

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

**UNITIL CORPORATION
AND
NORTHERN UTILITIES, INC.**

DG 08-048

MOTION FOR PROTECTIVE ORDER

Now comes Northern Utilities, Inc. ("Northern" or "the Company"), and respectfully requests that the New Hampshire Public Utilities Commission ("Commission") grant a protective order for certain confidential information submitted in this proceeding, consistent with R.S.A. 91-A:5(IV) and N.H. Admin. Rules, Puc 204.06. Specifically, the Company requests confidential treatment for its response to the following information requests: (1) Staff 1-6, which requests a copy of the Seller Disclosure Schedule appended to the Purchase and Sale Agreement ("PSA") with Unitil Corporation ("Unitil"); and (2) Staff 1-7, which seeks the engagement contract and confidential timeline between NiSource Inc. ("NiSource") and Blackstone Group ("Blackstone"). For the solicitation, Blackstone was the financial advisor and marketing consultant for NiSource, Bay State Gas Company ("Bay State") and Northern. The information in Staff 1-6 and Staff 1-7 should be protected from public disclosure because this information constitutes a highly sensitive business secret.

Notwithstanding this request for an order protecting the information from public disclosure, Northern will make such information available to the Consumer Advocate ("OCA") and the Commission Staff consistent with the requested Protective Order. Northern will also make the material available to the OCA and the Commission Staff's consultants, as well as other parties upon their execution of a mutually agreeable non-disclosure agreement and certification, consistent with the requested protective order.

In support of this Motion, Northern would state as follows.

1. The Sellers' Disclosure Schedule ("SDS"), provided in response to Staff 1-6, is part of the PSA and reflects the sale terms between Unitil and Northern on the one hand, and Unitil and Granite on the other. Granite has asserted that this schedule reflects confidential information that belongs to it and therefore such information is appropriately protected from disclosure. Moreover, because of the disclosures necessary in the good faith bargaining inherent in this kind of transaction, the SDS provides specific details regarding litigation undertaken by Northern and /or Granite. Disclosing the contents may undermine Northern's or Granite's bargaining position in future litigation and put the interests of each Company at risk.

2. The Blackstone Group ("Blackstone") engagement letter and addendum, along with the illustrative timeline for the transaction, provided in response to Staff 1-7, reflect the private, commercially sensitive bilateral negotiations that were undertaken between NiSource and Blackstone. Moreover, the timeline constitutes the intellectual property of and consultative expertise of the Blackstone Group. At all times, the advice and counsel provided by Blackstone to NiSource, Bay State and Northern with regard to the sale of Northern was confidential, closely held, material non-public information and was not disclosed outside a limited number of managers and executives. It is commercially sensitive information that should be protected in order to protect the interests of NiSource, Bay State, Northern and Blackstone.

3. Each piece of information for which Northern seeks protection constitutes a highly sensitive business secret of the type that is not disclosed and that should not be disclosed to the public.

4. R.S.A. 91-A:5(IV) expressly exempts from the public disclosure requirements of the Right-to-Know law, R.S.A. 91-A, any records pertaining to "confidential, commercial or financial information." The Commission's rule on confidential treatment of public records, Puc 204.06, also recognizes that confidential, commercial or financial information may be appropriately protected from public disclosure pursuant to an order of the Commission.

5. Northern's request for a protective order is not inconsistent with the public disclosure requirements of the Right-to-Know law, R.S.A. 91-A. This statute generally provides open access to public records but specifically recognizes that "records that would be within the scope of a privilege against discovery or used as evidence recognized by the court" may be protected from public disclosure. The determination whether to disclose confidential information involves a balancing of the public's interest in full disclosure with the countervailing commercial or private interests for non disclosure. Union Leader v. New Hampshire Housing Finance Authority, 142 N.H. 540 (1997).

6. The commercial and financial interests set forth herein sufficiently outweigh the public interest in full disclosure. Moreover, Northern's request assures access, subject to protection, for the Commission Staff, the OCA, and the Staff's or the OCA's consultants consistent with the requested protective order.

7. Pursuant to N.H. Code Admin. Rule Puc 203.04(e), Northern will report by separate letter whether assent is provided by the Commission staff and OCA to this request.

WHEREFORE, Northern respectfully requests that the New Hampshire Public Utilities Commission issue an order protecting the confidential information specified herein from public disclosure.

Respectfully submitted,
NORTHERN UTILITIES, INC.

By its attorney,


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