

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 )

PETITIONERS’ MOTION AND MEMORANDUM OF LAW FOR PROTECTIVE ORDER FOR  
CONFIDENTIAL TREATMENT OF CRITICAL ENERGY INFRASTRUCTURE INFORMATION  
(CEII)

Vermont Electric Power Company, Inc. and Vermont Transco LLC (together, VELCO or Petitioners), by and through the undersigned counsel, and pursuant to Public Utility Commission Rule 2.226(C), move for a Protective Order that provides confidential treatment for certain information about VELCO’s bulk transmission system that is non-public and includes cybersecurity information and Critical Energy Infrastructure Information (CEII) as defined by the Federal Energy Regulatory Commission (FERC). In support of this Motion for a Protective Order, VELCO represents as follows:

1. VELCO is a company as defined by 30 V.S.A. § 201 and is subject to the Commission’s jurisdiction pursuant to 30 V.S.A. § 203.
2. On December 20, 2024, VELCO filed a petition for a certificate of public good pursuant to 30 V.S.A. § 248 to construct and operate upgrades to VELCO’s existing Windsor Substation located in Windsor, Vermont (the Project).

3. A portion of evidence filed in support of the Project contains non-public confidential information related to VELCO's bulk transmission system and various security measures taken to protect the system from sabotage and damage (Confidential Information). The Confidential Information includes CEII as defined by FERC and information about VELCO's cybersecurity program.

4. FERC defines CEII as specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that: (i) relates details about the production, generation, transportation, transmission, or distribution of energy; (ii) could be useful to a person in planning an attack on critical infrastructure; (iii) is exempt from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. § 552; and (iv) does not simply give the general location of the critical infrastructure.

5. The Confidential Information is contained in Exhibit PET-WA-2 (VELCO Windsor Substation Condition Assessment). It provides detailed information on the safety and security of property that is part of the backbone of Vermont's electrical system. The Confidential Exhibit contains information relating to vulnerabilities of VELCO facilities and includes specific details regarding the location of the facilities. It identifies security systems, the internal layout, and structural elements of VELCO's substation, access points, communication equipment and other cybersecurity information, detailed planning criteria, and deficiency analysis.

6. The Confidential Exhibit also includes non-confidential information that puts the Confidential Information in context that could make the substation and VELCO's transmission network vulnerable to sabotage.

7. The risk of providing the Confidential Exhibit in redacted form greatly outweighs the benefits of providing a redacted version to the public. The petition and supporting evidence provide the public with sufficient and meaningful information about the Project, including its need, design, and cost effectiveness, without disclosing system design, operational, or performance information that could be used by a terrorist or other bad actor to negatively impact the electric system or undermine the reliability improvements that the proposed Project would create. Protecting the Confidential Exhibit from public disclosure will make it more difficult for a person wishing to do harm to the substation to carry out their objective.

8. The Confidential Exhibit contains information that is material to the business, operations, and strategies of VELCO and the Project.

9. VELCO's duty to manage a reliable electric network and to avoid regulatory fines for improper disclosure of CEII give VELCO a substantial interest in keeping the Confidential Exhibit protected from public disclosure through a Protective Order from the Commission.

10. The information in the Confidential Exhibit is of a type that makes future public disclosure unlikely. The causes giving rise to the need for a Protective Order from

the Commission are not anticipated to change in a way that would allow VELCO to authorize the Commission to release the information from the terms of the proposed Protective Order at a future time. Accordingly, Petitioners maintain that the Confidential Information will need to remain confidential while in the Commission's possession.

11. In further support for its request for a Protective Order to maintain the confidentiality of the Confidential Information in the Confidential Exhibit, Petitioners offer the following:

- a. The Confidential Information contains information that is CEII and other sensitive information as discussed above, including information related to the assessment of vulnerabilities affecting Vermont's bulk electric system;
- b. The information contained in the Confidential Information is ordinarily known to VELCO's management but is not generally described or released in this form;
- c. It is important to Petitioners' ability to support their petition that it be permitted to use the Confidential Information they have developed in this investigation and that VELCO's interests not be harmed through the public disclosure of its Confidential Information;
- d. The information contained in the Confidential Information is ordinarily provided to management engaged in transmission planning and operation

matters, only as confidential information that is not to be disclosed except by VELCO;

- e. The information contained in the Confidential Exhibit may be provided to third parties including representatives of other utilities, participants in the Vermont System Planning Committee, interested persons, and consultants and management advisors, including counsel, subject to appropriate confidentiality arrangements;
  - f. The release and disclosure of the information contained in the Confidential Exhibit could harm VELCO's ongoing transmission planning and operation activities, and those of other interconnected utilities;
  - g. Information of the type contained in the Confidential Exhibit could be useful to other third parties in planning an attack on or putting at risk critical electric system infrastructure; and
  - h. It is difficult to estimate the cost of developing the information contained within the Confidential Exhibit, but it is not insubstantial. It is unlikely that other third parties could lawfully develop this information even at substantial cost.
12. VELCO anticipates filing a motion for approval of a protective agreement and any party to the proceeding can sign the approved Protective Agreement if they would like an unredacted copy of the Confidential Exhibit.

13. Petitioners submit to the treatment of the Confidential Exhibit and the Confidential Information it contains in the same manner as is generally provided for confidential exhibits and discovery filings under the terms of traditional protective orders, including the terms that would govern confidentiality during the pendency of the Commission's review of this Motion and while the Commission is in possession of the Confidential Information and Exhibit.

14. If members of the public would like to view the material that VELCO has identified as confidential in this proceeding, they can follow the protocols that VELCO has published on its website for that purpose: <https://www.velco.com/rates-tariffs-business-practices>.

15. A Proposed Protective Order is provided with this Motion as Attachment A and an averment supporting the request for confidential treatment of Exhibit PET-WA-2 is provided as Attachment B.

#### MEMORANDUM OF LAW

State and federal law exempt certain electric utility infrastructure information from public disclosure to protect the electric network from terrorist attacks and sabotage.<sup>1</sup> The Public Utility Commission has recognized these exemptions in prior cases involving

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<sup>1</sup> 16 U.S.C. § 824o-1(d); 18 C.F.R., Part 388; 1 V.S.A. § 317(43).


modifications or upgrades to VELCO's bulk transmission system.<sup>2</sup> The Confidential Information contained in the Confidential Exhibit meets the requirements for maintaining secrecy under state and federal law because it relates to CEII and VELCO's cybersecurity program. A Protective Order that exempts the Confidential Exhibit and the information contained therein from public disclosure in the absence of an agreement to keep the information confidential will protect VELCO's infrastructure without undermining the State of Vermont's open government policy.

#### CONCLUSION

For these reasons, Petitioners respectfully request that the Commission issue a Protective Order that affords the Confidential Exhibit and Confidential Information contained therein protection from public disclosure while it is in the Commission's possession. Petitioners maintain that such treatment will facilitate the purposes of this proceeding without harming VELCO's interests and need to protect the confidentiality of its Confidential Information.

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<sup>2</sup> See, e.g., *Petition of Vermont Transco LLC, and Vermont Electric Power Company, Inc. for a certificate of public good, pursuant to 30 V.S.A. § 248, authorizing upgrades to VELCO's existing St. Johnsbury substation in St. Johnsbury, Vermont, Case No. 23-3761-PET, Order of 11/17/2023; Petition of Vermont Transco LLC, and Vermont Electric Power Company, Inc. for a certificate of public good, pursuant to 30 V.S.A. § 248, authorizing upgrades to VELCO's existing Middlebury Substation in Middlebury, Vermont, Case No. 23-0132-PET, Order of 3/13/2023; Petition of Vermont Transco LLC, and Vermont Electric Power Company, Inc. for a certificate of public good, pursuant to 30 V.S.A. § 248, authorizing upgrades to a substation in Pittsford, Vermont, Case No. 21-3732-PET, Order of 10/1/2021.*

By:  \_\_\_\_\_

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