

J. M. Downing
Hearing Officer
GRANTED 2-3-19

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES

_____))
Bay State Gas Company d/b/a))
Columbia Gas of Massachusetts)) D.P.U. 19-140
_____))

**MOTION OF COLUMBIA GAS OF MASSACHUSETTS
FOR PROTECTIVE TREATMENT OF CONFIDENTIAL INFORMATION**

I. INTRODUCTION

Bay State Gas Company d/b/a Columbia Gas of Massachusetts (“CMA” or the “Company”) hereby requests the Department of Public Utilities (the “Department”) grant protection from public disclosure of certain confidential, competitively sensitive and proprietary information submitted in this proceeding in accordance with G.L. c. 25, § 5D and 220 C.M.R. § 1.04(5)(e).

Specifically, the Company requests that the Department protect from public disclosure confidential personal employee information contained in the following responses to information requests and attachments thereto submitted previously in Docket No. 19-PL-07: Attachment PL-1-4(a) and Attachment PL-1-26 (together the Confidential Attachments).¹ As discussed below, public disclosure of this information would reveal confidential employee and vendor contact information, which could expose the Company’s vendors and employees to harassment and abuse. Any such disclosure could harm the competitive business position of the Company and its employees.

The Company has provided the Confidential Attachments to the Hearing Officer in this

¹ In the Department’s October 25, 2019 Order Opening Investigation, the Department directed the Company to identify and provide redacted copies of any confidential materials submitted in Docket No. 19-PL-07.

proceeding in a sealed envelope marked “Confidential.” Consistent with Department precedent, the Company has prepared redacted versions of the Confidential Attachments for filing in the public record in this proceeding.

II. STANDARD OF REVIEW

The Department is authorized to protect from public disclosure “trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings.” G.L. c. 25, § 5D. In interpreting this statute, the Department has held that G.L. c. 25, § 5D, “places the burden of proof on companies requesting confidential treatment.” The Berkshire Gas Company et al., D.P.U. 93-187/188/189/190, at 20 (1994).

Accordingly, a party seeking to protect information from public disclosure must demonstrate that: (1) the information for which protection is sought constitutes trade secrets, confidential, competitively sensitive or other proprietary information; and (2) there is a need to ensure nondisclosure of the information. The Berkshire Gas Company et al., D.T.E. 01-41, at 17 (2001); Western Massachusetts Electric Company, D.T.E. 99-56, at 4 (1999). In assessing the need for nondisclosure, the Department will consider the interests at stake, the likely harm that would result from public disclosure of information, and the public policy implications of such disclosure. See, e.g., D.P.U. 93-187/188/189/190, at 20-23; Boston Gas Company, D.P.U. 92-259, at 106 (1993), Essex County Gas Company, D.P.U. 96-105, at 2-3 (1996). Where a party proves such a need, the Department will protect only so much of the information as is necessary to meet the need for nondisclosure and may limit the length of time that such protection is in effect. D.T.E. 01-41, at 17-18; D.T.E. 99-56, at 4; D.P.U. 93-187/188/189/190, at 20.

III. ARGUMENT

A. **The Confidential Attachments Contain Confidential Employee and Vendor Information and Should be Protected from Public Disclosure.**

Attachments PL-1-4(a) and Attachment PL-1-26 contain confidential employee identification information, including names, phone numbers, e-mail addresses, and user identification numbers of Company employees and vendors providing mutual aid to the Company. All of this information is protected as confidential and maintained by the Company as such. The Confidential Attachments contain personal information associated with employees and contractors, such as names, contact information, and job qualifications. To the extent an individual is not an officer of the Company, this information is not publicly available and should be treated as confidential for reasons of privacy. Pursuant to G.L. c. 4, § 7(26)(c), materials or data “relating to a specifically named individual, the disclosure of which may constitute an unwarranted invasion of personal privacy” are not public records subject to disclosure.

The Department has previously considered the privacy implications of releasing personally identifying employee information (salary and employee names) to the public and accorded confidential treatment to such information. Aquarion Water Company of Massachusetts, Inc., D.P.U. 11-43, Hearing Officer Ruling on Motion for Confidential Treatment at 5-6 (Nov. 9, 2011) (privacy concerns with releasing identifying non-officer employee information justified confidential treatment).

Moreover, there is no compelling public policy that would mandate the disclosure of employee information. Rather, it is sound public policy to ensure the privacy and security of individuals working for the Company or customers taking service from the Company. For these reasons, personal information regarding customers, employees or contractors should be protected from public disclosure indefinitely. See also G.L. c. 93H & 201 C.M.R. §§ 17.00 *et seq.*

(protecting against disclosure of “personal information”). This provides an exception from the general statutory mandate in G.L. c. 66, § 10 that all documents and data received by an agency of the Commonwealth are to be viewable public records.

IV. CONCLUSION

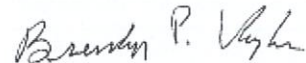
For the reasons outlined above, the Company respectfully requests that employee and customer names and contact information contained in the Confidential Attachments be maintained as confidential. Lastly, given that the confidential employee names are unlikely to change at any time, the Company respectfully requests the Confidential Information be protected from disclosure for an indefinite period of time.

WHEREFORE, the Company respectfully requests that the Department grant its motion for protective treatment of confidential information.

Respectfully submitted by,

**Bay State Gas Company d/b/a
Columbia Gas of Massachusetts**

By its attorneys,



Brendan P. Vaughan, Esq.
Keegan Werlin LLP
99 High Street, Suite 2900
Boston, Massachusetts 02110
(617) 951-1400

Dated: November 7, 2019