

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

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PETITION FOR APPROVAL OF)	
PERMANENT RATES AND)	
PROPOSED TARIFF REVISIONS)	
)	
THE HAMPSTEAD AREA)	DOCKET NO. DW 20-117
WATER COMPANY, INC.)	
Petitioner)	
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**MOTION FOR CONFIDENTIAL TREATMENT
AND PROTECTIVE ORDER**

The Hampstead Area Water Company, Inc. (“HAWC” or the “Company”) respectfully moves the New Hampshire Public Utilities Commission (the “Commission”) to grant a protective order for certain confidential information contained in the Company’s responses to data requests served by Staff (now known as the Department of Energy, hereafter “Energy”) and data requests served by intervenor the Town of Atkinson pursuant to R.S.A. 91-A:5(IV) and NH. Admin Rules, Puc 201.04(b) and (c), and Puc 203.08.

In support of this motion, HAWC states as follows:

1. During discovery for this proceeding both Energy and the Town of Atkinson served data requests on the Company.
2. In response to Energy’s third set of data request, specifically Staff 3-8, the Company provided information showing its employees’ payroll salary and pay information.

3. In response to the Town of Atkinson's fifth set of data requests, specifically Atkinson 5-38, the Company provided information showing its employees' salary and pay information.
4. On Friday September 24 the Company learned that the Town of Atkinson plans to publish all data requests and the Company's respective responses.
5. Over the weekend the Company has identified the attached responses to data requests that it seeks to be protected from public disclosure.
6. Attached to this motion are redacted versions of the documents to which confidential treatment is sought, marked "Redacted" and to be served to the service list. An unredacted version of the submissions marked "Confidential" will be provided only to the PUC.
7. 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..."
8. 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)

9. 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).
10. In *United Steelworkers, AFL-CIO v. Nashua Telegraph, et al*, Case No. 226-2012-CV-00134, issued on January 17, 2013 (copy attached as Exhibit 1) the New Hampshire Superior Court held that employee salary information is not subject to disclosure under RSA 91-A. Citing to *Prof'l Firefighters of N.H. v. Local Gov't Ctr., Inc.*, 159 N.H. 699, 708 (2010) (The Court agrees that...employees have an expectation of privacy in their salary as private employees.).
11. The proposed information the Company seeks to be deemed confidential falls within RSA 91-A:5(IV) exemption because they are confidential commercial or financial information that reveals employee pay and salary information and all work for a private employer.
12. For these reasons, HAWC requests that the Commission issue a protective order granting this motion and protecting from public disclosure the information identified in this motion that the Company asserts is confidential.
13. The specific documents the Company asserts are confidential are attached to this Motion and submitted pursuant to Puc 201.04(b) and (c).

WHEREFORE, The Hampstead Area Water Company, Inc., respectfully 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,

THE HAMPSTEAD AREA WATER COMPANY, INC.

/s/ Anthony S. Augeri, Esq.

Anthony S. Augeri, Esq., General Counsel

Dated: September 27, 2021

Certificate of Service

I certify that a copy of the foregoing document was served via the PUC's docket-related service list for this proceeding.

/s/ Anthony S. Augeri, Esq.

Anthony S. Augeri, Esq., General Counsel

Redacted submission pursuant to Puc 201.04(b)