

STATE OF NEW HAMPSHIRE
BEFORE THE
NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DG 15-090

Northern Utilities, Inc.
2015 Summer Cost of Gas

MOTION FOR PROTECTIVE ORDER AND CONFIDENTIAL TREATMENT

Pursuant to Puc 203.8, Sprague Operating Resources LLC (“Sprague”) hereby moves the New Hampshire Public Utilities Commission (the “Commission”) to grant confidential treatment to certain information provided to Commission Staff and the Office of Consumer Advocate in the course of discovery in this proceeding. In support thereof, Sprague states as follows:

1. In this expedited review of the appropriate manner and method of refund associated with the rate refund mandated by the Federal Energy Regulatory Commission in the Portland Natural Gas Transmission System 2010 rate proceeding, FERC Docket No. RP10-729-000, Commission Staff issued data requests of Sprague.

2. The Commission’s rule, Puc 203.8,¹ provides that

“the Commission shall upon motion issue a protective order providing for the confidential treatment of one or more documents upon a finding that the document or documents are entitled to such treatment pursuant to RSA 91-A:5, or other applicable law, based on the information submitted ...”

3. Responses to discovery containing “confidential, commercial or financial information” are exempt from public disclosure. RSA 91-A:5, IV. The Commission has recognized that confidential treatment is appropriately granted to competitively sensitive or business proprietary information under RSA 91-A:5. *See, Northern Utilities, Inc.*, DG 10-034, Order No. 25,085 at 9 (Mar. 25, 2010); *Unitil Corp. and Northern Utilities, Inc.*, DG 08-048, Order No. 25,014 at 6 (Sept. 22, 2009). Where disclosure is likely to subject the moving party to

¹ N.H. Code of Admin. Rules Puc 203.8, citing Puc 203.8(a).

competitive harm, protective treatment routinely has been deemed warranted by the Commission.

4. The Commission has granted protective treatment to forward-looking financial information, if the release of such information is likely to result in a competitive disadvantage. *City of Nashua*, DW 04-048, Order No. 24,583 at 3 (Jan. 27, 2006). Moreover, the Commission has recognized the proprietary and non-public nature of confidential business information that is never released publicly and is only used internally for competitive and marketing purposes. *See New England Telephone and Telegraph*, DR 97-180, DS 97-223, Order No. 22,799 (Dec. 8, 1997).

5. For the reasons set forth below, Sprague's response to Request No. Staff-SPR 1-3 should be afforded confidential treatment and granted a protective order.

6. In Request No. Staff-SPR 1-3, Staff requested specific information regarding the PNGTS rate increases related to the refunds and charged to Sprague. In particular, the request asked for the number of customers being served in New Hampshire by Sprague as of the date of the PNGTS increase and the date as of the PNGTS decrease, as well as, as of the date of the rate decrease: the number of customers on a variable rate contract; those on a fixed contract with less than 1 year remaining; those on a fixed contract with less than 2 years remaining; the number on a fixed contract with less than 3 years remaining and those with more than 3 years remaining.

7. Sprague engaged in subsequent conversations with Commission Staff relative to the request, and Staff agreed to modify the request to permit Sprague to answer as of the present date, and provide percentages instead of numbers.

8. Sprague operates in a highly competitive business environment. The information requested by Staff is not routinely gathered internally by Sprague, comprises information that results from mining of its proprietary customer and informational databases, and, if released

publicly, would disclose details about the composition of Sprague's retail natural gas portfolio and marketing book in New Hampshire that is available nowhere else, and would therefore be very valuable to its competitors.

9. The information requested by Staff is so competitively sensitive that Sprague requests it be protected from public disclosure and only be accessible to the Commission, Staff and the OCA in this proceeding. Although Global Montello Group Corp. ("Global") and Sprague are an ad hoc marketers' group for the purposes of this proceeding, Sprague specifically asks the Commission to protect the response to Staff-SPR 1-3 from Global and the undersigned counsel in this proceeding.²

10. Finally, where the disclosure of this information will not provide the public with information about the conduct or activities of the Commission or other parts of state government, and at the same time, exposes Sprague to competitive harm, a balancing of the interests involved tilts the scale decisively towards confidentiality. See, *Public Service of New Hampshire*, DE 09-158, Order No. 25,059 at 14-15 (Dec. 31, 2009).

WHEREFORE, Sprague Operating Resources, LLC respectfully request that the New Hampshire Public Utilities Commission its motion for protective order and confidential treatment as set forth herein.

Respectfully submitted,

SPRAGUE OPERATING RESOURCES, LLC

By their attorney,



Patricia M. French (NH Bar # 15138)
BERNSTEIN SHUR

² Ethical rules governing joint representation of clients prohibit counsel from receiving confidential information from one without sharing it with the other. In order to preserve the confidentiality of competitively sensitive information, counsel will submit this motion, but the information itself will be forwarded to Commission Staff by Sprague directly.

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Dated at Portland, Maine, this 28th day of May 2015.

Certificate of Service

I hereby certify that a copy of this Petition to Intervene has been served electronically on the persons on the Commission's service list in this docket in accordance with Puc 203.11 on this 28th day of May 2015 and that a hard copy of this Motion for Protective Order and Confidential Treatment has been e-mailed to the service List in this docket.



Patricia M. French