

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Docket No. DW 22-__

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

**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 Rule 203.08, and hereby moves the New Hampshire Public Utilities Commission (the “Commission”) to grant confidential treatment of CoBank ACB’s (“CoBank”) Non-Binding Summary of Terms and Conditions provided by PEU in its instant financing petition filing. 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 petition for approval of a financing from CoBank.
2. In its filing, PEU is providing information regarding the proposed terms and conditions of financing between CoBank and PEU (Bates pages 32 to 35) and attached as Exhibit LDG-5. These documents are proposed and have been identified as confidential by CoBank in Exhibit LDG-5.
3. Pursuant to N.H. Admin. Rule PUC Rule 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 proposed term sheets found in the Non-Binding Summary of Terms and Conditions 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 PEU and 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. *Energy North 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 negotiation, the terms have not been finalized, and CoBank provided the documentation to PEU with a request they remain confidential. *See* CoBank’s header Bates page 32, and the last sentence of paragraph 1, Bates page 32, which states, “This Summary is strictly confidential and

may not be released to or discussed with any third party without the prior written consent of CoBank.” It is in the public interest to allow such negotiations to occur in a manner consistent with the lender’s procedure and practice. PEU’s inability to maintain the confidentiality of 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: April 13, 2022

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.

Dated: April 13, 2021



James J. Steinkrauss