter, which is scheduled for hearing on June 22, 2020.

In support of this motion, Liberty represents as follows:

1. Liberty notified the parties pursuant to Puc 203.08 to consider portions of the response to Staff 2-3 to be confidential without then filing a motion. The rule allows such a claim of confidentiality:

In lieu of immediately filing a motion for confidential treatment, a party providing a document to the commission staff in discovery that the party wishes to remain confidential shall accompany the submission with a written statement that:

(1) The party submitting such documents has a good faith basis for seeking confidential treatment of the documents pursuant to this rule; and

(2) Such party intends to submit a motion for confidential treatment regarding such documents at or before the commencement of the hearing in such proceedings.

Puc 203.08(d).

2. The rule requires the party asserting confidentiality to file a motion to ensure the documents remain confidential:

Documents submitted to the commission or staff accompanied by a written statement pursuant to (d) shall be treated as confidential, provided that the party submitting the documents thereafter files a motion for confidential treatment at or prior to the commencement of the hearing in the proceeding.

Puc 203.08(e).

3. Liberty thus files this motion for confidential treatment of portions of the response to Staff 2-3, which requested updated information which may bear on the Company's "plan to build the 115kV system and the continued expansion and additions to Golden Rock Substation."

4. The Company's response stated that, based on load already in service, load to be on line in 2020, and projected load in future years, (1) the expected load of the South parcel of the Tuscan development remains at 14-15 MW, (2) the expected load of the North parcel of the Tuscan development has increased from 2 MW to 4 MW, and (3) an existing nearby non-Tuscan customer plans for an expansion that will add 3 MW of load. Confidential and redacted versions of the response are attached to this motion.

5. In providing supporting details to support the above information, the response to Staff 2-3 gives the names of existing customers and their planned and actual loads. Such consumption information associated with a specific customer constitutes confidential customer information protected from disclosure pursuant to RSA 363:37, 363:38, and RSA 91-A:5, IV.

6. RSA 363:37 defines "Individual customer data" to include "information that is collected as part of providing electric, natural gas, water, or related services to a customer that can identify, singly or in combination, that specific customer, including the name, address, account number, quantity, characteristics, or time of consumption by the customer" (emphasis added). RSA 363:38 precludes utilities from disclosing "individual customer data" without the customer's permission.

7. RSA 91-A:5, VI, more generally protects "confidential, commercial, or financial information," of which "individual customer data" is a subset.

8. The rule requires a motion for confidential treatment to contain “a detailed description of the types of information for which confidentiality is sought,” reference to the legal support for confidentiality, a “statement of the harm that would result from disclosure,” and “any other facts relevant to the request for confidential treatment.” Puc 203.08(b). That information is provided above.

9. The Commission recently described its analysis of requests for confidential treatment of discovery responses:

RSA Chapter 91-A ensures public access to information about the conduct and activities of government agencies or “public bodies” such as the Commission. Disclosure of records may be required unless the information is exempt from disclosure under RSA 91-A:5. Among other types of information, RSA 91-A:5, IV exempts “confidential, commercial, or financial information.” The party seeking protection of the information has the burden of proving that confidentiality and/or privacy interests outweigh the public’s interest in disclosure. *Grafton County Attorney’s Office v. Canner*, 169 N.H. 319, 322 (2016). Puc 203.08(b) requires a motion for confidential treatment to include, among other things, a “[s]pecific reference to the statutory or common law support for confidentiality” and a “detailed statement of the harm that would result from disclosure.” Liberty asserted a confidentiality interest, which requires Liberty to “prove that disclosure is likely to: (1) impair the information holder’s ability to obtain necessary information in the future; or (2) cause substantial harm to the competitive position of the person from whom the information was obtained.” *Hampton Police Ass’n, Inc. v. Town of Hampton*, 162 N.H. 7, 14 (2011). The benefits of disclosure to the public are then weighed against the interest(s) in nondisclosure. *See id.*

Order No. 26,352 at 3 (April 30, 2020).

10. After review of the response to Staff 2-3, the law supporting its confidentiality, and the balancing of the “benefits of disclosure to the public” against “the interests in nondisclosure,” the Company respectfully asks the Commission to find the above information warrants confidential treatment.

WHEREFORE, Liberty respectfully requests that the Commission:

- A. Grant confidential treatment to the marked portions of the Company's response to Staff 2-3; and
- B. Grant such other relief as is just and equitable.

Respectfully submitted,

Liberty Utilities (Granite State Electric) Corp. d/b/a  
Liberty Utilities



Date: June 18, 2020

By:

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Certificate of Service

I hereby certify that on June 18, 2020, a copy of this Motion has been electronically forwarded to the service list in this docket.



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Michael J. Sheehan