

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 15-476

AQUARION WATER COMPANY OF NEW HAMPSHIRE, INC.

Petition for Approval of 2016 Water Infrastructure and Conservation Adjustment

Order Granting Motion for Confidential Treatment

ORDER NO. 25,863

February 1, 2016

In this order, the Commission grants a motion for confidential treatment filed by Aquarion Water Company, Inc., because the company's infrastructure information qualifies as confidential information pursuant to RSA 91-A:5, IV.

I. BACKGROUND

On December 15, 2015, Aquarion Water Company, Inc. ("Aquarion"), filed a motion for protective order and confidential treatment. Aquarion asked the Commission to protect certain information that Aquarion produced to Commission Staff ("Staff") in discovery. Aquarion contended that the Tata & Howard "Capital Efficiency Study" ("Study") contains confidential infrastructure information "including identification of areas of the distribution system in need of rehabilitation, repair, or replacement" and is protected from disclosure under federal law. Aquarion stated that it has a privacy interest in the information as it constitutes "confidential, commercial, or financial information" within the meaning of RSA 91-A:5. Aquarion asserted that there is no public interest in the Study's disclosure, because it provides no information about the conduct or activities of the Commission. Aquarion also stated that disclosure could cause harm to customers, because the information could be used to damage, and jeopardize the safety

and reliability, of its water distribution system. Aquarion argued in the alternative that, even if there is a public interest in disclosure of the Study, the interest is outweighed by Aquarion's privacy interests. Staff did not object to Aquarion's motion. There were no other parties in the docket.

The motion and other docket filings, except any information for which confidential treatment is requested of or granted by the Commission, are posted to the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2015/15-476.html>.

II. COMMISSION ANALYSIS

The New Hampshire Supreme Court and the Commission apply a three-step balancing test to determine whether a document, or the information contained within it, falls within the scope of RSA 91-A:5, IV. *Lambert v. Belknap County Convention*, 157 N.H. 375, 382-83 (2008); *Abenaki Water Company, Inc.*, Order No. 25,840 at 2 (November 13, 2015) (citation omitted). Under the balancing test, the Commission first inquires whether the information involves a privacy interest and then asks if there is a public interest in disclosure. Order No. 25,840 at 2. Finally, the Commission balances those competing interests and decides whether disclosure is appropriate. *Id.* When the information involves a privacy interest, disclosure should inform the public of the conduct and activities of its government; if the information does not serve that purpose, disclosure is not warranted. *Id.* The Commission routinely protects as confidential, information about utility infrastructure. *See, e.g., New Hampshire Regulated Utilities*, Order No. 25,457 at 8 (January 18, 2013) (confidential treatment for utility system diagrams and system circuit maps).


We agree with Aquarion that the information contained within the Study constitutes confidential, commercial information under RSA 91-A:5, IV. While the public may have some interest in the information (e.g., to aid in its understanding of the Commission’s analysis in this proceeding), we find that the public’s interest is outweighed by Aquarion’s privacy interest and that disclosure of the Study could result in commercial harm or pose legitimate security risks.

Consistent with past practice, the protective treatment provisions of this order are subject to the on-going authority of the Commission, on its own motion or on the motion of Staff, any party, or other member of the public, to reconsider this protective order in light of RSA 91-A, should circumstances so warrant.


Based upon the foregoing, it is hereby

ORDERED, that Aquarion Water Company, Inc.’s, motion for confidential treatment is GRANTED.

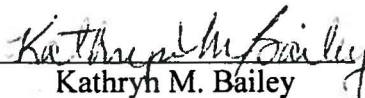
By order of the Public Utilities Commission of New Hampshire this first day of February, 2016.



Martin P. Honigberg
Chairman

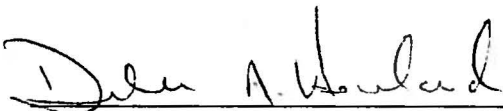


Robert R. Scott
Commissioner



Kathryn M. Bailey
Commissioner

Attested by:



Debra A. Howland
Executive Director