

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

Docket No. DW 22-032

Pennichuck Water Works, Inc.  
Permanent Rate Proceeding

**ASSENTED-TO SUPPLEMENTAL MOTION FOR PROTECTIVE ORDER**  
**AND CONFIDENTIAL TREATMENT OF DISCOVERY**  
**CONCERNING COMPENSATION AND PAYROLL INFORMATION**

NOW COMES, Pennichuck Water Works, Inc. (PWW), in accordance with N.H. Admin. Rule Puc 203.08 and RSA 91-A:5, hereby moves the New Hampshire Public Utilities Commission (Commission) to grant confidential treatment and issue an appropriate order to protect from public disclosure certain confidential data requests and data responses concerning compensation and payroll information being filed with a settlement agreement by the settling parties. In support of its motion, PWW states as follows:

1. On October 24, 2022, in Order No. 26,711, the Commission approved PWW's motion for confidential treatment and protective order concerning certain officer and director compensation, salary, dates of employment, and job titles of salaried employees. That protected information appears in Hearing Exhibits 2 and 5 being filed in advance of the May 17, 2023 hearing in this matter.

2. Pursuant to the Commission-approved procedural schedule, the Department of Energy (DOE) issued data requests concerning this confidential information, to which PWW responded. Those data responses are part of Attachment B to the Settlement Agreement entered into by PWW, the DOE, and the Office of the Consumer Advocate (OCA) (together, Settling Parties). Specifically, the confidential material appears on pages 37 through 44 of Attachment B,

which are the individual data responses provided by PWW, and on page 31 of Attachment D, which are the updated Puc 1604.06 schedules provided by PWW in discovery.

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 “records pertaining to internal personnel practices [and] confidential, commercial or financial information. . . .” RSA 91-A:5, IV.

5. 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).

6. Because the Commission has already balanced the interests of disclosure and non-disclosure of the compensation and payroll data and because the data responses concern that same information, but in a different form, PWW avers that the information also falls within the RSA 91-A:5, IV exemption because the information relates to internal personnel practices and is

confidential compensation information worthy of protection. Disclosing this information would result in an unwarranted invasion of the personal privacy of the officers, directors, and employees involved. PWW does not otherwise publicly disclose this information. PWW avers that the subject officers, directors, and employees maintain their interests in the privacy of their compensation information and that those interests are not outweighed by the public's interest in the data. "The privacy interest at stake concerns the individual's control of information about his or her person." Lamy, 152 N.H. at 110. PWW does not make this information public because release of this information to the public could result in the identification of employees and their wages and this would invade the privacy of PWW employees. Disclosure would also cause competitive harm to PWW because it would make it more difficult to attract or retain qualified employees.

7. The Commission has previously concluded that such officers, directors, and employees have a privacy interest in their personally identifiable financial information and that the subject officers, directors, and employees' privacy interests outweighed the public's right to the data. Order No. 26,711 in DW 22-032 (October 24, 2022). See, also, *EnergyNorth Natural Gas d/b/a National Grid NH*, Docket No. DG 10-017, Order No. 25,119 at 11 (June 25, 2010); *Pennichuck Water Works, Inc.*, DW 06-073, Order No. 24,701 at 2 (November 22, 2006); and *Pennichuck Water Works, Inc.*, DE 19-084, Order No. 26,383 (July 24, 2020) at 19.

8. Because the Commission has previously protected this compensation and payroll data, PWW respectfully requests that the Commission extend protective treatment to the same subject matter contained in the data responses found in Attachment B and responsive schedules provided in Attachment D. The information sought to be protected is grey-shaded and

“confidential” is noted on the affected pages. PWW is also filing a redacted, public copy that contains blacked-out information and “redacted” on the affected pages.

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

10. PWW contacted the Department of Energy (Department) and the Office of the Consumer Advocate and both parties assent to the relief requested.

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

- A. Grant this Motion; and
- B. Grant such other relief as is just and equitable.

Respectfully submitted,

PENNICHUCK WATER WORKS, INC.

By its Attorney,

N.H. Brown Law, PLLC

Date: May 10, 2023

By: *Marcia A. Brown*  
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Certificate of Service

I hereby certify that a copy of this motion has been emailed to the Docket-Related Service List for this proceeding.

Date: May 10, 2023

*Marcia A. Brown*  
Marcia A. Brown, Esq.