

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

**DW 21-129**

**Pennichuck Water Works, Inc.**

**Petition of Pennichuck East Utility, Inc. for Approval of  
Financing from CoBank**

**SUPPLEMENTAL 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 a letter from PEU to TD Bank, N.A.’s (“TD Bank”) regarding a request for consent to the proposed loan with CoBank to supplement testimony in the instant financing petition filing and in support of the approval of the proposed loan. In support of its motion, PEU states as follows:

1. On September 2, 2021, PEU filed a petition for approval of financings with CoBank.
2. With its petition, PEU filed a motion for protective order and confidential treatment of certain proposed terms and conditions of financing between CoBank and PEU (Bates pages 42 to 45) and attached as Exhibit LDG-4. These documents were proposed and have been identified as confidential by CoBank.

3. On October 12, 2021, PEU sent a letter to TD Bank requesting consent to the proposed loan with CoBank including certain confidential terms and conditions that was subject of the initial motion for protective treatment filed on September 2, 2021.

4. On October 21, 2021, TD Bank by email to PEU subsequently confirmed its consent to the loan and financing with CoBank proposed in the instant financing, said email constituting a private business communication between TD Bank and PEU.

5. By procedural order issued by the Commission on October 21, 2021, the Commission requested that PEU file proof of consent to the CoBank loan by TD Bank prior to October 27, 2021.

6. 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....”

7. 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.

8. The letter dated October 12, 2021 falls within the RSA 91-A:5, IV exemption because the letter contains confidential commercial or financial information that reveals terms that remain subject to satisfactory review and completion of documentation, due diligence and approval by PEU and ultimately CoBank.

9. 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).

10. PEU is seeking confidentiality because the terms and conditions that CoBank has provided and document in the letter to TD Bank by PEU included a request that they remain confidential. It is in the public interest to allow and to not compromise the ability of PEU to negotiate and execute transactions and communications with TD Bank and CoBank in a manner consistent with the lenders' procedures and practices. PEU's inability to maintain the confidentiality of such documents may affect its future ability to negotiate with lenders, including TD Bank and CoBank.

11. Based on the foregoing, PEU hereby supplements its September 2, 2021 motion and requests that the Commission issue a protective order granting this motion and protecting from public disclosure the confidential the letter dated October 12, 2021, including its terms and conditions and communications identified in this motion.

WHEREFORE, Pennichuck East Utility, 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 EAST UTILITY, INC.

By its Attorneys,

RATH, YOUNG AND PIGNATELLI, PC

Date: October 25, 2021

By:



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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](mailto:ocalitigation@oca.nh.gov).

Dated: October 25, 2021



James J. Steinkrauss