

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Docket No. DW 19-084

Pennichuck Water Works, Inc.
Rate Proceeding

SUPPLEMENTAL MOTION FOR PROTECTIVE ORDER AND CONFIDENTIAL
TREATMENT
OF COMPENSATION AND PAYROLL INFORMATION

NOW COMES, Pennichuck Water Works, Inc. (“PWW”), in accordance with N.H. Admin. Rule Puc 203.08 and RSA 91-A:5, hereby supplements its motion for protective treatment that it filed with the New Hampshire Public Utilities Commission (the “Commission”) as part of its general rate case. In support of its motion, PWW states as follows:

1. On July 1, 2019, PWW filed schedules and supportive materials to effectuate a general rate increase. At Tab 4 of its filing, PWW filed a motion for protective order and confidential treatment for certain compensation and payroll information contained in its rate filing. The payroll information pertained to N.H. Admin. Rule Puc 1604.01(a)(14) (officer and director compensation); 1604.07(a)(5) and Puc 1604.07(j) (Schedule 1B-Payroll) located at Tabs 11 and 28 of its rate case filing. PWW seeks to protect from public disclosure the compensation information provided at these Tabs and which PWW has not previously publicly disclosed.

2. As noted in its motion, pursuant to N.H. Admin. Rule Puc 203.08(a), “the commission shall upon motion issue a protective order providing for the confidential treatment of one or more documents upon a finding that the document or documents are entitled to such treatment pursuant to RSA 91-A:5, or other applicable law....”

3. RSA 91-A:5, IV expressly exempts from the RSA Chapter 91-A public disclosure requirements any “records pertaining to internal personnel practices [and] confidential, commercial or financial information. . . .” RSA 91-A:5, IV. The multi-part analysis performed by the Commission weighs whether certain information is confidential, commercial, or financial information; and whether disclosure of that information would constitute an invasion of privacy. PWW cited in its motion to *EnergyNorth Natural Gas, Inc. d/b/a National Grid NH*, DG 10-017, Order No. 25,208 at 7-8 (March 23, 2011) and *Lamy v. N.H. Pub. Util. Comm’n*, 152 N.H. 106, 109 (2005) in support of its request. In this supplemental motion, PWW seeks to bring to the Commission’s attention another court decision, from the Hillsborough County Superior Court, wherein the Court ruled that PWW’s employee salary data was protected from public disclosure.

4. In *United Steelworkers, AFL-CIO v. Nashua Telegraph, et al*, Case No. 226-2012-CV-00134, issued on January 17, 2013, the N.H. Superior Court held that salary information of PWW’s employees was not subject to disclosure under RSA Chapter 91-A. This decision is attached. The Court, citing *Prof’l Firefighters of N.H. v. Local Gov’t Ctr., Inc.*, 159 N.H. 699, 708 (2010) noted that PWW’s employees “have an expectation of privacy in their salary as private employees.” The Court also noted that the N.H. Supreme Court had “acknowledged that salary information generally constitutes private information.” *United Steelworkers* at 14. Because the very information PWW requests in its motion to protect from public disclosure has been previously and specifically adjudicated by a court of competent jurisdiction in a decision that has become final, PWW requests the Commission also find that the non-public compensation information for PWW’s employees, officers, and directors also be protected from public disclosure.

WHEREFORE, Pennichuck Water Works, Inc. respectfully requests the Commission:

- A. Grant PWW's motion and protect from public disclosure the non-public compensation and payroll information of PWW's employees, officers, and directors; and
- B. Grant such other relief as is just and equitable.

Respectfully submitted,

PENNICHUCK WATER WORKS, INC.

By its Attorney,

N.H. Brown Law, PLLC

Date: October 17, 2019

By: *Marcia A. Brown*
Marcia A. Brown, Esq.
NH Brown Law, PLLC
20 Noble Street
Somersworth, NH 03878
(603) 219-4911

Certificate of Service

I hereby certify that a copy of this supplemental motion has been emailed this day to the Docket-Related Service List for this proceeding.

Date: October 17, 2019

Marcia A. Brown
Marcia A. Brown, Esq.