

STATE OF NEW HAMPSHIRE
BEFORE THE
NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

DW 20-157

Pennichuck Water Works, Inc.

**Petition of Pennichuck Water Works, Inc. for
Approval of Bond Financing and Fixed Asset Line of Credit**

**AMENDED SUPPLEMENTAL MOTION FOR PROTECTIVE ORDER AND
CONFIDENTIAL TREATMENT OF BUSINESS LOAN 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 TD Bank, N.A.’s (“TD Bank”) Revolving Note, Loan Agreement and Pledge Agreement provided by PWW to supplement testimony in the instant financing petition filing and in support of the Fixed Asset Line of Credit (FALOC) approval. In support of its motion, PWW states as follows:

1. As of September 24, 2020, PWW filed a petition for approval of financings from TD Bank.
2. With its petition, PWW filed a motion for protective order and confidential treatment of certain proposed terms and conditions of financing between TD Bank and PWW (Bates 46 to 51). These documents are proposed and have been identified as confidential by TD Bank.
3. On November 18, 2020, during a Second Technical Session, a request was made by Staff to provide the Commission with certain terms and conditions of financing between TD

Bank and PWW under the existing Revolving Note executed on May 2, 2018. These documents are and have been identified as confidential by TD Bank.

4. On November 20, 2020, PUC Staff made a follow up request for the PWW and TD Bank Loan Agreement, part of the same FALOC transaction and related document to Revolving Note.

5. On November 20, 2020, in response to PUC Staff's request, PWW also provides the PWW and TD Bank Pledge Agreement which is also included as the term "loan documents" referenced in the Loan Agreement.

6. In light of the additional request by PUC Staff, PWW hereby amends its supplemental motion for protective order and confidential treatment filed on November 19, 2020 with PUC in Docket DW 20-157, repeating the same grounds for confidential treatment as the PWW and TD Bank Revolving Note.

7. 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...."

8. 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.

9. The Revolving Note, Loan Agreement and Pledge Agreement fall within the RSA 91-A:5, IV exemption because they are confidential commercial or financial information that

reveal terms that remain subject to satisfactory review and completion of documentation, due diligence and approval by PWW and TD Bank.

10. 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).

11. PWW is seeking confidentiality because the terms and conditions that TD Bank has provided the documentation to PWW with a request they remain confidential. It is in the public interest to allow and to not compromise the ability of TD Bank to negotiate and execute transactions in a manner consistent with the lender's procedure and practice. PWW's inability to maintain the confidentiality of such documents may affect its future ability to negotiate with lenders, including TD Bank.

12. Based on the foregoing, PWW hereby supplements its September 24, 2020 motion, amends its Supplemental Motion for Protective Order and Confidential Treatment filed on November 19, 2020 and requests that the Commission issue a protective order granting this motion and protecting from public disclosure the confidential Revolving Note, Loan Agreement and Pledge Agreement including its terms and conditions identified in this motion.

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


- A. Grant this Supplemental 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: November 20, 2020

By:

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Certificate of Service

I hereby certify that on this 20th day of November 2020, a copy of this motion has been hand delivered and emailed to the Office of the Consumer Advocate.



William F. Ardinger