

**TAB 5**

**Motion for Protective Order and Confidential Treatment**

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

Docket No. DW 16-806

Pennichuck Water Works, Inc.  
Request for Change in Rates

**MOTION FOR PROTECTIVE ORDER AND CONFIDENTIAL TREATMENT**  
**OF EMPLOYEE PAYROLL INFORMATION**

NOW COMES, Pennichuck Water Works, Inc. (“PWW”), in accordance with N.H. Admin. Rule Puc 203.08, and hereby moves the New Hampshire Public Utilities Commission (the “Commission”) to grant confidential treatment to payroll information provided by PWW in its instant rate case filing. In support of its motion, PWW states as follows:

1. As of the date of this Motion, PWW has filed the contents and documents of its full rate case in accordance with N.H. Admin. Rule Puc PART 1604 and as required by this Commission’s Order No. 25,292 in Docket No. DW 11-026 approving a modified ratemaking structure for PWW.
2. N.H. Admin. Rule Puc 1604.07(a)(5) and Puc 1604.07(j) request payroll figures for the 12-month test year. PWW is providing information required by these rules at Tab 13 of its rate case filing.
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 employee payroll information falls within the RSA 91-A:5, IV exemption because it relates to internal personnel practices and is confidential financial information that reveals compensation data for non-principal officers and employees of PWW. PWW, itself, does not make this information public because release of this information to the public would result in the identification of officer and employee wages and this would invade the privacy of these individuals.

6. 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).

7. The Commission has previously concluded that a privacy interest in non-principal officer and employee payroll information exists and that the interest would be invaded by disclosure to the public. See *EnergyNorth Natural Gas, Inc.*, DG 10-017, Order No. 25,119 at 8 (June 25, 2010). In balancing the public's interest in disclosure and the interests in nondisclosure, the Commission has granted requests for confidential treatment of non-principal officer and employee payroll information submitted pursuant to Puc 1604.01(14). *Id.* at 11.

8. Attached to this motion, pursuant to N.H. Admin. Rule Puc 203.08(f), PWW is providing the Commission with seven confidential copies of the impacted documents with the information sought to be protected grey-shaded. The redacted, nonconfidential copy will be provided as part of PWW's rate case filing.

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

10. The Commission's Staff and Office of the Consumer Advocate have each reviewed this motion. Staff assents to the relief requested, and the OCA takes no position.

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

- A. Grant this Motion for Protective Order and Confidential Treatment of Employee Payroll Information; and
- B. Grant such other relief as is just and equitable.

Respectfully submitted,

PENNICHUCK WATER WORKS, INC.

By its Attorneys,

RATH, YOUNG AND PIGNATELLI, PC

Date: September 23, 2016

By:



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Certificate of Service

I hereby certify that on this 23th day of September, 2016, a copy of this motion has been hand delivered and emailed to the Office of the Consumer Advocate.



William F. J. Ardinger