

**STATE OF VERMONT  
PUBLIC UTILITY COMMISSION**

Case No. \_\_\_\_\_

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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(j) authorizing upgrades to VELCO’s existing Irasburg Substation, located in Irasburg, Vermont	
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**MOTION OF VERMONT ELECTRIC POWER COMPANY, INC. AND VERMONT  
TRANSCO LLC FOR A PROTECTIVE ORDER FOR CONFIDENTIAL  
TREATMENT OF PREFILED EVIDENCE**

Vermont Electric Power Company, Inc. and Vermont Transco LLC (together “VELCO” or “Petitioner”), request that the Vermont Public Utility Commission (“Commission”), pursuant to Commission Rule 2.206 and 30 V.S.A. § 9, issue a Protective Order allowing for the confidential treatment of certain exhibits supporting VELCO’s Petition for a Certificate of Public Good (“CPG”) in the above-captioned matter. In support of this Motion, VELCO submits the following Memorandum of Law, as well as the attached Averment (**Attachment A**) and a Proposed Protective Order (**Attachment B**).

**MEMORANDUM OF LAW**

**I. Introduction**

On November 18, 2020, VELCO filed a Petition and supporting prefiled testimony and exhibits in this matter seeking a CPG in accordance with 30 V.S.A. § 248(j). Certain exhibits supporting the Petition contain Critical Energy Infrastructure Information (“CEII”) and have been filed with the Commission under seal. VELCO seeks confidential treatment of those exhibits containing CEII.

Specifically, VELCO seeks confidential treatment of the following documents:

1. CONFIDENTIAL Exhibit Petitioner DAP-2 (VELCO Irasburg Substation Condition Assessment); and
2. CONFIDENTIAL Exhibit Petitioner EJM-2 (Irasburg Substation One-Line Diagram).

## **II. Standard**

In determining whether to grant confidential treatment, the Commission considers four issues:

- (1) Is the matter sought to be protected a trade secret or other confidential research, development, or commercial information that should be protected?
- (2) Does the matter sought to be protected contain CEII?
- (3) Would disclosure of such information cause a cognizable harm sufficient to warrant a protective order?
- (4) Has the party seeking protection shown “good cause” for invoking the [Commission’s] protection?

*Petition of Vermont Transco LLC, & Vermont Elec. Power Co., Inc. for a Certificate of Pub. Good Pursuant to 30 V.S.A. 248 Authorizing Upgrades to VELCO’s Existing Barre Substation in the Town of Barre, Vermont., Docket No. 17-5240-PET, 2018 WL 619812, at \*2 (Vt. Pub. Util. Comm. Jan. 23, 2018).*

CEII is information that the Federal Energy Regulatory Commission (“FERC”) defines 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.

18 C.F.R. § 388.113(c)(2).

### **III. Description of the Matters Sought To Be Protected**

The information in CONFIDENTIAL Exhibit Petitioner DAP-2 and CONFIDENTIAL Exhibit Petitioner EJM-2 falls within the definition of CEII because these exhibits contain: “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.” 18 C.F.R. § 388.113(c)(2); *see* Averment 1 (Attachment A).

Specifically, the materials VELCO seeks to protect as confidential contain information revealing the design standards, operating practices, and engineering information of the VELCO Irasburg Substation. In particular, CONFIDENTIAL Exhibit Petitioner DAP-2 and CONFIDENTIAL Exhibit Petitioner EJM-2 contain specific voltage and component information relating to the substation that could be useful to a person planning an attack on critical infrastructure, especially when assembled with other publicly available information from other sources. *See* Averment 1 (Attachment A).

### **IV. Disclosure Of The Information Would Cause A Cognizable Harm Sufficient To Warrant A Protective Order**

With the specific information and locations of vulnerable assets identified in CONFIDENTIAL Exhibit Petitioner DAP -2 and CONFIDENTIAL Exhibit Petitioner EJM-2, a third party wishing to do harm could severely damage critical electric system assets. *See* Averment 1 (Attachment A). For this reason, FERC began limiting public access to CEII in October of 2001, in response to the terrorist attacks of September 11, 2001, with the issuance of Treatment of Previously Public Documents, Docket No. PL02-1-000, 97 F.E.R.C. P 61030 (Oct.

11, 2001). FERC has since issued a series of subsequent orders that establish formal procedures for the management and consistent treatment of, and restrictions on access to, CEII (including but not limited to Order Nos. 630, 630-A, 643, 662, 702 and 890). *See* 18 C.F.R. §§ 388.112 and 388.113 (laying out FERC procedures for management of CEII).

Since FERC began regulating the treatment of CEII in 2001, the CEII contained in the documents for which confidential treatment is sought has been disclosed only to utilities, regulators, and persons who have followed FERC's policies relating to the disclosure of CEII.

There is no information in the CEII materials filed under seal that would inform the lay public's view about the VELCO Irasburg Substation upgrade or the Commission process because it is highly technical. There is sufficient information in the public filing to warrant issuance of a CPG, but the CEII information provides more specific insight about reliability, deficiencies, and the contingencies evaluated as part of Project planning for the experts of the Commission.

**V. Good Cause Exists For Invoking The Commission's Protection**

For the above-stated reasons, there is good cause for the Commission to issue an order according confidential treatment to the information contained in CONFIDENTIAL Exhibit Petitioner DAP-2 and CONFIDENTIAL Exhibit Petitioner EJM-2 as set forth in VELCO's Averment 1 (Attachment A), and in the manner set forth in the Proposed Order (Attachment B). The Commission has previously granted confidential treatment of CEII in similar circumstances. *See Petition of Vermont Transco LLC, & Vermont Elec. Power Co., Inc.*, Docket No. 17-5240-PET, 2018 WL 619812, at \*2; *Joint Petition of Green Mountain Power Corporation, Vermont Electric Power Company, Inc., and Vermont Transco LLC*, Docket No. 8205, 2014 WL 3784235 (Vt. Pub. Serv. Bd. July 28, 2014); *Petition of VELCO*, Docket No. 7892, 2012 WL 3779479 (Vt. Pub. Serv. Bd. Aug. 27, 2012).

To the extent that any party disputes the designation of the exhibits as confidential and VELCO and that party are unable to resolve the dispute, VELCO seeks an opportunity to present additional information for the Commission's consideration specific to the disputed exhibit in connection with this Motion.

**VI. Conclusion**

For the above-stated reasons, VELCO respectfully requests that the Commission issue a Protective Order in the form attached as Attachment B.

DATED at Burlington, Vermont this 18<sup>th</sup> day of November 2020.

RESPECTFULLY SUBMITTED,

VERMONT ELECTRIC POWER COMPANY,  
INC. and VERMONT TRANSCO LLC

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