

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Docket No. DW 21-022

**2021 Petition of Pennichuck East Utility, Inc. for
Qualified Capital Project Annual Adjustment Charge**

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

NOW COMES Pennichuck East Utility, Inc. (“PEU” 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 CoBank ACB’s (“CoBank”) Promissory Note executed on September 29, 2021 requested as proof of closing in response to the Department of Energy’s (“DOE”) Discovery Request 1 for its 2021 Petition for Qualified Capital Project Annual Adjustment Charge (“QCPAC”). In support of its motion, PEU states as follows:

1. As of the date of and concurrently with the filing of this Motion, PEU filed a its responses to DOE’s Discovery Request 1 related to its 2021 QCPAC Petition in Docket DW 21-022.

2. In response DOE DR 1-1b)-1, a copy of which is attached, PEU provides a copy of the Promissory Note executed between PEU and CoBank as evidence of loan closing on September 29, 2021. The Company requests confidential treatment of the Promissory note including its terms and conditions of financing between CoBank and PEU, attached as

Attachment DOE DR 1-1b)-1. These documents have been identified as confidential by CoBank and contain confidential commercial or financial information.

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 Promissory Note contains terms that fall within the RSA 91-A:5, IV exemption because they are confidential commercial or financial information that reveal terms that commercially specific and confidential to CoBank.

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. PEU is seeking confidentiality because the terms and conditions remain subject to confidentiality and CoBank provided and executed the terms of Promissory Note with a request and expectation that they remain confidential. This is also consistent with the confidentiality terms of the Master Loan Agreement between PEU and Cobank, referenced in the first paragraph of Attachment DOE 1-1b)-1. It is in the public interest to allow such negotiations and lending transactions to occur in a manner consistent with the lender's procedure and practice. PEU's inability to maintain the confidentiality of the Promissory Note and other such documents may affect its ability to negotiate with lenders.

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

WHEREFORE, Pennichuck East Utility, 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 EAST UTILITY, INC.

By its Attorneys,

RATH, YOUNG AND PIGNATELLI, PC

Date: October 28, 2021

By: _____




James J. Steinkrauss
One Capital Plaza
Concord, NH 03301
(603) 410-4314
jjs@rathlaw.com

Certificate of Service

I hereby certify that a copy of this motion, have this day been forwarded to the Office of Consumer Advocate via electronic mail at ocalitigation@oca.nh.gov.

Dated: October 28, 2021



James J. Steinkrauss