

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Docket No. DG 19-152

NORTHERN UTILITIES, INC.

MOTION FOR PROTECTIVE ORDER AND CONFIDENTIAL TREATMENT

NOW COMES Northern Utilities, Inc. (“Northern”), by and through its undersigned attorneys, and, pursuant to RSA 91-A:5, IV and N.H. Admin. Rule Puc 203.08(b), respectfully moves the New Hampshire Public Utilities Commission (“the Commission”) to issue a protective order which accords confidential treatment to certain information described below and submitted herewith. In support of this Motion, Northern states as follows:

1. In Order No 26,308 in the above-captioned docket, the Commission approved a five-year extension of a special contract between Northern Utilities, Inc. (“Northern” or the “Company”) and National Gypsum, with up to three self-executing one-year additional extensions. DG 19-152, Order No. 26, 308 at 7 (November 13, 2019). The Order directed Northern “to file updates of the special contract rate and marginal cost analyses with the Commission seven months prior to the commencement of the first of three self-executing extensions.” Id. The Company is making the required filing contemporaneous with this motion.

2. Northern’s filing includes the Company’s updated marginal cost of service analyses (Schedules CGMS-1 and CGMS-2). Pursuant to N.H. Admin. Rule Puc 203.08 (b) and (f) and Puc 201.04 (c), Northern has submitted confidential, unredacted copies of the above-referenced documents for which confidential treatment is sought and has highlighted the portions of the

confidential copies that have been redacted in the publicly-filed versions of the documents. The above-referenced schedules, as well as corresponding information in the accompanying Technical Statement, contain competitively sensitive commercial information which Northern does not disclose to anyone outside of its corporate organization or its authorized representatives. As such, the information is entitled to be protected from public disclosure under RSA 91-A:5, IV.

3. Northern seeks to exempt portions of the above-referenced schedules from disclosure on the public record of this docket in order to protect Northern's competitive position and to protect the Customer's competitive position. Release of the above-described confidential information would likely result in harm to Northern in the form of being disadvantaged in its bargaining position with other customers seeking special contracts who have alternative service options, whether through bypass or from alternative energy sources. Public disclosure of the confidential information would also impair Northern's future bargaining position and thus its ability to obtain the maximum possible contribution to fixed costs. Additionally, disclosure of the information would provide Northern's competitors all of the information they would need to undercut Northern in its customer-specific proposals.

4. 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. N.H. 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.*

5. 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. Because such disclosure will not inform the public of the government's conduct, the information should be protected.

6. The Commission has already granted confidential treatment to the type of information included in Schedules CGMS-1 and CGMS-2 and the Technical Statement in this docket. DG 19-152, Order No. 26,308 at 6-7. Moreover, the Commission has previously issued protective orders for the same or very similar confidential information submitted with the original special contract between Northern and National Gypsum in Docket DG 99-123, the Second Amendment of Agreement and the Third Amendment of Agreement. *See Re Northern Utilities, Inc.*, DG 99-123, Order No. 23,313, 84 NH PUC 529 (Oct. 5, 1999); *Re Northern Utilities, Inc.*, DG 09-201, Order No. 25, 047 (Nov. 25, 2009); *Northern Utilities, Inc.*, DG 11-231, Order No. 25,306 (Dec. 22, 2011).

7. 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.

WHEREFORE, Northern respectfully requests that the Commission:

A. Issue an appropriate order that exempts from public disclosure and otherwise protects the confidentiality of the information designated confidential contained in the documents submitted herewith;

B. Grant such additional relief as it deems appropriate.

Respectfully submitted,
NORTHERN UTILITIES, INC.



Patrick H. Taylor
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Unitil Service Corp.
Attorney for Northern Utilities, Inc.

Certificate of Service

I hereby certify that on this 30th day of April, 2024, a copy of the foregoing Motion was served electronically upon the Office of Consumer Advocate.



Patrick H. Taylor