

November 19, 2021

VIA ELECTRONIC MAIL

Attorney Melanie Bachman
Acting Executive Director
Connecticut Siting Council
Ten Franklin Square
New Britain, CT 06051

Re: **DOCKET NO. 474** - The Connecticut Light & Power Company d/b/a Eversource Energy application for a Certificate of Environmental Compatibility and Public Need for the Greater Hartford-Central Connecticut Reliability Project that traverses the municipalities of Hartford, West Hartford, and Newington, which consists of (a) construction, maintenance and operation of a new 115-kilovolt (kV) electric transmission line within existing Eversource, Amtrak and public road rights-of-way and associated facilities extending overhead approximately 2.4 miles and underground approximately 1.3 miles between Eversource's existing Newington Substation in the Town of Newington and existing Southwest Hartford Substation in the City of Hartford; (b) modifications to a .01 mile section within existing Eversource right-of-way of the existing overhead 115-kV electric transmission line connection to the Newington Substation (Newington Tap); and (c) related modifications to Newington Substation and Southwest Hartford Substation.

Dear Attorney Bachman:

In accordance with the Siting Council's Procedures for Filing Proprietary Information Under Protective Order (Procedures), I submit with this letter a Motion for Protective Order and the required supporting documentation. The unredacted Attachment 5 of the Final Report will be transmitted separately via Sharefile.

As required by the Procedures, I attach the following documents:

- a. A Motion for Protective Order and a Memorandum of Law describing the legal standards upon which the motion is based;
- b. An affidavit of Kenneth Roberts, stating specifically why the information should be protected;
- c. A proposed Protective Order for signature by the Chairman;

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- d. A proposed Non-Disclosure Agreement for signature by requesters of the proprietary information; and
- e. A proposed Request for Information for completion by persons seeking access to the proprietary information.

Please note that I have not included a redacted version of the Final Report that contains the Actual Category Cost Information because that version has been filed separately on November 18, 2021.

Very truly yours,



Janie L. McDermott

JLMC/vab
Enclosures

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

The Connecticut Light & Power Company d/b/a Eversource Energy application for a Certificate of Environmental Compatibility and Public Need for the Greater Hartford-Central Connecticut Reliability Project that traverses the municipalities of Hartford, West Hartford, and Newington, which consists of (a) construction, maintenance and operation of a new 115-kilovolt (kV) electric transmission line within existing Eversource, Amtrak and public road rights-of-way and associated facilities extending overhead approximately 2.4 miles and underground approximately 1.3 miles between Eversource's existing Newington Substation in the Town of Newington and existing Southwest Hartford Substation in the City of Hartford; (b) modifications to a .01 mile section within existing Eversource right-of-way of the existing overhead 115-kV electric transmission line connection to the Newington Substation (Newington Tap); and (c) related modifications to Newington Substation and Southwest Hartford Substation.

DOCKET NO. 474

November 19, 2021

CERTIFICATE OF SERVICE

This is to certify that copies of the foregoing transmittal letter with the following enclosures:

Motion for Protective Order and Memorandum of Law

Affidavit of Kenneth Roberts

Proposed Protective Order

Proposed Non-Disclosure Agreement

Proposed Request for Information

were sent to each party on the service list dated June 9, 2017, with method of service to each party listed via e-mail on November 19, 2021.

cc: Service List Dated June 9, 2017

Dated: November 19, 2021



Janie L. McDermott

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

<p>The Connecticut Light & Power Company d/b/a Eversource Energy application for a Certificate of Environmental Compatibility and Public Need for the Greater Hartford-Central Connecticut Reliability Project that traverses the municipalities of Hartford, West Hartford, and Newington, which consists of (a) construction, maintenance and operation of a new 115-kilovolt (kV) electric transmission line within existing Eversource, Amtrak and public road rights-of-way and associated facilities extending overhead approximately 2.4 miles and underground approximately 1.3 miles between Eversource’s existing Newington Substation in the Town of Newington and existing Southwest Hartford Substation in the City of Hartford; (b) modifications to a .01 mile section within existing Eversource right-of-way of the existing overhead 115-kV electric transmission line connection to the Newington Substation (Newington Tap); and (c) related modifications to Newington Substation and Southwest Hartford Substation.</p>	<p style="text-align:center">DOCKET NO. 474</p> <p style="text-align:center">November 19, 2021</p>
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MOTION OF EVERSOURCE ENERGY
FOR A PROTECTIVE ORDER WITH RESPECT
TO “ACTUAL CATEGORY COST INFORMATION”

The Connecticut Light and Power Company doing business as Eversource Energy (Eversource) hereby moves that the Connecticut Siting Council (Council) enter a protective order in this Docket to ensure that proprietary information provided to the Council is not subject to unrestricted, general public disclosure. Specifically, for the reasons set forth in the attached Applicant’s Memorandum of Law in Support of Motion for Protective Order (Memorandum) filed this day with the Council, Eversource asks that this protective order apply to the detailed individual category actual cost amounts for construction of the facility set forth in items

a. – d. of Attachment 5 to the Final Report and associated information regarding these actual category costs (Actual Category Cost Information) filed simultaneously herewith in the above-captioned Docket. The Actual Category Cost Information is being filed contemporaneously with this motion, in a sealed and properly labeled envelope.

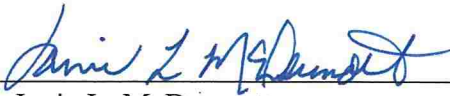
Eversource further requests that such order apply to such other proprietary information as Eversource may be required to file in this Docket.

As explained more fully in the accompanying Memorandum of Law, proprietary information in the Actual Category Cost Information is entitled to confidential treatment under the Connecticut Freedom of Information Act. Such treatment is consistent with the policies of the Federal Energy Regulatory Commission and the Independent System Operator – New England.

Eversource asks that disclosure of the Actual Category Cost Information under the protective order be limited, and that persons who are not otherwise entitled to have access to the information who wish to review it be required to execute a request for information and non-disclosure agreement, the forms of which are attached to the proposed protective order filed herewith.

Respectfully submitted,

**THE CONNECTICUT LIGHT AND POWER COMPANY
COMPANY DOING BUSINESS AS EVERSOURCE ENERGY**

By: 

Janie L. McDermott
Carmody Torrance Sandak & Hennessey LLP
Its Attorneys
50 Leavenworth Street
Waterbury, CT 06702
(203) 573-1200

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

<p>The Connecticut Light & Power Company d/b/a Eversource Energy application for a Certificate of Environmental Compatibility and Public Need for the Greater Hartford-Central Connecticut Reliability Project that traverses the municipalities of Hartford, West Hartford, and Newington, which consists of (a) construction, maintenance and operation of a new 115-kilovolt (kV) electric transmission line within existing Eversource, Amtrak and public road rights-of-way and associated facilities extending overhead approximately 2.4 miles and underground approximately 1.3 miles between Eversource's existing Newington Substation in the Town of Newington and existing Southwest Hartford Substation in the City of Hartford; (b) modifications to a .01 mile section within existing Eversource right-of-way of the existing overhead 115-kV electric transmission line connection to the Newington Substation (Newington Tap); and (c) related modifications to Newington Substation and Southwest Hartford Substation.</p>	<p>DOCKET NO. 474</p> <p>November 19, 2021</p>
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**APPLICANT'S MEMORANDUM IN SUPPORT OF
MOTION FOR PROTECTIVE ORDER**

The Connecticut Light and Power Company doing business as Eversource Energy (Eversource) hereby respectfully submits this memorandum in support of its Motion for Protective Order (Motion) filed on even date herewith, seeking to protect from public disclosure certain proprietary information submitted as individual category actual cost amounts for the construction of the facility, as set forth in items a. – d. of Attachment 5 to the Final Report for this Docket.

1. BACKGROUND

The Motion filed in connection with this memorandum seeks protection for documents that contain proprietary information. The Procedures for Filing Proprietary Information Under Protective Order adopted by the Connecticut Siting Council (Council) define proprietary information as "any information that may be exempt from public disclosure under the Freedom of Information Act (FOIA), C.G.S. §1-210(b)."

Simultaneously herewith, Eversource is filing in the above-captioned Docket the Greater Hartford-Central Connecticut Reliability Project Final Report, which includes individual category actual cost amounts for construction of the facility in items a. – d. of Attachment A to the Final Report and associated information regarding these actual category costs (Actual Category Cost Information). Eversource seeks a protective order in this Docket to protect the confidentiality of the Actual Category Cost Information. Eversource asserts that the Actual Category Cost Information is entitled to protection as proprietary information.

1. Connecticut Law

As noted in the Procedures, the protection for proprietary information arises from Connecticut General Statutes (C.G.S.) § 1-210(b). The Actual Category Cost Information is protected under § 1-210(b), which provides in relevant part:

- (b) Nothing in the Freedom of Information Act shall be construed to require disclosure of:

... (5) (A) Trade secrets, which for purposes of the Freedom of Information Act, are defined as information, including formulas, patterns, compilations, programs, devices, methods, techniques, processes, drawings, **cost data**, customer lists, film or television scripts or detailed production budgets that (i) derive independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from their disclosure or use, and (ii) are the subject of efforts that are reasonable under the circumstances to maintain secrecy; and

- (B) Commercial or financial information given in confidence, not required by statute ...

(emphasis added).

2. FERC and ISO-NE Protection of Proprietary Information

The statutory protection from public disclosure for proprietary information is entirely consistent with the information protected by the Federal Energy Regulatory Commission (FERC) and the Independent System Operator - New England (ISO-NE). FERC has established procedures for special treatment for the filing of critical energy infrastructure information or privileged material. FERC considers trade secrets to be privileged material as well as other information exempt from disclosure under the federal Freedom of Information Act. *See*, 18 C.F.R. § 388.107 and § 388.112. Similarly, ISO-NE protects the filing of trade secrets as confidential pursuant to Attachment D, ISO-NE Information Policy.

See, https://www.iso-ne.com/static-assets/documents/regulatory/tariff/attach_d/attachment_d.pdf

II. DISCUSSION

C.G.S. § 1-210(b)(5)(A) specifically recognizes “cost data” as included in the definition of trade secrets. Trade secrets are protected from public disclosure under the Connecticut FOIA under two conditions. First, there must be "independent economic value, actual or potential" from such information that is not otherwise known or ascertainable to persons who can obtain economic value from its disclosure or use; and second, there must be reasonable efforts to maintain the secrecy of such information. The Actual Category Cost Information satisfies both of these conditions.

1. Independent Economic Value

To comply with the requirements for filing an application with the Council under C.G.S. § 16-50l(a)(1)(A)(i) for certain electric facilities, applicants are required to file "A description,

including estimated costs..." of the proposed electric facilities. Eversource's Application in this Docket included a high-level estimate of project costs (see Section 3.3 of Eversource's Application). No further detail was required or provided.

Eversource is engaged in an ongoing process of design and construction of new projects that are subject to a competitive bidding process. The release of the actual cost data for completion of the facility that is set forth in the Actual Category Cost Information would provide a road map for bidders on future projects, such that it is likely that any bid would be adversely influenced by those actual costs incurred by Eversource. Accordingly, the purpose of the bid process would be severely undermined. Because the customers ultimately bear the costs of transmission projects, customers would not receive the benefit of a competitive bid process. Therefore, the cost data in the Actual Category Cost Information has independent economic value to Eversource now and potentially to its customers in the future. That cost data is not otherwise known to or ascertainable by potential bidders, who would gain economic value from higher bids, because it is not publicly filed.

2. Reasonable Efforts to Maintain Secrecy

As stated herein, only high-level aggregate cost estimates were provided in the Application. Eversource has not provided the level of detail for its actual cost data, such as those for the categories set forth in Attachment 5 to the Final Report, in any past public proceedings. The information is maintained at Eversource and can only be accessed by certain members of the Project team. Thus, Eversource closely maintains the secrecy of its actual cost data.

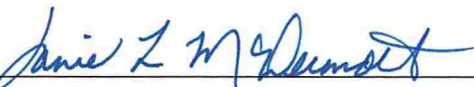
Therefore, the Actual Category Cost Information constitutes trade secrets that satisfy the conditions set forth in C.G.S. § 1-210(b)(5)(A). Accordingly, the Actual Category Cost Information is proprietary information for which a protective order is warranted.

III. CONCLUSION

The Actual Category Cost Information, submitted herewith, contains proprietary information, the nondisclosure of which is protected under the Connecticut FOIA. Protection of this proprietary information is consistent with the policies established by FERC and ISO-NE. Therefore, Eversource respectfully requests that the Council grant its request for a Protective Order with respect to this proprietary information.

Respectfully submitted,

THE CONNECTICUT LIGHT AND POWER COMPANY
DOING BUSINESS AS EVERSOURCE ENERGY

By: 

Janie L. McDermott
Carmody Torrance Sandak & Hennessey LLP
Its Attorneys
50 Leavenworth Street
Waterbury, CT 06702
(203) 573-1200

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

<p>The Connecticut Light & Power Company d/b/a Eversource Energy application for a Certificate of Environmental Compatibility and Public Need for the Greater Hartford-Central Connecticut Reliability Project that traverses the municipalities of Hartford, West Hartford, and Newington, which consists of (a) construction, maintenance and operation of a new 115-kilovolt (kV) electric transmission line within existing Eversource, Amtrak and public road rights-of-way and associated facilities extending overhead approximately 2.4 miles and underground approximately 1.3 miles between Eversource's existing Newington Substation in the Town of Newington and existing Southwest Hartford Substation in the City of Hartford; (b) modifications to a .01 mile section within existing Eversource right-of-way of the existing overhead 115-kV electric transmission line connection to the Newington Substation (Newington Tap); and (c) related modifications to Newington Substation and Southwest Hartford Substation.</p>	<p style="text-align:right">DOCKET NO. 474</p> <p style="text-align:right">November <u>18</u>, 2021</p>
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AFFIDAVIT OF KENNETH ROBERTS

STATE OF CONNECTICUT)

) ss: Hartford

November 18, 2021

COUNTY OF HARTFORD)

Kenneth Roberts, being duly sworn, states:

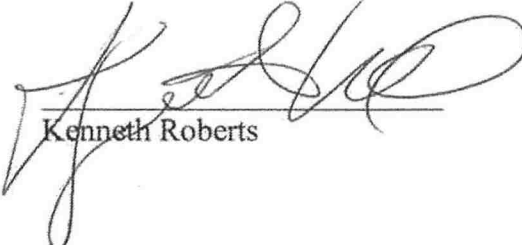
1. I am Manager, Project Management and Construction, for The Connecticut Light and Power Company doing business as Eversource Energy ("Eversource"). My office is located at 56 Prospect Street, Hartford, Connecticut 06103.

I am over the age of eighteen (18) years and understand the obligations of making statements under oath.

2. I am familiar with the Application in Docket No. 474, which Application was approved by the Connecticut Siting Council, and with the contents of the Final Report for the Greater Hartford Central Connecticut Reliability Project.

3. I submit this affidavit in support of a Motion for Protective Order filed by Eversource seeking to limit disclosure of the individual category actual cost amounts for construction of the facility in items a. – d. of Attachment 5 to the Final Report and associated information regarding these actual category costs (Actual Category Cost Information).

4. The Actual Category Cost Information provides detailed cost data for construction of the facility that is proprietary, the disclosure of which could result in undermining the competitive bid process for such facilities in the future, thereby eliminating the potential for lower project costs. Because Eversource ultimately recovers project costs from customers, customers may be prejudiced by the disclosure of the Actual Category Cost Information.



Kenneth Roberts

Subscribed and sworn to before
me this 18th day of November, 2021



Jeffrey D. Cochran

Commissioner of the Superior Court
~~Notary Public~~
My Commission Expires: _____

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

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**PROTECTIVE ORDER RE:
PROPRIETARY INFORMATION**

On November 19, 2021, Eversource Energy (Eversource) filed in the above-captioned Docket the Greater Hartford-Central Connecticut Reliability Project Final Report with individual category actual cost amounts for construction of the facility in items a. – d. of Attachment 5 to the Final Report and associated information regarding these actual category costs (Actual Category Cost Information).

Eversource asserts that the Actual Category Cost Information contains proprietary information (PI), and has requested that a protective scheme be implemented for this data, and for such other PI as Eversource may be required to file in this Docket. The Council has

defined PI as “any information that may be exempt from public disclosure under the Freedom of Information Act (FOIA), C.G.S. §1-210(b).”

Eversource maintains that protecting such proprietary information from disclosure is consistent with the policies of FERC and ISO-NE; that its release would be damaging to Applicant’s interests and the public interest; and that such information is exempt from disclosure under the state Freedom of Information Act pursuant to section 1-210(b)(5)(A) of the Connecticut General Statutes.

Accordingly, it is

ORDERED

1. That, until this Order is modified, access to the PI shall be limited as described in Paragraph 4 below.
2. That the PI and such information designated as PI as Eversource shall hereafter file in this Docket shall, unless removed from the coverage of this Order as provided in Paragraph 3 below, be and remain confidential. PI shall not be disclosed for any purpose other than the purposes of this proceeding, and then solely in accordance with this Order. No person to whom access to PI is accorded pursuant to Paragraph 4 of this Order shall disclose or reveal, directly or indirectly, the content of the PI to others, except as provided in Paragraph 4.
3. That the parties to whom PI is furnished may challenge designation of any documents or other information as confidential by motion to the Council and upon reasonable prior notice to the parties and an opportunity for hearing. Upon the entry of an order granting such a motion, the provisions and restrictions of this Order shall cease to bind any party or other person with respect to the documents or information that the Order granting the motion shall have expressly and clearly removed from the coverage of this Order.
4. That, until this Order is modified, access to PI filed in this proceeding shall be limited to: (i) the Council and its staff; (ii) parties in this proceeding, and their counsel, who have agreed to be bound by this protective order; (iii) a consultant engaged for the purpose of this proceeding for one of the foregoing persons or entities; and (iv) a stenographer or reporter recording any hearing in connection with this proceeding as part of the official record of the proceeding.

Any such recipient of PI shall agree to use the PI solely for the purposes of this proceeding and not disclose the information to any other person. Each person within an entity or organization must complete a PI Request Form and Non-Disclosure Agreement, similar to the forms attached.

5. That no copies of PI furnished by Eversource shall be circulated to persons other than those persons who are authorized under Paragraph 4 of this Order to obtain PI. Documents offered in evidence may be copied as necessary for that purpose. Persons authorized under Paragraph 4 hereof also may take such notes as may be necessary solely for the purposes of this proceeding. Those notes shall also be treated as PI. Although a person authorized to obtain PI may use the information as foundation for advice to his or her employer or clients, s/he may only discuss the PI with or disclose PI to another person authorized to receive identical PI.
6. All materials claimed by Eversource to be PI under the terms of this Order shall be clearly marked "Proprietary Information" by Eversource, and shall bear an

appropriate legend identifying them as such. When PI is intermixed with other materials, it must be securely redacted, and the redaction must be accompanied by a notation: "Confidential Proprietary Information." Each volume or document that contains such redactions shall include a prominent explanatory legend: Faxed materials should be marked as any other confidential document. With regard to other media, diskettes should be marked "Confidential Proprietary Information" on the outside and each file on the diskette should be similarly identified. Materials produced electronically shall be marked "confidential" and access to electronically-produced confidential materials shall be limited according to the terms and limitations provided in this Order. Any person or party subject to the terms of this Order who receives unmarked documents or materials which s/he believes Applicant intended to be protected by the terms of this Order, and that would have been protected if marked in accordance with this paragraph, shall make a good faith effort to notify Eversource of this fact and to avoid use of such documents or materials in a manner inconsistent with protection of such material under this Order.

7. That the restrictions upon, and obligations accruing to, persons who become subject to this Order shall not apply to any PI submitted in accordance with Paragraph 1 of this Order if the Council rules, after reasonable notice and hearing, that the PI was publicly known at the time it was furnished or has since become publicly known through no fault of the receiving party.
8. That where reference to PI is required in pleadings, briefs, other legal documents, or argument, the reference shall be by citation of title or exhibit number only or by some other non-confidential description to the extent possible. In those circumstances, counsel shall make every reasonable effort to preserve the confidentiality of material in the sealed record. If counsel shall include PI in pleadings, briefs, other legal documents, or arguments, that portion of the documents or that portion of the transcript of the argument containing PI shall be maintained under seal.
9. That the Council may draw upon all PI in the record in the deliberation of any decision or order that it may issue, but will avoid the reproduction in its decision of any PI.
10. That should any appeal of, or other challenge to, the Council's decision in this proceeding be taken, any portions of the record that have been sealed in accordance with Paragraph 6 above shall be forwarded to the courts of this State or other court having subject matter jurisdiction, in accordance with applicable law and procedures, under such protective order as may be entered by the court.
11. That PI made available pursuant to this Order and made part of the record in any proceeding before the Council shall remain in the possession of the Council, under seal, and subject to the protective requirements of this Order, until this Council shall otherwise order.

12. That this Order may be modified on motion of any party or on the Council's own motion upon reasonable prior notice to the parties and an opportunity for hearing.
13. Copies of PI and documents, notes and other materials containing or reflecting, directly or indirectly, the PI, that are in possession of the Council's members, counsel or employees may be retained by those persons for the purpose of performing those persons' duties and obligations. If retained, the PI shall be subject to this Protective Order or to a protective order issued in another proceeding in which the PI is used. If such a member, counsel or employee of the Commission does not retain the PI, that person shall destroy it as provided in this paragraph. When the Council determines that any PI is no longer required for its work, it shall destroy the material. All parties to whom PI has been made available in the proceeding, their counsel and retained experts, shall destroy all documents, notes and other materials containing or reflecting, directly or indirectly, the PI. Audio, video or other such magnetically recorded materials shall be electronically erased before disposal. Paper documents shall be shredded.

SO ORDERED:

CONNECTICUT SITING COUNCIL

BY _____

Chairman

Dated: _____, 2021

**NON-DISCLOSURE AGREEMENT WITH
AGREEMENT TO BE BOUND BY THE
TERMS OF THE PROTECTIVE ORDER**

The undersigned hereby acknowledges review of the Protective Order filed on November 19, 2021 in Docket No. 474 before the Connecticut Siting Council, and hereby agrees to abide by the terms thereof, in exchange for receipt of

Connecticut Siting Council Docket 474, Final Report, including individual category actual cost amounts for the construction of the facility set forth in items a. – d. of Attachment 5 to said Final Report and associated information regarding these actual category costs; and/or

Any additional material to be filed in this Docket for which proprietary information status is claimed by the Applicant.

Recipient: _____

Date: _____

**REQUEST FOR INFORMATION
PROPRIETARY INFORMATION
PURSUANT TO PROTECTIVE ORDER**

1. This form must be accompanied by an original signed Non-Disclosure Agreement or a Subscription to a Protective Order entered in an administrative proceeding, if you are a party or intervenor in an administrative proceeding and are not employed by the Independent System Operator, New England (ISO-NE) or a federal or state agency. If you have already signed a Non-Disclosure Agreement, please provide the date: _____

2. The undersigned requests the following information:

Connecticut Siting Council Docket No. 474, Final Report, including individual category actual cost amounts for the construction of the facility set forth in items a. – d. of Attachment 5 to said Final Report and associated information regarding these actual category costs; and/or

Any additional material to be filed in this Docket for which proprietary information status is claimed by the Applicant.

3. The undersigned is:

a party or intervenor in the proceeding identified in paragraph 2, having been admitted as such on _____

a consultant of one of the entities listed above who has been retained to provide advice regarding the matter described in paragraph 5 below

4. Give the name of your employer and your title: _____

5. The undersigned represents warrants and agrees that the information is to be used solely for the following purpose [describe in detail]: _____

6. If you are a consultant, provide the name and contact information of an individual at the organization that has retained you so that we may verify your role: _____

I acknowledge that the foregoing is true and accurate, and agree to give The Connecticut Light and Power Company doing business as Eversource Energy (Eversource) notice if any of the foregoing is no longer true. I also consent to Eversource and its affiliated companies sharing the fact that this request has been made and/or granted, and agree that Eversource and its parent and affiliated companies shall have no liability to me in connection with this request.

Signature: _____ Name (please print): _____

Organization: _____ Business Address: _____

Email: _____ Phone: _____

Fax: _____ Date: _____