

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Public Service Company of New Hampshire
Alternative Default Energy Service Rates

Docket No. DE 11-216

MOTION FOR PROTECTIVE ORDER AND CONFIDENTIAL TREATMENT
REGARDING OCA 1-8

Public Service Company of New Hampshire (“PSNH” or the “Company”), in accordance with Puc 203.08, hereby moves the New Hampshire Public Utilities Commission (the “Commission”) to grant confidential treatment to a proprietary model produced by the Company in response to a data request from the Office of Consumer Advocate (“OCA”) in the above-captioned docket. In support of its motion, PSNH states as follows:

1. On October 14, 2011, PSNH filed supplemental testimony in this docket proposing an initial alternate default energy service rate of 7.86 cents per kilowatt-hour for effect January 1, 2012. The testimony explained that the rate was calculated using the Company’s power supply portfolio model, which includes a number of inputs such as forward energy market prices, forward capacity market prices, forecasted ancillary service costs, forecasted ISO-NE market administration costs, and forecasted renewable portfolio standard compliance costs. OCA subsequently issued data request 1-8, asking that the Company “...provide a fully functioning electronic copy of the ‘power supply portfolio model’” referenced in the supplemental testimony. On November 16, 2011, the Company produced the model to OCA and Staff, for which it now seeks confidential treatment.

2. RSA 91-A:5, IV exempts from public disclosure records that constitute confidential, commercial, or financial information. The Commission applies a three-step analysis to determine whether information should be protected from public disclosure. *See, e.g., Unital Corporation and Northern Utilities, Inc.*, Order No. 25,014 (September 22, 2009), *Public Service Co. of New Hampshire*, Order No. 25,037 (October 30, 2009), and *Public Service Company of New Hampshire*, Order No. 25,167 (November 9, 2010). The first step is to determine if there is a privacy interest at stake that would be invaded by the disclosure. If such an interest is at stake, the second step is to determine if there is a public interest in disclosure. The Commission has held that disclosure that informs the public of the conduct and activities of its government is in the public interest; otherwise, public disclosure is not warranted. *Public Service Company of New Hampshire*, Order No. 25,167, slip. op. at 3 (November 9, 2010). If both of these steps are met, the Commission balances those interests in order to weigh the importance of keeping the record public with the harm from disclosure of the material for which protection is requested. Docket No. DE 10-121, Order No. 25,167, slip op. at 3-4; DE 10-257, Order No. 25187, slip op. at 8, citing, *Lambert v. Belknap County Convention*, 157 N.H. 375, 382 (2008).

3. PSNH has a strong privacy interest in protecting its power supply portfolio model because the model contains all of the inputs used to develop not only the alternative default energy service rate but the default energy service rate itself. While the model as produced to OCA and Staff removed some proprietary assumptions and information regarding generating unit characteristics that were not necessary for calculation of the rate in question, the Company would be significantly disadvantaged if the model was released publicly, particularly with regard to competitive electric suppliers. The model reflects how the Company evaluates its generation

and load responsibilities in both power and environmental (e.g. RECs) markets. For example, if information about how the Company modeled its load as well as its needs for wholesale procurement of energy or RECs was made publicly available, its ability to negotiate the best possible prices could be compromised which would be to its customers' detriment. This is exactly the type of harm against which the Commission has sought to protect. *Public Service Company of New Hampshire*, Order No. 25,167, slip. op. at 7-8 (November 9, 2010)(harm to ratepayers from publication of REC sale prices outweighs minor benefit to their public release). In addition, if the Company's portfolio strategies were revealed to competitive electric suppliers, they may gain an ability to negotiate with customers who might seek to migrate away from the Company's energy service rate. That would be particularly harmful here, where the purpose of the alternative default energy supply rate is to attract customers back to PSNH's energy service rate.

4. Any public interest in disclosure of PSNH's power supply portfolio model is minimal. Public release of the model will not shed any light on the conduct and activities of the Commission. Rather, what the model reveals is the Company's strategic business decisions with regard to how it forecasts various assumptions used to develop its alternative default service and default service rate. Because the model does not reveal the inner workings of the Commission, there is no public interest in its disclosure.

5. Even assuming that there is some slight public interest in disclosure of the model, when balancing that interest against the Company's strong privacy interest, the Commission should find in favor of protection of the model. "Under administrative rule Puc § 204.06 [predecessor to Puc § 203.08], the Commission considers whether the information, if made public, would likely create a competitive disadvantage for the petitioner; whether the customer

information is financially or commercially sensitive, or if released, would likely constitute an invasion of privacy for the customer; and whether the information is not general public knowledge and the company takes measures to prevent its' dissemination.” *Re Northern Utilities, Inc.*, 87 NH PUC 321, 322, Docket No. DG 01-182, Order No. 23,970 (May 10, 2002).

6. Here, any limited benefits of disclosing the Company’s power supply portfolio model outweighs the harm that would occur as a result of its disclosure. As described above, the Company considers the model proprietary because in its electronic format, it reflects its business strategy and assumptions used to develop its rates. If the model were released, it could harm the competitive process as competitive electric suppliers and others would have access to how the Company evaluates its generation and load responsibilities in both power and environmental markets. This information could give competitors a “leg up” in the competitive process, which ultimately would be detrimental to the Company’s customers. That potential harm is not speculative but real, as Freedom Energy Freedom Logistics, LLC d/b/a Freedom Energy Logistics and Halifax-American Energy Company, LLC, are intervenors in this docket based on their competitive interest in the rate at issue here.

7. Moreover, the Commission has protected from disclosure other models used in the rate setting process on the basis that the models are commercial information which if released, could result in competitive harm to the owner of the model. *See EnergyNorth Natural Gas, Inc.*, Order No. 25, 208, slip. op. at 10 (March 23, 2011), *Northern Utilities, Inc.*, Order No. 25, 251, slip. op. at 3 (July 18, 2011). While those models were developed by third party consultants whose ability to compete for business could be harmed if the models were released, the harm that would occur in this case is no different because it would negatively impact the

Company's ability to retain or attract customers for its energy service rate. That would not be in the interests of the Company or its customers.

8. For the reasons stated above, the Company requests that the Commission grant confidential treatment to the Company's power supply portfolio model produced in response to OCA 1-8, and expressly prohibit disclosure to Freedom Energy Freedom Logistics, LLC d/b/a Freedom Energy Logistics and Halifax-American Energy Company, LLC.

WHEREFORE, PSNH respectfully requests that the Commission:

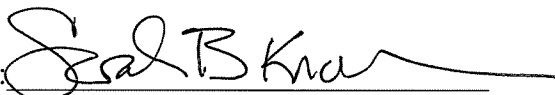
- A. Grant this Motion for Protective Order and Confidential Treatment; and
- B. Grant such other relief as is just and equitable.

Respectfully submitted,

Public Service Company of New Hampshire

By Its Attorneys

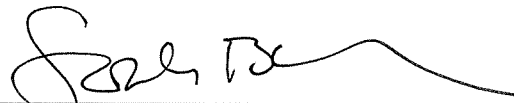
Dated: November 17, 2011

By: 

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Certificate of Service

I hereby certify that a copy of this Motion to Strike has been served electronically on the persons on the Commission's service list in accordance with Puc 203.11 this 17th day of November, 2011.


Sarah B. Knowlton