

STATE OF NEW HAMPSHIRE
PUBLIC UTILITES COMMISSION

THE VANGUARD GROUP, INC.
Request for Declaratory Order or
“Public Interest” Finding with Respect to
N.H. Rev. Stat. 374:33

MOTION FOR CONFIDENTIAL
TREATMENT

Docket No. DE-20-124

The Vanguard Group, Inc., (“VGI”), on behalf of its Vanguard Advised Funds (together VGI and Vanguard Advised Funds are “Petitioners” or “Vanguard”) hereby moves, pursuant to N.H. Code Admin. R. PUC § 203.8 and RSA 91-A:5, that certain proprietary business information and documents provided to the NH PUC (“PUC”) in this case be granted confidential treatment to protect the confidentiality of the information. This motion is being submitted in advance of a hearing on this matter, scheduled for April 14, 2021.

Specifically, Vanguard is requesting confidential treatment of the following: (1) attachments to Vanguard’s Answers to NH PUC’s First Set of Data Requests #3, which contain internal voting procedures and policies, and (2) the question and answer to NH PUC’s First Set of Data Requests #6 which contains certain non-public information about Vanguard’s current holdings in New Hampshire. Pursuant to § 203.8, “[t]he 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.” RSA 91-A:5, IV states, in relevant part, that records “pertaining to internal personnel practices; confidential, commercial, or financial information” are exempted from disclosure. See *Unitil Corp. and Northern Utilities, Inc.*, Order No. 25,014, 94 NH PUC 484, 486 (2009).

The New Hampshire Supreme Court provided an analytical framework for employing this exception in *Union Leader Corp. v. N. H. Housing Fin. Auth.*, 142 N.H. 540 (1997). First,

there must be a determination of whether the information is confidential, commercial or financial information and whether disclosure would constitute an invasion of privacy. *Id.* at 552. Second, “the asserted private confidential, commercial, or financial interest must be balanced against the public's interest in disclosure.” *Id.* at 553 (citations omitted).

While the specific issues of this case have not been previously decided by the PUC, the PUC has previously treated internal personnel and business practices, policies, proprietary business information, and business decisions as confidential. See; *N. Utilities, Inc.*, No. 25,993, 2017 WL 840984, at *4 (Feb. 24, 2017) (treating various internal business decisions as confidential); *Liberty Utilities (Granite State Elec.) Corp. d/b/a Liberty Utilities*, No. 26,376, 2020 WL 3631634, at *8 (June 30, 2020) (granting confidential treatment to internal operational and financial information); *Serv. Co. of New Hampshire Petition for Permanent Rate Increase*, 94 N.H.P.U.C. 611 (Oct. 30, 2009) (treating certain employee’s stock ownership confidential); *Pennichuck Water Works, Inc.*, Order No. 25,278 (October 21, 2011) (protecting from disclosure consumption data for Anheuser-Busch that could cause competitive harm).

Public disclosure of the information contained in Vanguard’s Answers to NH PUC’s First Set of Data Requests #3 and #6, is proprietary business information that is not otherwise publicly available and if disclosed could harm the privacy interests of investors, harm Vanguard’s own privacy and business interests, and cause competitive harm. First, Vanguard’s voting procedures are private, company information, that are specifically tailored to ensure that each Vanguard Advised Fund’s voting process is appropriate and consistent with Vanguard’s and the respective fund board’s fiduciary responsibilities to shareholders. Disclosure of private voting strategies could result in abuse by other competitors or harm private investors. This information is unlikely to inform the public of the Commission’s activities and any interest of the public in this

information has been properly safeguarded as Vanguard explained in its Answer to NH Data Request #3 the purpose, structure, and implementation of these voting policies.

Secondarily, Data Request #6 and Vanguard's response contain information concerning the aggregation of various individual index funds. While Vanguard files the appropriate public disclosure forms with the U.S. Securities & Exchange Commission for the first and third quarters of each fiscal year, where the public can see the companies in which Vanguard invests, the specific information in response to NH Data Request #6 is not publicly available. This information is confidential proprietary and financial information that is unlikely to inform the public of the Commission's activities. Therefore, based on Vanguard's representations and the Commission's previous treatment of similar information, Vanguard requests that the Commission find the benefits to the Company of non-disclosure of portions of Vanguard's Answers to NH PUC's First Set of Data Requests #3 and #6 outweigh the benefits to the public of disclosure, thus, finding that the information is exempt and granted confidential treatment pursuant to RSA 91-A:5, IV and Puc 203.8

Dated: April 8, 2021

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