STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Re: EnergyNorth Natural Gas, Inc. d/b/a National Grid NH

Docket DG 10-017

MOTION FOR PROTECTIVE ORDER AND CONFIDENTIAL TREATMENT REGARDING COMPENSATION INFORMATION

EnergyNorth Natural Gas, Inc. d/b/a National Grid NH ("National Grid NH" or the "Company"), in accordance with Puc 203.08, hereby moves the New Hampshire Public Utilities Commission (the "Commission") to grant confidential treatment to compensation information for the Company's officer and directors provided to the Commission pursuant to Puc 1604.01(a)(14). In support of its motion, National Grid NH states as follows:

1. Puc 1604.01(14) requires a petitioning utility to provide "[a] list of officers and directors of the utility and their compensation for the last 2 years." The salary information provided by the Company pursuant to this requirement requires protection because the data produced is confidential and not publicly available, and its disclosure would constitute an unwarranted invasion of personal privacy.

2. Notwithstanding the general mandate that "[e]very citizen . . . has the right to inspect all governmental records in the possession, custody, or control of [the Commission]," RSA 91-A:4, I, the confidential salary information submitted pursuant to Puc 1604.01(a)(14) is exempt from disclosure as a governmental record pursuant to RSA 91-A:5, IV, which protects "personnel . . . and other files whose disclosure would constitute an invasion of privacy."

3. New Hampshire courts apply a three-step analysis when considering whether disclosure of governmental records constitutes and invasion of privacy. First, the Court

evaluates whether there is indeed a privacy interest at stake that would be invaded by disclosure; second, whether there is a public interest in disclosure; and third, whether the public interest in disclosure outweighs the individual privacy interest in nondisclosure. *See Lamy v. N.H. Pub. Util. Comm'n*, 152 N.H. 106, 109 (2005); *N.H. Civil Liberties Union v. City of Manchester*, 149 N.H. 437, 440 (2003).

4. In this case, there is a clear privacy interest in the salary information provided to the Commission. This information is not disclosed to the public, as it is the Company's practice to maintain private personnel information, including any materials or data specific to individual employees, in strict confidence. In addition to exposing the personal, otherwise non-public information of its employees, disclosure of the requested officer and director salaries places the Company at a competitive disadvantage by revealing the level at which it compensates some of its highest ranking employees. Furthermore, the release of this information could be disruptive to relations among employees of the Company, as well as relations between the Company and its employees, and could undermine the Company's ability to recruit and retain employees – all of which would cause the Company competitive harm. Thus, disclosure of this information would do damage not only to the officers and directors of the Company, but the Company itself.

5. There is no public interest advanced by disclosure of the required salary information. The Company's officers and directors are not public employees whose salaries are paid with taxpayer monies, *see Mans v. Lebanon School Board*, 112 N.H. 160, 163-64 (1972), and it is ultimately within the Commission's power to consider the Company's expenses and set a just and reasonable rate that balances the interests of the Company and the ratepayer. *See, e.g., Campaign of Ratepayers Rights*, 145 N.H. 671, 676 (2001).

6. The Commission commonly grants requests for confidential treatment of officer and director salary information submitted pursuant to Puc 1604.01(14). *See, e.g., Pub. Serv. Co. of N.H.*, DE 06-028, Order No. 24, 750 at 26 (May 25, 2007) (granting the utility's motion for confidential treatment of officer and director salaries on the grounds that such information is "similar to information for which the Commission has granted protective treatment in the past."). There is no compelling reason for the Commission to deviate from its practice with respect to officer and director salaries in this case.

WHEREFORE, National Grid NH respectfully requests that the Commission:

A. Grant this Motion for Confidential Treatment of Officer and Director Salaries Provided Pursuant to Puc ch. 1604.01(a)(14);

B. Such other relief as is just and equitable.

Respectfully submitted,

EnergyNorth Natural Gas, Inc.
d/b/a National Grid NH

By Its Attorneys

MCLANE, GRAF, RAULERSON & MIDDLETON, P.A.

Dated: February 26, 2010

By: _____

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Certificate of Service

I hereby certify that a copy of this Motion for Protective Order and Confidential Treatment Regarding Compensation Information has been hand-delivered to Meredith A. Hatfield, Esq. this 26th day of February, 2010.

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Steven V. Camerino