

STATE OF NEW HAMPSHIRE  
BEFORE THE  
PUBLIC UTILITIES COMMISSION

Re: Aquarion Water Company of New Hampshire

Docket DW 14-075

**MOTION FOR PROTECTIVE ORDER AND CONFIDENTIAL TREATMENT**

Aquarion Water Company of New Hampshire, Inc. ("Aquarion" or the "Company"), in accordance with NH Admin. Rule Puc 203.08, hereby moves the New Hampshire Public Utilities Commission (the "Commission") to grant confidential treatment to its 2013 Federal and New Hampshire tax returns submitted to the Commission contemporaneously with this Motion pursuant to Order No. 25,692. In support of its motion, Aquarion states as follows:

1. In its Order No. 25,692 in this proceeding, the Commission directed Aquarion to file its 2013 tax returns with the Commission to assist the Commission in making a final determination regarding the amortization period for the tax benefit being credited to Aquarion's customers. The tax returns are being submitted contemporaneously with this Motion as Attachments 1 and 2 to the Technical Statement of Troy M. Dixon.

2. The Company is a subsidiary of Macquarie Utilities, Inc. ("MUI"), which is not publicly traded. The Company's tax information is reported on a consolidated basis with MUI and its other subsidiaries, including non-regulated subsidiaries. The Company desires to protect information regarding the financial position of MUI from other investors with whom MUI and other investment entities owned by affiliates of MUI compete for making infrastructure investments. Public disclosure of information related to the financial strength or position of MUI or its subsidiaries could put them at a strategic disadvantage in future acquisitions. The information contained in MUI's tax returns is not public, and therefore disclosure of that

information to the public could put MUI and its affiliates at a competitive disadvantage, causing harm to those businesses.

3. RSA 91-A:5, IV states, in relevant part, that records pertaining to “confidential, commercial, or financial information” are exempt from public disclosure. The Commission has routinely recognized that confidential treatment should be granted to competitively sensitive or proprietary information under the 91-A:5 exemption for “confidential, commercial, or financial information.” *See, e.g., Northern Utilities, Inc.*, DG 10-034, Order No. 25,085 at 9; *Unitil Corp. and Northern Utilities, Inc.*, DG 08-048, Order No. 25,014 at 6 (Sept. 22, 2009).

4. MUI’s tax returns fall squarely within the statutory definition of “confidential, commercial or financial information” and are entitled to protection because neither the Company nor MUI is publicly traded nor do they normally release MUI’s tax returns or any of the confidential information contained in those tax returns to the public.

5. The Commission has previously afforded protective treatment for the production of the tax returns of a parent corporation, where the company was not publicly traded and the company routinely kept its tax records confidential. *See Sacoridge Water, Inc.*, DW 05-054, Order No. 24,561 (December 9, 2005). The Commission has expressly noted that, with respect to the production of tax records, “the benefits of non-disclosure outweigh the benefits of public disclosure.” *Id.* at 10.

6. In the Company’s last general rate case, DW 12-085, the Commission granted protective treatment to MUI’s 2010 and 2011 tax returns. *See* Order No. 25,539 at page 4. The request for protective treatment being sought in this Motion is consistent with the protection granted in that proceeding.

7. Where, as here, the public disclosure of confidential financial and competitively sensitive information would create a competitive disadvantage for the Company, MUI, and the

other entities whose financial information is reported on MUI's consolidated tax returns, protective treatment is appropriate. *See Connecticut Valley Electric Co.*, DE 01-098, Order No. 23,760 at 2 (August 16, 2001) (motion to keep certain state tax information confidential granted where information at issue constituted confidential and competitively sensitive material the release of which would put company at competitive disadvantage); *see also, Atkinson Woods Water, LLC*, DW 04-001, Order No. 24,364 at 3 (August 26, 2004) (personal tax returns of water utility owner engaged in construction and real estate business would put petitioner at competitive disadvantage if publicly disclosed). Accordingly, as the Commission has previously recognized, the balance to be struck in this instance should be struck in favor of maintaining confidentiality of the Company's and MUI's private financial and competitively sensitive business information.

WHEREFORE, Aquarion Water Company of New Hampshire respectfully requests that 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,

Aquarion Water Company of New Hampshire

By Its Attorneys

MCLANE, GRAF, RAULERSON & MIDDLETON, P.A.

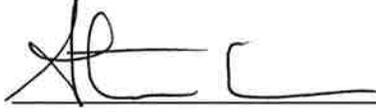
Dated: November 13, 2014

By: 

Steven V. Camerino, Esq.  
11 South Main Street, Suite 500  
Concord, NH 03301  
Telephone (603) 226-0400  
Email: steven.camerino@mclane.com

**Certificate of Service**

I hereby certify that a copy of this Motion for Protective Order and Confidential Treatment has been electronically served on the persons on the Commission's service list in this case.

A handwritten signature in black ink, appearing to read 'S. Camerino', is written over a horizontal line.

Steven V. Camerino