

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

Aquarion Company

Docket Nos. DW 21-090 and IR 21-024

**Petition for Approval of the Acquisition of Abenaki Water Company by
Aquarion Company; Investigation into Water Pressure Issue in the
Rosebrook Water System**

MOTION FOR PROTECTIVE ORDER AND CONFIDENTIAL TREATMENT

Aquarion Company (“Aquarion” or the “Company”) respectfully requests, pursuant to N.H. Code Admin. Rules Puc 203.08 and RSA 91-A:5, IV, that the New Hampshire Public Utilities Commission (“Commission”) grant a protective order to preserve the confidential treatment of certain infrastructure information provided by the Company in these dockets. In support of this motion, Aquarion states the following:

1. As a part of the settlement agreement in Docket No. DW 21-090 (“Settlement Agreement”), Aquarion agreed to numerous reporting obligations to address concerns raised by the New Hampshire Department of Energy’s (“DOE”) Division of Enforcement in its “Investigation Report Of Water Pressure Reduction Matter In Rosebrook Water System”, issued on August 31, 2021. These reporting requirements were included in the Settlement Agreement at Appendix 1. In Order No. 26,549 approving the Settlement Agreement, the Commission required that Aquarion file copies of all reporting to the Commission and the relevant dockets in addition to the DOE’s Division of Enforcement.
2. Included in the reporting obligations is a requirement that the Company submit “copies of completed As-Built plans with updates and corrections.” (Settlement Agreement at 14). To satisfy this obligation, Aquarion prepared system maps for the

Abenaki water systems that show water mains, hydrants, valves, wells, treatment / pumping facilities, and tanks (the “Maps”), and filed the Maps with the requisite reporting and timeline update today, May 12, 2022. Consistent with N.H. Code Admin. Rules Puc 203.02 and 203.08, the report update and the attached Maps were provided confidentially to the Commission, the DOE, and the OCA. A redacted version of the report update, without the Maps, was filed to the service lists and Docket Nos. DW 21-090 and IR 21-024.

3. In determining whether documents are entitled to exemption pursuant to RSA 91-A:5, IV, the Commission applies a three-step analysis to determine whether information should be protected from public disclosure. *See Lambert v. Belknap County Convention*, 157 N.H. 375 (2008); *see also Abenaki Water Company, Inc.*, Order No. 25,840 at 2 (November 13, 2015) (citation omitted). The first step is to determine if there is a privacy interest at stake that would be invaded by the disclosure. Order No. 25,840 at 2. If such an interest is at stake, the second step is to determine if there is a public interest in disclosure. *Id.* The Commission has stated that disclosure should inform the public of the conduct and activities of its government; if the information does not serve that purpose, disclosure is not warranted. *Id.* If both steps are met, the Commission balances the privacy interest with the public interest to determine if disclosure is appropriate. *Public Service Company of New Hampshire*, Order 25,167 at 3-4 (November 9, 2010). Additionally, the Commission routinely protects as confidential, information about utility infrastructure. *Aquarion Water Company of New Hampshire, Inc.*, Order No. 25,863 at 2 (February 1, 2016) (citation omitted).

4. Aquarion has a keen privacy interest at stake in the instant case of keeping the

confidentiality of the Maps. Care must be used to protect sensitive materials that contain confidential infrastructure information. Aquarion has provided the Maps to the DOE and the Commission, which contain information that should be protected from public disclosure because they provide specific details about Aquarion's infrastructure sufficient to raise security concerns, including the precise location of water mains, hydrants, valves, wells, treatment / pumping facilities, and tanks within Aquarion's service territory. Aquarion does not publicly disclose the Maps so as to protect the material from unauthorized access or accidental disclosure, and to protect against threats to the system. Knowledge of the specific locations of this critical infrastructure could facilitate an act which could render the system unable to provide water service or unable to provide safe water. Keeping certain confidential infrastructure information from public disclosure is critical to the safe and reliable operation of the water distribution system in Aquarion's service territory and is necessary to keep the general public safe.

5. Conversely, there is no prevailing public interest in disclosure of this information as it will provide no information about the conduct or activities of the Commission, the DOE, or other parts of New Hampshire state or local government. But even if some public benefit were to be found in the disclosure of the Maps, the benefits of non-disclosure to the general public far outweigh any possible public interest in obtaining them. In fact, the Commission has previously balanced the interests of the utility seeking to protect disclosure of utility infrastructure plans that show specific locations of specific assets against the public's right to disclosure and has granted protective treatment to similarly detailed system maps. The Commission found that the privacy

interest at stake would be invaded and that the public's interest did not warrant disclosure. *See Aquarion Water Company, Inc.*, Order No. 25,863 (the Commission protected "infrastructure information" including maps that identify areas of a water utility's distribution system). To the extent similar infrastructure maps are necessary to be filed in the future to these dockets, Aquarion seeks the same protective confidential treatment for those documents as well.

WHEREFORE, the Company respectfully requests that the Commission grant this Motion and issue an appropriate protective order.

Respectfully submitted this 12th day of May 2022.

AQUARION COMPANY

By its Attorney,



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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list in this proceeding.

Dated at Manchester, New Hampshire this 12th day of May 2022.



Jessica A. Chiavara