

**ATTACHMENT A – PROPOSED PROTECTIVE ORDER**

STATE OF VERMONT  
PUBLIC UTILITY COMMISSION

Case No. 24-\_\_\_\_-PET

Petition of Vermont Transco LLC, and Vermont )  
Electric Power Company, Inc. (collectively, )  
“VELCO”), for a certificate of public good pursuant )  
to 30 V.S.A. § 248 authorizing upgrades to VELCO’s )  
existing Windsor Substation, located in Windsor, )  
Vermont )

PROTECTIVE ORDER FOR CONFIDENTIAL TREATMENT OF EVIDENCE

**I. Introduction**

On December 20, 2024, Vermont Transco LLC and Vermont Electric Power Company, Inc. (together, Petitioners or VELCO) filed a motion with the Vermont Public Utility Commission (Commission) related to the confidential treatment of Exhibit PET-WA-2, the VELCO condition assessment. Petitioners represent that this information contains cybersecurity information and constitutes Critical Energy Infrastructure Information (CEII).<sup>3</sup> Petitioners submitted an averment to support their request for confidential treatment. No party opposed the motion or filed a response.

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<sup>3</sup> Critical Energy/Electric Infrastructure Information (CEII) Regulations at: <https://www.ferc.gov/enforcement-legal/legal/major-orders-regulations/critical-energyelectric-infrastructure-information>.

I have reviewed the motion and supporting materials and conclude that Petitioners have made a prima facie showing that confidential treatment is warranted for the information at issue. Therefore, I grant Petitioner's motion for a protective order.

## II. Discussion

To promote full understanding of the bases for its decisions, the Vermont Public Utility Commission has actively taken steps to limit the amount of information subject to protective orders. The Commission has encouraged parties to remove material from that protection to the extent possible. The Commission requires petitioners seeking a protective order to submit a document-specific (or information-specific) averment of the basis for keeping confidential any document (or information) that they wish to be kept under seal. This arrangement appropriately places a heavy burden on the party seeking confidentiality to justify that decision. It also ensures that counsel for the party seeking confidentiality has actually reviewed and considered the relevant confidentiality factors, as they relate to the specific document or information at issue.<sup>4</sup>

Generally, the Commission resolves disputes about information only when there is a disagreement about its confidential nature.<sup>5</sup> However, even when the motion is uncontested, the Commission will review the motion and supporting averment or

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<sup>4</sup> *Investigation into General Order No. 45 Notice filed by Vermont Yankee Nuclear Power Corporation re: proposed sale of Vermont Yankee Nuclear Power Station to Entergy Nuclear Vermont Yankee, LLC*, Docket No. 6545 (“*Entergy Docket*”), Order of 11/9/01 at 5-6.

<sup>5</sup> *Id.* at 6.

averments to ensure that the moving party has presented a prima facie case for keeping the document or information under seal. In determining whether to protect allegedly confidential information, the Commission considers three issues:

- (1) Is the matter sought to be protected a trade secret or other confidential research, development, or commercial information which should be protected?
- (2) Would disclosure of such information cause a cognizable harm sufficient to warrant a protective order?
- (3) Has the party seeking protection shown “good cause” for invoking the Commission’s protection?<sup>6</sup>

Petitioners maintain that some of the information in Exhibit PET-WA-2 constitutes CEII and contains information about VELCO’s cybersecurity program and therefore Petitioners must take appropriate measures to prevent its public disclosure.

I have reviewed the motion and supporting materials, and I have applied the existing standard. I conclude that the information is CEII and relates to VELCO’s cybersecurity program, that disclosure would cause a cognizable harm sufficient to warrant a protective order, and that there is good cause for protecting the information. Therefore, I conclude that Petitioners have made a prima facie showing that confidential treatment is warranted for the information at issue, and I grant Petitioners’ motion for a protective order.

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<sup>6</sup> See, e.g., *Entergy Docket*, Order of 3/29/02 at 2.

### III. Order

IT IS HEREBY ORDERED that the confidential information provided by the Petitioners (as described in Petitioners' motion and supporting averment) shall be treated in this proceeding as follows:

1. All testimony, affidavits, transcripts, exhibits, and other documents that are subject to this Order as confidential information, and any testimony or documents that discuss or reveal documents that constitute confidential material, must be filed following the process for filing information that a party asserts to be confidential that is set forth in Commission Rule 2.226(B). This process requires, among other things, that any confidential information must be filed by email with the Clerk of the Commission or filed in paper and must have the word "Confidential" as the first word of the subject line.<sup>7</sup> Any documents containing Allegedly Confidential Information that are filed in paper with the Commission must be placed in sealed envelopes or other appropriate sealed containers on which must be endorsed the caption and case number of the proceeding, the nature of the content (e.g., exhibit, report, etc.), and a statement that it must not be opened or released from the custody of the Clerk of the Commission except by order of the Commission. Despite such a statement, the members of the Commission, any employee or consultant specifically authorized by the Commission to assist the Commission in

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<sup>7</sup> See Commission Rule 2.226(B) for the complete list of filing requirements.

this proceeding, and any Hearing Officer appointed in this case may have access to such sealed confidential information but must not disclose such information to any person.

2. At any hearing or conference in this proceeding, no persons, other than those who have agreed to be bound by this Order and any Protective Agreement approved in this case, and those whom the Commission has expressly authorized to have access to this confidential information, will be permitted to give, hear, or review testimony given or held with respect to this confidential information.
3. Each Commission stenographer or reporter in this proceeding must acknowledge and be bound by this Order. Each such Commission stenographer or reporter will be instructed to and must start a separate transcription for testimony or discussion on the record of confidential information. The transcription must be marked “Confidential” and must be sealed and filed with the Clerk of the Commission, and copies of the same will be made available only to those persons authorized to view such information. The transcription must, in all other respects, be treated as confidential information pursuant to this Order.
4. The Commission retains jurisdiction to make any amendments, modifications, and additions to this Order as it may, from time to time, deem appropriate, including any amendments, modifications, or additions resulting from a motion made pursuant to a Protective Agreement.

5. In any future proceeding, the burden of establishing that confidential treatment of this information is warranted is on the party seeking to avoid disclosure.
6. Any party or other person may apply to the Commission for an amendment, modification, or addition to this Order.
7. There is no time limit to the protection granted in this order to Exhibit PET-WA-2.

SO ORDERED.

Dated at Montpelier, Vermont this \_\_\_ day of \_\_\_\_\_, 2024.

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[NAME]  
Hearing Officer

OFFICE OF THE CLERK

Filed:

Attest:\_\_\_\_\_

Clerk of the Commission

*Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: [puc.clerk@vermont.gov](mailto:puc.clerk@vermont.gov)).*