

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

DE 21-104

NORTHERN UTILITIES, INC.

**MOTION FOR PROTECTIVE ORDER
AND CONFIDENTIAL TREATMENT**

NOW COMES Northern Utilities, Inc. (“Northern” or the “Company”) and, pursuant to NH RSA 91-A:5, IV and N.H. Code of Administrative Rules (“N.H. Admin. Rules”) Puc 203.08, respectfully moves the New Hampshire Public Utilities Commission (“Commission”) to issue a protective order which accords confidential treatment to information contained in Settlement Attachment 1 filed with the Settlement Agreement among Northern Utilities, Inc., the Department of Energy, and the Office of the Consumer Advocate. Specifically, Settlement Agreement Attachment 1 contains sensitive financial and pricing information related to a customer special contract contained in Northern’s revenue requirement Workpapers 1.1 and 1.2. Northern has filed this information with the Commission and submitted it to the Department of Energy and the Office of Consumer Advocate with the understanding it will be maintained as confidential until the Commission rules on the within Motion.

In support of this Motion, Northern states as follows:

I. Standard of Review

1. In determining whether confidential, commercial or financial information within the meaning of RSA 91-A:5, IV is exempt from public disclosure, the Commission applies a three-step balancing test to determine whether a document, or the information contained

within it, falls within the scope of RSA 91-A:5, IV. *Northern Utilities, Inc.*, DG 17-070, Order No. 26,129 at 15 (May 2, 2018) (citing *Liberty Utilities (EnergyNorth) Natural Gas Corp.*, Order No. 26,109 at 23 (March 5, 2018)). First, the Commission inquires whether the information involves a privacy interest and then asks if there is a public interest in disclosure. *Id.* Then the Commission balances those competing interests and decides whether disclosure is appropriate. *Id.* When the information involves a privacy interest, 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. *Id.*

II. Special Contract Revenue Adjustment (Settlement Attachment 1, Workpapers 1.1 and 1.2)

1. Settlement Agreement Attachment 1 comprises revenue requirement schedules and workpapers updated to reflect the permanent rate revenue requirement agreed upon by the parties to the Settlement Agreement. Northern's workpapers supporting the schedules, Workpapers 1.1 and 1.2, contain sensitive and confidential commercial and financial information including pricing and cost information from the Company's special contracts as well as customer usage data. Specifically, Workpapers 1.1 and 1.2 contain confidential special contract rates, including customer charges and monthly fixed charges, customer usage by term, and special contract revenues.

2. Northern seeks to protect this information from public disclosure in order to protect Northern's competitive position as well as that of the Customer. Release of the above-described confidential information would likely result in harm to the Customer in that it would divulge sensitive and confidential commercial and financial information that the Customer would not otherwise disclose. This information would be of interest to competitor entities and may be utilized to gain a superior competitive position over the Customer.

Furthermore, Northern seeks to protect this information from public disclosure in order to protect Northern's competitive position. Release of the above-described confidential information would likely result in harm to Northern in the form of being disadvantaged in price negotiations with customers or potential customers who have alternative options, whether from bypass, alternative fuel supplies, or from direct competitors. Public knowledge of the confidential information would impair Northern's future bargaining positions and thus its ability to obtain the maximum possible contribution to fixed costs. Northern must be able to maximize such contributions to fixed costs as this benefits its firm ratepayers.

3. Northern filed a motion in connection with similar information as part of its initial filing in the above-captioned docket. That motion remains pending before the Commission.

4. The Commission has previously evaluated and granted confidential treatment to the information that is similar or identical to the information contained in Workpapers 1.1 and 1.2. See DG 17-070, Order No. 26,129 at 16. The Company urges the Commission to reach the same conclusion in this case.

III. Conclusion

5. Northern is providing the confidential information described herein directly to the Office of Consumer Advocate (“OCA”), as required by RSA 363:28,VI. Provision of these materials to the OCA offers assurance to the public that this information will be subject to investigation, discovery and analysis by that office, as well as by the Department of Energy, and that the results of such review will be provided to the Commission for its consideration.

6. 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. Northern requests that the protective order also extend to any discovery, testimony, argument or briefing relative to the confidential information.

WHEREFORE, Northern respectfully requests that the Commission:

A. Issue an appropriate order that exempts from public disclosure and otherwise protects as requested above the confidentiality of the above-described information designated confidential submitted herewith; and

B. Grant such further relief as may be just and appropriate.

Respectfully submitted

NORTHERN UTILITIES, INC.

By its Attorney:



Dated: May 27, 2022

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Certificate of Service

I hereby certify that on May 27, 2022, a copy of the foregoing Motion was electronically served upon the service list in the above-captioned docket.



Patrick H. Taylor