

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Docket No. DW 18-076

Pennichuck Water Works, Inc.

Small-Diameter Fire Protection Tariff Change

**MOTION FOR PROTECTIVE ORDER AND CONFIDENTIAL TREATMENT OF
CUSTOMER-SPECIFIC STREET ADDRESSES**

Pennichuck Water Works, Inc. ("PWW"), in accordance with N.H. Admin. Rule Puc 203.08 and RSA Chapter 91-A, hereby moves the New Hampshire Public Utilities Commission ("Commission") to grant protective treatment to certain confidential customer-specific data contained in discovery response Staff 1-4. In support of its motion, PWW states as follows:

1. Pursuant to the N.H. Admin. Rule Puc 203.09 (f), PWW responded to Staff data request Staff 1-4. The response requested customer-specific information, including street addresses and billing history. In its response and supplemental response, PWW informed Staff that it intended to seek protection of information that could reveal the identity of the specific residential customer. A copy of the confidential Attachment Staff-1-4-b-c-d is attached hereto as Attachment A. The redacted version of this discovery response attachments is attached as Attachment B.

2. The general rule under RSA Chapter 91-A is that every citizen has the right to inspect records in the possession, custody, or control of the Commission. RSA 91-A:5, IV expressly exempts from that public disclosure "files whose disclosure would constitute an invasion of privacy." Information pertaining to individual residential customers implicates this

exemption and PWW's disclosure in discovery of information that could reveal the identity of certain residential customers should be granted confidential treatment by this Commission.

3. The New Hampshire Supreme Court and the Commission have long recognized that there is a recognized privacy interest in individually identifiable customer information, particularly where that information is tied to financial information. See, *Lamy v. N.H. Pub. Utils. Comm'n*, 152 N.H. 106, 110 and 113 (2005); *EnergyNorth Natural Gas, Inc.*, Docket No. DG 06-045, Order No. 24,657 at 10 (August 24, 2006). PWW's customer-specific information falls within this category because it involves street addresses which can identify a specific residential customer.

4. The Commission has long employed 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 non-disclosure. *Lamy v. N.H. Pub. Util. Comm'n*, 152 N.H. 106, 113 (2005). The Commission has stated that 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. *Electric Distribution Utilities*, Order No. 25,811 (September 9, 2015) at 5. If both of these steps are met, the Commission balances the privacy interest with the public interest to determine if disclosure is appropriate. *Public Service Company of New Hampshire*, Order 25,167 (November 9, 2010) at 3-4.

5. In the spirit of the Commission's first test, PWW contends that the customer-specific street addresses are not necessary to inform the public of the conduct and activities of the Commission. That is because PWW has provided the information as to the streets in general, which should be sufficient to inform the public that Commission approval of credits to certain of the customer groups is just and reasonable. Disclosure of the specific street addresses would not better inform the public than the information provided. Further, there is no need to disclose customer-specific street addresses to accomplish that objective. With respect to the balancing of interests, the privacy interest of residential customers in their street addresses has already been determined to outweigh the public's interest in disclosure. *Lamy* at 113. For these reasons, PWW requests that the Commission find that there is sufficient disclosed information to inform the public and grant this motion and protect the confidential customer-specific street addresses.

6. In conclusion, PWW requests the Commission issue a protective order preventing disclosure of the customer-specific information contained in PWW's Attachment Staff 1-4-b-c-d that was provided in response to Staff data request Staff 1-4.

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

- A. Grant this motion for protective order and confidential treatment of customer-specific data; and
- B. Grant such other relief as is just and equitable.

Respectfully submitted,

PENNICHUCK WATER WORKS, INC.

By Its Attorney,

Date: October 1, 2018

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this motion for protective order and confidential treatment has been forwarded this day by first class mail and by electronic transmission to the Office of the Consumer Advocate and Docket-Related Service List for DW 18-076.

Dated: October 1, 2018

Marcia A. Brown
Marcia A. Brown