

STATE OF NEW HAMPSHIRE  
BEFORE THE  
PUBLIC UTILITIES COMMISSION

ATKINSON AREA WASTEWATER RECYCLING, INC.  
DOCKET NO. DW 20-071  
Request for Change in Rates, and

and

DOCKET NO. DW 20-091  
Petition to Approve Transfer of Ownership

**MOTION FOR CONFIDENTIAL TREATMENT  
AND PROTECTIVE ORDER**

Atkinson Area Waste Water Recycling, Inc. (“AAWWR” or the “Company”) respectfully moves the New Hampshire Public Utilities Commission (the “PUC”) to issue a protective order providing for the confidential treatment of its responses submitted to data requests propounded by PUC Staff (now the Department of Energy, hereafter “Energy”) and submitted with this motion pursuant to N.H. Admin. Rule Puc 201.04(b) and (c) (hereinafter, “Puc\_\_\_”). This motion is made pursuant to R.S.A. 91-A:5(IV) and NH. Admin Rules, and Puc 203.08.

In support of this motion, AAWWR states that the responses and supplemental responses to Energy’s data requests TS 1-1 and TS 1-2 contain confidential and/or financial information not available to the public and that the company does not want to become part of the public docket. See R.S.A. 91-A:5(IV) and Puc 203.08(c).

In further support of this motion, the Company states the following.

1. Energy served two data requests dated January 19, 2021 upon the Company for both DW 20-071 and DW 20-091 (transfer of ownership petition), TS 1-1 and TS 1-2. AAWWR filed its responses to these data requests on January 29, 2021, and

supplemental responses on March 2, 2021. The Company designated their responses and supplemental responses to requests TS 1-1 and TS 1-2 as Confidential pursuant to Puc 203.08(d) and reserved the right to file a motion for confidential treatment prior to hearing pursuant to Puc 203.08(d)(2) (this motion). The supplemental response included a memo produced by the trusts' outside attorney to which the Company also seeks confidential protection.

2. The data requests were served under both docket DW 20-071 and docket DW 20-091 prior to when the parties filed its joint motion to consolidate these two dockets on August 24, 2021 based on the cooperative nature the Company and Energy.
3. Energy and the Company have reached a settlement of both docket DW 20-071 and docket DW 20-091. As part of that settlement the Company's responses and supplemental responses to data requests will be submitted to the PUC, including requests TS 1-1 and TS 1-2.
4. The Company files this motion to protect the information provided in these data request responses and supplemental responses from public disclosure. This information includes ownership information of private family trusts and ownership of closely held companies. Such information is private and confidential, and not available to the public as each of the companies are closely held.
5. Pursuant to Puc 203.08 (a) "the commission shall upon motion issue a protective order providing for 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...”

6. The PUC 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 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. RSA 91-A:5(IV) expressly exempts from public disclosure requirements of any “records pertaining to...confidential, commercial or financial information...” RSA 91-A:5 (IV).
8. AAWWR asserts the information provided in the Company’s response and supplemental response in both dockets to data requests TS 1-1 and TS 1-2, including the memo from the trusts’ outside counsel, falls within the RSA 91-A:5(IV) exemption because such information is confidential, commercial or financial information that reveals information that is not otherwise publicly available, and there is not a strong public interest in disclosure. Accordingly, the balance between the public’s interest and the interest in nondisclosure falls in favor of nondisclosure.

9. Confidential and Redacted versions of the documents the Company seeks to have treated as confidential are attached to this motion pursuant to Puc 201.04.
10. For these reasons, AAWWR requests that the PUC grant this motion and issue a protective order providing for the confidential treatment of the Company's data request responses and supplemental responses to TS 1-1 and TS 1-2, including the memo provided by the trusts' outside counsel, to be accompanied with the settlement submission of the parties.
11. The Department of Energy Staff assents to the relief sought in this motion.

WHEREFORE, Atkinson Area Waste Water Recycling, Inc., requests the Public Utilities Commission grant this motion and issue an order protecting from public disclosure the information identified in this motion that the Company asserts is confidential.

Respectfully submitted,

ATKINSON AREA WASTE WATER RECYCLING, INC.

Dated: September 21, 2021

/s/ Anthony S. Augeri  
Anthony S. Augeri, Esq., General Counsel

Certificate of Service

I hereby certify that a copy of the foregoing petition and supporting materials have been sent by email this 21<sup>st</sup> day of September 2021 to the [service list for this docket](#).

/s/ Anthony S. Augeri  
Anthony S. Augeri, Esq., General Counsel

Submission pursuant to Puc 201.04 and 203.08.