

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

**PETITION FOR PERMANENT RATE
INCREASE**

**UNITIL ENERGY SYSTEMS, INC.
Petitioner**

DOCKET NO. DE 10-055

MOTION FOR CONFIDENTIAL TREATMENT AND PROTECTIVE ORDER

Unitil Energy Systems, Inc. (“UES” or the “Company”) respectfully requests that the New Hampshire Public Utilities Commission (the “Commission”) grant a protective order for certain confidential information contained in its Rate Case Expense Filing, consistent with RSA 91-A:5(IV) and N.H. Admin. Rules, PUC 203.08. Specifically, UES requests that the Commission issue an order requiring confidential treatment for billing information for consultants and attorneys who performed work for UES in the above-captioned docket included in Attachment 3 to the filing; the identification of the bid responders and their cost proposals as presented in UES’s response and attachment to data request Staff 1-11, which is provided in Attachment 5; and the billing rates and cost projections contained in the response to data request Staff 1-17, which is provided in Attachment 6. Unedited versions of these documents are submitted herewith. In support of this Motion, UES states as follows:

1. In its Rate Case Expense Filing, UES seeks recovery for costs associated with the above-captioned docket. As part of this filing, UES has provided confidential information, subject to its right to seek a protective order from the Commission pursuant to N.H. Admin. Rules 203.08. This confidential information is protected from public disclosure under the New Hampshire Right to Know Act, RSA 91-A, and includes hourly rates and other information

which would permit elucidation of the “confidential, commercial or financial” information from Unitil’s consultants.

2. UES’ request for a protective order is consistent with the public disclosure requirements of New Hampshire’s Right to Know law. RSA 91-A. RSA 91-A:5(IV) expressly exempts from the public disclosure requirements any records pertaining to “confidential, commercial or financial information.” RSA 91-A:5, IV; *Union Leader Corp. v. New Hampshire Housing Finance Authority*, 142 N.H. 540 (1997). Application of this exemption requires “analysis of both whether the information sought is confidential, commercial, or financial information, and whether disclosure would constitute an invasion of privacy.” *Unitil Corp. and Northern Utilities, Inc.*, DG 08-048, Order No. 25,014 (Sept. 22, 2009) at 2. The Commission’s rule on confidential treatment of public records, PUC 203.08, also recognizes that confidential commercial or financial information may be appropriately protected from public disclosure pursuant to an order of the Commission. The determination of 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.

3. With respect to the commercial or private interests, all of UES’ consultants for the above-captioned docket were hired via a competitive “Request for Proposal” (“RFP”) process. Disclosure of the consultants’ billing information would put them at a competitive disadvantage by divulging the rates they charged for work awarded via the RFP. It would also adversely affect the Company because in future dockets, consultants would be discouraged from working with the Company if doing so would result in release of confidential business information. The disclosure of the redacted information contained in Attachment 5, which provides the

Company's analysis of the bids received, would, if disclosed, similarly discourage bidders from participating in the response to future RFPs, thereby harming the Company and, ultimately its customers. See *EnergyNorth Natural Gas, Inc.*, DG 08-009, Order No. 25,064 (Jan. 15, 2010) at 11 (finding similar contentions to be "credible," and concluding that National Grid "and its service providers have an interest in the confidentiality of the information").

4. While the public has some interest in the billing information, *id.* at 12, that interest is balanced by the quality of the information which would be made public – the total amount paid by the company for the consultants' efforts. Therefore, while the Company requests protective treatment for the components of the billing information (*e.g.*, hourly rates), the public would still have access to the total amount billed. *Id.* at 12 ("publically available versions of all the documents contain a good deal of information concerning the costs of the underlying engagements"). Furthermore, the public has an interest in UES' ability to work with the best- and most cost-efficient consultants, and to require production of billing information of the chosen consultants (provided in their engagement letters and invoices), or disclosure of the Company's frank and detailed analysis of the bids received, would contradict this interest. *Id.* at 12 ("[D]isclosing the information may place the Company and its service providers at a disadvantage with respect to those with whom it would do business, ultimately causing harm to the Company's ratepayers in future rate cases.").

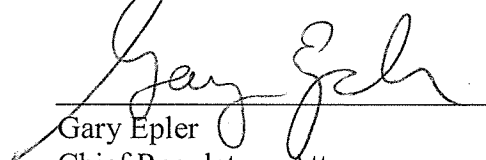
5. The interest of UES in the confidentiality of the information for which protection is sought outweighs the interest of the public in disclosure in this case. *Unitil Energy Systems, Inc.*, DE 05-178, Order No. 24,742 (April 13, 2007) at 3-5.

WHEREFORE, UES respectfully requests that the Commission issue an order protecting the confidential information specified herein from public disclosure.

Respectfully Submitted,

UNITIL ENERGY SYSTEMS, INC.

By its Attorney,

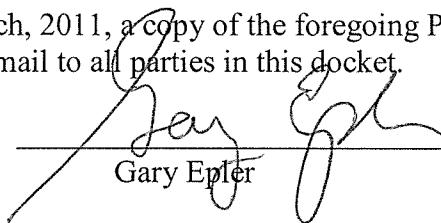


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Dated: March 31, 2011

Certificate of Service

I hereby certify that on this 31st day of March, 2011, a copy of the foregoing Petition was either hand delivered or sent by U.S. or electronic mail to all parties in this docket.



Gary Epler