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THE STATE OF NEW HAMPSHIRE



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July 23, 2009

Debra A. Howland  
Executive Director  
New Hampshire Public Utilities Commission  
21 S. Fruit St., Suite 10  
Concord, New Hampshire 03301



Re: DM 09-080, Buckley Energy Group, Ltd. d/b/a Santa Buckley Energy  
Registration as Competitive Natural Gas Supplier  
Motion for Confidential Treatment

Dear Ms. Howland:

On April 27, 2009, Buckley Energy Group, Ltd. d/b/a Santa Buckley Energy (Santa Buckley Energy) applied for registration with the Commission as a competitive natural gas supplier pursuant to N.H. Code Admin. Rules Puc 3000. On May 21, 2009, a Secretarial Letter approving the application was issued. On July 1, 2009 Santa Buckley Energy filed a motion pursuant to Puc 203.08 for confidential treatment of the financial information submitted with its application.

The information for which Santa Buckley Energy seeks confidential treatment is the combined audited financial statements of its parent corporation, Santa Energy Corporation, and its operating subsidiaries, including Santa Buckley Energy. This information was submitted to the Commission as required by the registration requirement in Puc 3003.01(b)(2)e. Santa Buckley Energy states that its parent is a private company which does not, generally, disclose its financial information. Further, Santa Buckley Energy contends that this information is confidential financial information entitled to protection under RSA chapter 91-A, the Right-to-Know law, and that it would be placed at a competitive disadvantage by disclosure of the information.

Commission Staff has reviewed the information submitted, which consists of the combined financial statements of the parent and subsidiary corporations, including information on relevant internal accounting policies, financing arrangements, leases, and other similar information about the internal financial practices of the companies. It also explains, in some detail, the nature of the companies' credit arrangements and cash flows.

Under RSA 91-A:5, IV records of “confidential, commercial or financial information” are exempted from disclosure and the New Hampshire Supreme Court has supplied a balancing test for determining whether certain documents meet this designation. *See, e.g., Union Leader Corp. v. N.H. Housing Fin. Auth.*, 142 N.H. 540, 552-54 (1997); *Lambert v. Belknap County Convention*, 157 N.H. 375, 382-83 (2008). Applying the standards from these cases, Staff has concluded that the information meets the definition of confidential, commercial, or financial information in RSA 91-A:5, and is, therefore, entitled to exemption from public disclosure. The information is the private financial information of private companies which is not generally subject to disclosure. Thus, there is a privacy interest at stake. *See Lambert*, 157 N.H. at 382-83. Moreover, disclosing this information will provide little, if any, information to the public about the conduct or activities of the government. *See id.* at 383. Finally, in balancing the interests of the public in disclosure with the interests in non-disclosure it appears that disclosing this information will harm the companies’ competitive position by revealing its financial standing, while providing relatively little information to the public. *See id.* This is especially the case given that the information is a combined statement of numerous companies and is, therefore, only minimally probative of the financial standing of Santa Buckley Energy.

Accordingly, for the reasons stated, Staff recommends that the Commission issue a Secretarial Letter or order, as it deems appropriate, granting the motion of Santa Buckley Energy for confidential treatment of the financial statements submitted with its registration in DM 09-080.

Sincerely,



Matthew J. Fossum  
Staff Attorney/Hearings Examiner