

**STATE OF NEW HAMPSHIRE  
BEFORE THE PUBLIC UTILITIES COMMISSION**

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)  
**PETITION FOR APPROVAL OF** )  
**PERMANENT RATES AND** )  
**PROPOSED TARIFF REVISIONS** )

**DOCKET NO. DW 20-071**

)  
**ATKINSON AREA WASTE** )  
**WATER RECYLCING, INC.** )  
Petitioner )  
\_\_\_\_\_ )

**MOTION FOR CONFIDENTIAL TREATMENT  
AND PROTECTIVE ORDER**

Atkinson Area Waste Water Recycling, Inc. (“AAWW” or the “Company”) respectfully moves the New Hampshire Public Utilities Commission (the “Commission”) to issue a protective order providing for the confidential treatment of documents submitted with this motion pursuant to N.H. Admin. Rule Puc 201.04(b) and (c) (hereinafter, “Puc\_\_\_”). These documents are the Company’s supplemental responses to Staff 1-1(b) and 1-24(d) of Staff Data Requests – Set 1. This motion is made pursuant to R.S.A. 91-A:5(IV) and NH. Admin Rules, and Puc 203.08.

In support of this motion, AAWW states that the attached documents contain confidential and/or financial information not available to the public and that the company does not want to become part of the public docket. See Puc 203.08(c)

In further support of this motion, the Company states the following.

1. As part of the procedural schedule for this docket Staff served its first set of Data Requests containing 29 requests, some with subparts. AAWW filed its responses on October 16, 2020. The Company responded to Staff 1-1 and 1-24 declining to provide information showing company ownership and officers of the non-public

- utilities [Staff 1-1(b)] and declining to provide copies of federal and state tax returns because they are consolidated returns of AAWW's parent company, Atkinson Farm, LLC and other affiliated companies [Staff 1-24(a) and (d)].
2. After consultation with Staff's counsel, AAWW agreed to provide further responses to these two data requests through a motion for confidential treatment and protective order, this motion, pursuant to Puc 203.08. The documents attached to this motion are done so pursuant to Puc 201.04(b) and (c) and are entitled to protection from public disclosure and to remain confidential until the Commission rules on this motion pursuant to Puc 203.08(c).
  3. The Company's response to Staff 1-1(b) is a chart showing ownership and officers of Lewis Builders Development, Inc., Atkinson Concessions, Inc., and Atkinson Farm, LLC, all privately held companies. Such information is private and confidential, and not available to the public as each of the companies are closely held.
  4. The documents responding to Staff 1-24(d) are consolidated federal and state tax returns of AF and other closely held affiliated companies including AAWW. AAWW represents less than 1% of the revenue reflected on these tax returns. The tax returns contain financial information that is confidential and not publicly available. Moreover, the tax returns requested have been reviewed by the PUC auditor. AAWW does not wish this information to be part of the public docket because such information would cause the respective company's harm if disclosed to the public including business competitors.

5. Pursuant to Puc 203.08 (a) “the commission shall upon motion issue a protective order providing for 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...”
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 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. RSA 91-A:5(IV) expressly exempts from public disclosure requirements of any “records pertaining to...confidential, commercial or financial information...”  
RSA 91-A:5 (IV).
8. AAWW asserts the information sought in Data Requests Staff 1-1(b) and 1-24(d) falls within RSA 91-A:5(IV) exemption because such information is confidential commercial or financial information that reveals information that is not otherwise publicly available, and there is not a strong public interest in disclosure, particularly given AAWW’s revenue as compared to the revenue of the other

companies. Accordingly, the balance between the public's interest and the interests in nondisclosure falls in favor of nondisclosure.

9. For these reasons, AAWW requests that the Commission grant this motion and issue a protective order providing for the confidential treatment of the documents attached to this motion.

WHEREFORE, Atkinson Area Waste Water Recycling, Inc., requests the Commission grant this motion and issue an order protecting from public disclosure the information identified in this motion that the Company asserts is confidential.

Respectfully submitted,

ATKINSON AREA WASTE WATER RECYCLING, INC.

Dated: November 9, 2020

/s/ Anthony S. Augeri  
Anthony S. Augeri, Esq., General Counsel

Certificate of Service

I hereby certify that a copy of the foregoing petition and supporting materials have been sent by email this 9<sup>th</sup> day of November 2020 to the Office of the Consumer Advocate at [OCALitigation@oca.nh.gov](mailto:OCALitigation@oca.nh.gov) and to the service list for this docket.

/s/ Anthony S. Augeri  
Anthony S. Augeri, Esq., General Counsel

Submission pursuant to Puc 201.04(b) and (c).