

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Docket No. DW 20-064

**Emergency Petition of Pennichuck Water Works, Inc. for Approval Under the Federal
Paycheck Protection Program**

**MOTION FOR PROTECTIVE ORDER AND CONFIDENTIAL TREATMENT
OF BUSINESS AND LOAN FORGIVENESS INFORMATION**

NOW COMES Pennichuck Water Works, Inc. (“PWW” or “Company”), in accordance with N.H. Admin. Rule Puc 203.08, and hereby moves the New Hampshire Public Utilities Commission (the “Commission”) to grant confidential treatment of the Small Business Administration’s (“SBA”) application for Loan Forgiveness Application Form 3508 Revised January 19, 2021 (“Loan Forgiveness Application”) provided by PWW to the Commission in response to request for this information by Orders No. 26,354 (May 6, 2020), 26, 424 (November 24, 2020) and 26,477 (April 30, 2021). In support of its motion, PWW states as follows:

1. As of the date of this Motion, PWW filed the Loan Forgiveness Application with TD Bank on June 30, 2021 for Paycheck Protection Program loan forgiveness.
2. Pursuant to Order No. 26,354, 26,424 and 26,477, PWW is providing this information to the Commission as a condition of receiving approval of the PPP loans approved in the above-referenced orders by the Commission. This document contains confidential business and loan information and is currently pending with TD Bank and the SBA.

3. 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....”

4. RSA 91-A:5, IV expressly exempts from the RSA Chapter 91-A public disclosure requirements any “[r]ecords pertaining to ... confidential, commercial, or financial information....” RSA 91-A:5, IV.

5. The Loan Forgiveness Application contains PWW’s tax identification number, SBA PPP loan number and other confidential business information that fall within the RSA 91-A:5, IV exemption because they are confidential commercial or financial information relative to the pending forgiveness application that remains subject to satisfactory review and approval by TD Bank and the SBA.

6. The Commission employs a multi-part analysis to determine whether certain information qualifies for confidential treatment: (1) whether the information sought is confidential, commercial, or financial information; and (2) whether disclosure of that information would constitute an invasion of privacy. *EnergyNorth Natural Gas, Inc. d/b/a National Grid NH*, DG 10-017, Order No. 25,208 at 7-8 (March 23, 2011). An invasion of privacy analysis, in turn, requires an evaluation of three factors: (1) whether there is a privacy interest at stake that would be invaded by disclosure; (2) whether there is a public interest in disclosure; and (3) a balance of the public’s interest in disclosure and the interests in nondisclosure. *Lamy v. N.H. Pub. Util. Comm’n*, 152 N.H. 106, 109 (2005).

7. PWW is seeking confidentiality because the confidential business information including the Company's tax identification number, SBA loan number and remaining financial confidential information in this application remains subject to review and approval by TD Bank and the SBA and the Company has a legitimate business reason for keeping such information private from third parties. It is in the public interest to allow such review and approval process by the TD Bank and SBA to occur in a manner consistent with the lender's and SBA's procedures and practices. PWW's inability to maintain the confidentiality of such documents, including the tax identification number, SBA loan number and other information contained within the Loan Identification Number may affect its ability to negotiation with TD Bank, SBA and future lenders. Revealing the tax identification number and SBA loan number could also expose the Company to potential fraud by outside parties.

8. Based on the foregoing, PWW requests that the Commission issue a protective order granting this motion and protecting from public disclosure the confidential financial and business information identified in this motion.

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

- A. Grant this Motion for Protective Order and Confidential Treatment; and
- B. Grant such other relief as is just and equitable.

Respectfully submitted,

PENNICHUCK WATER WORKS, INC.

By its Attorneys,

RATH, YOUNG AND PIGNATELLI, PC

Date: July 28, 2021

By: _____



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Certificate of Service

I hereby certify that on this 28th day of July, 2021, a copy of this motion has delivered via emailed to the Office of the Consumer Advocate.



James J. Steinkrauss