

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

RE: PITTSFIELD AQUEDUCT COMPANY, INC.

DOCKET NO. DW 10-090

**MOTION FOR PROTECTIVE ORDER AND CONFIDENTIAL TREATMENT
FOR INFORMATION RESPONSIVE TO DATA REQUESTS OCA 2-6 AND 2-15**

Pittsfield Aqueduct Company, Inc. (“Pittsfield” or the “Company”) hereby moves the New Hampshire Public Utilities Commission (the “Commission”) to grant confidential treatment regarding certain materials in the above captioned proceeding. In support of this motion, Pittsfield states as follows:

1. On April 6, 2010, Pittsfield filed with the Commission its Notice of Intent to File Rate Schedules. Subsequently, on May 6, 2010, Pittsfield filed its 2010 Rate Filing.
2. On October 6, 2010, the Office of Consumer Advocate (the “OCA”) propounded its second set of data requests to Pittsfield. Data Requests OCA 2-6 and 2-15 include requests for confidential customer information as well as information that is proprietary to the Company’s consultant. At the time of the Company’s response, it produced the confidential information which was sought, and asserted a claim of confidentiality pursuant to Puc 203.08.
3. Specifically, Data Request OCA 2-6 seeks “...calculations supporting the four largest dollar adjustments shown on that Attachment and indicate the date the adjustments go back to.” In order to respond to this request, the Company had to produce information identifying a dozen customers, including the amounts billed under their accounts. A copy of the Company’s confidential response is provided in a sealed envelope with this Motion, along with a redacted copy of the response which was produced to the discovery service list in this docket.
4. Data Request OCA 2-15 seeks the proprietary models, formulas, functions and links in tact in electronic format of Pittsfield expert witness John Palko of AUS Consultants

pertaining to Pittsfield's cost of service and revenue calculations, information which is proprietary to AUS Consultants. The Company produced the electronic model to the Staff and Office of Consumer Advocate, a copy of which is provided to the Commission in a sealed envelope accompanying this Motion.

5. RSA 91-A:5, IV expressly exempts from the Chapter 91-A public disclosure requirements any "records pertaining to internal personnel practices [and] confidential, commercial or financial information. . . ." NH RSA 91-A:5, IV. The Commission's decision to protect this type of information involves "a balancing of the benefits of disclosure to the public against the benefits of nondisclosure to the utility." *Public Service Company of New Hampshire*, 79 NH PUC 379, 379 (1994) (citing *New England Telephone and Telegraph Company, Inc.*, 74 NH PUC 307 (1989) (internal quotation marks omitted).

6. In particular, the Commission regularly "protect[s] data relating to customer-specific power purchases and prices" under RSA 91-A:5, IV because "customers possess a reasonable expectation that such information [will] remain private." *Retail Competition Pilot Program*, 81 NH PUC 899, 900 (1996). "Customer information that is financially or commercially sensitive to the customer or which, if released, would likely constitute an invasion of privacy for the customer" are protected under RSA 91-A:5, IV. *City of Nashua*, 90 NH PUC 316, 316 (2005). Pittsfield's response to Data Request OCA 2-6 contains financially sensitive account and billing information for a dozen of its customers. Pittsfield customers maintain an expectation that such information will be kept private. For these reasons, Pittsfield does not disclose such data to the public in its regular course of business. Releasing this information would result in the invasion of Pittsfield customers' privacy and loss of customer confidence in the Company. Accordingly, the Commission should grant the foregoing customer data protective treatment.

7. The cost of service model produced in response to OCA 2-15 is the proprietary work product of AUS Consultants. This electronic model contains the formulas used by AUS Consultants to develop the cost of service. AUS Consultants is in the business of providing cost of service and other consultancy services to utilities. Its model is an asset of the business which Mr. Palko uses to earn his livelihood, and property which he maintains in confidence and does not disclose publicly. This is the very type of confidential financial information and sensitive, competitive commercial data that is exempt from public disclosure under RSA 91-A:5, IV. *See Northern Utilities, Inc.*, 84 NH PUC 300, 301 (1999) (computer model runs demonstrating certain comparative costs is sensitive commercial information protected under RSA 91-A:5, IV); *Public Service Company of New Hampshire*, 79 NH PUC at 379 (data supporting utility company's projected cost savings is competitive commercial information exempt from public disclosure).

8. Pittsfield's response to Data Request OCA 2-15 includes Mr. Palko's proprietary models and formulas in electronic format, which relate to Pittsfield's cost of service and revenue calculations. Mr. Palko and his firm do not release such data to the public. Disclosing this information to the public would likely cause competitive harm to Mr. Palko's firm because competitors and potential clients could access Mr. Palko's methodology without engaging his services. Further, if Pittsfield were to release this data, Pittsfield's ability to retain Mr. Palko's services and the services of similar consultants would be harmed, creating a chilling effect on those willing to participate in matters before the Commission. This effect would lead to a reduction in information available to the Commission and to the general public, and adversely affect the overall adjudication process of the Commission. In addition, the models and formulas which Pittsfield seeks to protect are an integral part of the electronic files throughout. Accordingly, Pittsfield requests that the entire data be afforded confidential treatment.

9. The factors identified above outweigh any minimal benefit of disclosing the foregoing confidential data to the public. Accordingly, Pittsfield requests that the Commission issue a protective order granting this motion and protecting from public disclosure the confidential information described herein. Pittsfield requests that copying, duplication, dissemination or disclosure in any form should be prohibited, except for use in this proceeding as part of a closed record or subject to similar protections. The protective order should also be extended to any discovery, testimony, argument or briefing relative to the confidential information.

WHEREFORE, Pittsfield respectfully requests that the Commission:

- A. Issue a protective order to prohibit disclosure of the confidential information submitted in response to Data Requests OCA 2-6 and 2-15 as described above;
and
- B. Grant such other relief as is just and equitable.

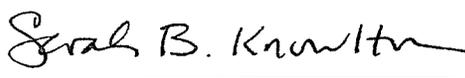
Respectfully submitted,

PITTSFIELD AQUEDUCT COMPANY, INC.

By Its Attorneys

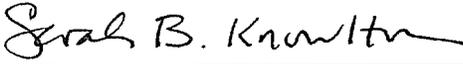
MCLANE, GRAF, RAULERSON &
MIDDLETON, P.A.

Dated: April 25, 2011

By: 
Sarah B. Knowlton, Esq.
100 Market Street, P.O. Box 459
Portsmouth, NH 03802
(603)334-6928

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Motion has been forwarded to the parties on the service list this 25th day of April 2011 by electronic mail.



Sarah B. Knowlton