

**COMMONWEALTH OF MASSACHUSETTS**

**DEPARTMENT OF PUBLIC UTILITIES**

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Investigation by the Department of Public )  
Utilities On Its Own Motion Into Electric )  
Distribution Companies’ (1) Distributed )  
Energy Resource Planning and )  
(2) Assignment and Recovery of Costs )  
for the Interconnection of Distributed )  
Generation )  
\_\_\_\_\_ )

D.P.U. 20-75

**MOTION FOR PROTECTIVE TREATMENT  
OF CONFIDENTIAL INFORMATION**

**I. INTRODUCTION**

NSTAR Electric Company d/b/a Eversource Energy (“Eversource” or the “Company”) hereby requests that the Department of Public Utilities (the “Department”) grant protection from public disclosure certain confidential, sensitive and proprietary information submitted in this proceeding in accordance with G.L. c. 25, § 5D.

On this date, Eversource is submitting responses to the Department’s January 28, 2022 Request for Information From Electric Distribution Companies. The Department’s third request therein asks the Company to provide, for each eligible group study identified in D.P.U. 20-75, a list of the facilities included in the group identifying the developer, location of the proposed facility and facility size, while not including any personal identifiable information. Historically, the Company has considered the identity of the developer proposing a facility to be confidential, absent the affirmative authorization of a customer to release such information publicly as such information may be considered commercially sensitive by the customer. For that reason, the Company typically uses anonymized identifiers in regular reporting of interconnection

information, such as work orders or project ID numbers. Accordingly, the Company requests that the developer names in this response be protected from public disclosure.

## **II. STANDARD OF REVIEW**

In 1989, the General Court granted the Department specific statutory authority to protect certain information in its possession from release to the public that is not otherwise referenced as a specific exemption to the Public Records Law. St. 1989, c. 280, codified at G.L. c. 25, § 5D. Information may be protected from public disclosure by the Department in accordance with G.L. c. 25, § 5D, which states in part that:

[T]he [D]epartment may protect from public disclosure, trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings conducted pursuant to this chapter. There shall be a presumption that the information for which such protection is sought is public information and the burden shall be upon the proponent of such protection to prove the need for such protection. Where such a need has been found to exist, the [D]epartment shall protect only so much of the information as is necessary to meet such need.

In interpreting the statute, the Department has held that:

. . . [T]he burden on the company is to establish the need for protection of the information cited by the company. In determining the existence and extent of such need, the Department must consider the presumption in favor of disclosure and the specific reasons why disclosure of the disputed information benefits the public interest.

The Berkshire Gas Company et al., D.P.U. 93-187/188/189/190, at 16 (1994) as cited in Hearing Officer's Ruling On the Motion of Boston Gas Company for Confidentiality, D.P.U. 96-50, at 4 (1996).

## **III. ARGUMENT**

The Company requests protective treatment for the identification of the developer associated with each facility in the eligible groups reported in response to the Department's request. The Department may protect information from public disclosure pursuant to G.L. c. 25,

§ 5D to the extent that the information is: (1) a trade secret; (2) confidential; (3) competitively sensitive; or (4) proprietary.

As noted above, the Company, with approval from the Department, has historically protected developer identities from public disclosure, absent the affirmative authorization of a customer to release such information publicly, or an agreement with the recipient of such information to use the information for limited purposes authorized by the Department. Specifically, in Competitive Initiatives, D.T.E. 01-54, the Department established a policy that required distribution companies to share the names, addresses and rate classes of their customers with competitive suppliers, but only to the extent that such suppliers executed an agreement with the relevant distribution company limiting the use of the information for market electricity-related services. Competitive Initiatives, D.T.E. 01-54, at 6. Moreover, in the same series of dockets governing competitive initiatives, the Department required distribution companies to obtain the affirmative authorization of customers to share historical usage data with suppliers. Competitive Initiatives, D.T.E. 01-54-A at 12-13. Under this principle, the Company routinely protects the names and addresses of commercial customers that own distributed generation facilities because it may reveal information about the customer's business practices. This information is routinely protected in the Company's annual Qualifying Facility and on-site generation reports and monthly reporting to the Department of Energy Resources.

Consistent with Department precedent governing the protection of competitively sensitive information pursuant to G.L. c. 25, § 5D, the Company is requesting that the information referenced herein be protected from public disclosure for a period of three years. To the best of the Company's knowledge, the information referenced herein is not otherwise available in the public domain.

#### IV. CONCLUSION

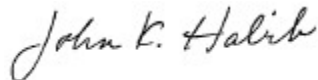
The Company respectfully requests that the developer names in the Company's response to the Department's information requests be kept confidential and not be placed in the public docket.

**WHEREFORE**, for the reasons stated above, the Company requests that the Department grant its motion to protect from public disclosure confidential customer information contained in its responses, as referenced herein.

Respectfully submitted,

**NSTAR ELECTRIC COMPANY  
d/b/a EVERSOURCE ENERGY**

By its attorneys,



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Dated: February 4, 2022