

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

Docket No. DG 23-067

LIBERTY UTILITIES (ENERGYNORTH NATURAL GAS) CORP. d/b/a LIBERTY

Request for Change in Distribution Rates

Motion for Confidential Treatment of PwC Engagement Letter

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty (“Liberty” or the “Company”), through counsel, through counsel, respectfully moves the New Hampshire Public Utilities Commission pursuant to Puc 203.08 to grant confidential treatment to that portion of PwC’s engagement letter with the Company that reflects PwC’s pricing.

In support of this motion, Liberty represents as follows:

1. The Company’s April 15, 2024, filing included a copy of PwC’s engagement letter, which contains its estimated pricing to perform its work for the Company. The Company redacted the pricing information.
2. PwC considers the price it charges clients for projects such as the work performed here to be proprietary and confidential.
3. Liberty thus seeks confidential treatment of this third-party pricing, which has been shaded or redacted as appropriate in the attached redacted and confidential versions, pursuant to the procedure outlined in Puc 203.08 and pursuant to the exemptions from public disclosure embodied in RSA 91-A:5, IV.

4. Following *Lambert v. Belknap County Convention*, 157 N.H. 375 (2008), the Commission applies a three-step analysis to determine whether information should be protected from public disclosure. See, e.g., *Public Serv. Co. of N.H.*, Order No. 25,313 at 11-12 (Dec. 30, 2011).
5. The first step under *Lambert* is to determine if there is a privacy interest at stake that would be invaded by disclosure. If so, the second step is to determine if there is a public interest in disclosure that would inform the public of the conduct and activities of its government. Otherwise, public disclosure is not warranted. *Public Serv. Co. of N.H.*, Order No. 25,167 at 3 (Nov. 9, 2010). If these first two steps are met, the Commission must then weigh the public interest benefits of disclosure against the harm disclosure may cause and determine which outweighs the other. *Lambert*, 157 N.H. at 385; Order No. 25,167 at 3-4.
6. Applying this test here, Liberty can demonstrate, first, that there are privacy interests in PwC's pricing information.
7. PwC has expressed to the Company that it wishes to maintain the confidentiality of its pricing information because publicizing what PwC charges for the Company's project could provide a competitor with information that the competitor could use to its advantage when competing with PwC for future work.
8. Second, Puc 203.08 incorporate RSA 91-A:5 as the authority under which parties may seek confidential treatment:

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

Puc 203.08(a). As stated above, RSA 91-A:5, IV exempts from public disclosure records that constitute “confidential, commercial, or financial information.” The PwC information is “confidential, commercial [and] financial information” and thus PwC enjoys a statutory privacy interest in that information.

9. The Commission has regularly found that competitively sensitive, third-party information constitutes such “confidential, commercial, or financial information” that is protected from disclosure by RSA 91-A:5, IV. *See Consolidated Communications Holdings*, Order No. 26,040 at 9 (July 11, 2017) (Commission granted confidential treatment of “information [that] represents non-public, commercially-sensitive financial and operational information of companies engaged in a competitive industry that is subject to limited state regulation in New Hampshire”).
10. Liberty has thus established PwC has a strong privacy interest in its pricing information, satisfying the first *Lambert* factor.
11. The second question in the *Lambert* analysis is whether there is a public interest in disclosure of the PwC pricing information; that is, whether releasing the information lends any insight into the workings of the Commission as it relates to this case.
12. PwC’s pricing information will offer the public no insight into the workings of the Commission in this docket for two reasons. First, Liberty has committed, and repeats here, that shareholders will bear the costs of the PwC review – not customers – and thus the pricing information will play no role in the rates ultimately determined by the Commission in this docket. Second, the price PwC charges to prepare its report is not relevant to any issue that the Commission may resolve in deciding DOE’s motion to dismiss. The

Commission will likely consider the substance of PwC's report to decide the motion, but the amount Liberty will pay for that report has no bearing on the issues before the commission.

13. Therefore, the *Lambert* inquiry ends here with a finding that PwC's pricing information should be granted protected status because public disclosure of the pricing information would cause competitive harm to PwC and would not provide any insight into how the Commission makes its decision in this docket.
14. In the unlikely event the Commission concludes that there may be some public interest in the PwC confidential pricing information, that is, that the pricing information may shed light on how the Commission performs its work in this docket, the third step of the *Lambert* analysis asks whether that interest in transparency outweighs the harm that would result from disclosure. As stated above, disclosure would cause PwC significant competitive harm, and disclosure would not further any public interest in understating the work of the Commission. The balance easily tips in favor of PwC's privacy interests.
15. For these reasons, Liberty asks that the Commission issue a protective order preventing the public disclosure of the confidential PwC pricing information described above and which is shaded or redacted in engagement letter filed in this docket.
16. Both the confidential and redacted version of the engagement letter will be filed with this motion.

WHEREFORE, Liberty respectfully asks that the Commission:

- A. Grant this motion for confidential treatment as to the PwC pricing information highlighted in the confidential version of the engagement letter and redacted in the public version; and

- B. Grant such other relief as is just and reasonable and consistent with the public interest.

Respectfully submitted,
Liberty Utilities (EnergyNorth Natural Gas) Corp.
d/b/a Liberty



Date: April 17, 2024

By: _____

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Certificate of Service

I hereby certify that on April 17, 2024, a copy of this motion has been forwarded electronically to the service list.



By: _____

Michael J. Sheehan