

DE 02-007

GRANITE STATE ELECTRIC COMPANY

Transition Service Filing

Order Granting Motion For Confidential Treatment

O R D E R N O. 23,953

April 19, 2002

I. PROCEDURAL HISTORY

On January 15, 2002, Granite State Electric Company (GSEC) filed with the New Hampshire Public Utilities Commission (Commission) a request for an extension and/or modification of its transition service offering. In the filing, the Company presented the Commission with two alternatives for service to customers remaining on transition service at the expiration of the current transition service offering.

As a result of the filing, the Commission staff and the Governor's Office of Energy and Community Services (GOECS) asked discovery requests of both GSEC and Constellation Power Source Inc. (Constellation). GSEC indicated a need to keep confidential a response to one of Staff's questions.

On March 28, 2002, GSEC formally filed a Motion for Confidential Treatment regarding its response to Staff's Data Request 1-3 (requesting information regarding Constellation's standard offer prices and default services prices included in

agreements with GSEC's affiliates), pursuant to Puc 203.04 and 205.06. The parties to the agreements have agreed to maintain the confidentiality of the information Staff requested in Data Request 1-3.

II. COMMISSION ANALYSIS

N.H. Admin. Rule Puc 204.06 provides that "the Commission shall grant confidentiality upon its finding that the documents sought to be made confidential are within the exemptions permitted by RSA 91-A:5,IV, or other provisions of law based on the information submitted. . . ." At issue here is exception to the general rule of public disclosure, which provides for "confidential, commercial or financial information." RSA 91-A:5, IV. Interpreting this provision, the New Hampshire Supreme Court has instructed agencies of state government to interpret this exemption narrowly, applying a balancing test in order to determine whether "the asserted private, confidential, commercial or financial interest" is outweighed by "the public's interest in disclosure." *Union Leader Corp. v. New Hampshire Housing Fin. Auth.*, 142 N.H. 540, 552-53 (1997). We applied this balancing test to determine if confidential treatment is appropriate in the matter of Staff Data Request 1-3. In *Re Granite State*

Electric Company, 84 NH PUC 310, 311 (1999), the Commission found that similar information contained in an unredacted copy of a transition service supply contract between the parties contained "commercially sensitive terms and proprietary, and . . . the information, if made public, would create a competitive disadvantage that outweighs the benefit to the public disclosure." Based on GSEC's representations, and there being no objection from any other party, under the balancing test we have applied in this case and in prior cases, we find that the benefits to the Company of non-disclosure in this case outweigh the benefits to the public of disclosure. The information, therefore, is exempt from public disclosure pursuant to RSA 91-A:5,IV and Puc 204.06.

Based upon the foregoing, it is hereby

ORDERED, that the Motion for Confidential Treatment with respect to information provided in response to Staff Data Request No. 1-3 is APPROVED; and it is

FURTHER ORDERED, that the determination as to protective treatment made herein is subject to the ongoing authority of the Commission, on its own motion or on the motion of Staff, any party or any other member of the public,

to reconsider this Order in light of RSA 91-A, should
circumstances so warrant.

By order of the Public Utilities Commission of New
Hampshire this nineteenth day of April, 2002.

Thomas B. Getz
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Kimberly Nolin Smith
Assistant Secretary