

STATE OF NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

DW 22-040 PENNICHUCK WATER WORKS, INC.

Petition for Approval of Amendment to Special Contract with Pennichuck East Utility, Inc.

COMMENCEMENT OF ADJUDICATIVE PROCEEDING AND NOTICE OF PREHEARING CONFERENCE

On June 28, 2022, Pennichuck Water Works, Inc. (PWW) filed a petition requesting that the Commission approve an amendment to its existing special contract with Pennichuck East Utility, Inc. (PEU) pursuant to RSA 378:18. In support of its petition, PWW filed the direct testimony of Donald L. Ware, PWW's Chief Operating Officer, related attachments, a statement of special circumstances, a copy of the existing contract, and a copy of the proposed amendments. The petition and subsequent docket filings, other than any information for which confidential treatment is requested or granted by the Commission, are available on the Commission's website at www.puc.nh.gov/regulatory/Docketbk/2022/22-040.html.

I. BACKGROUND AND PROCEDURAL HISTORY

The Commission approved the existing special contract for wholesale water service between PWW and PEU in Docket No. DW 17-071. *See* Order No. 26,049 (August 23, 2017). Pursuant to this contract, PWW supplies PEU with water that PEU uses to provide retail water service to its customers in the Town of Litchfield (Litchfield) and to some of its customers in the Towns of Londonderry, Pelham, and Windham. *Id.* at 2. The Commission stated that the contract's twenty-year term would begin when, among other things, the necessary service interconnection with PWW was completed. *Id.* at 5. PWW stated that the interconnection was completed on October 10, 2018. Petition (Pet.), ¶ 3.

Mr. Ware testified that, pursuant to its contract with the Town of Hudson (Hudson), PEU obtained 15 percent of the water produced by two of Hudson's three wells (the Twin Wells), which PEU used for its customers in Litchfield. Direct Testimony of Donald L. Ware, June 29, 2022 (Ware Testimony), at 5-6. PEU's need for water from PWW increased when Hudson was required to shut down the Twin Wells on June 29, 2021, due to perfluorooctanoic acid contamination. *Id.* On July 1, 2021, PEU began buying additional water from PWW at the rates under the current contract. *Id.* at 17-18. According to Mr. Ware's testimony, PEU will be purchasing an additional 40,150,000 gallons of water from PWW per year, an increase of about 33 percent. *Id.* at 5, 9.

In the fall of 2021, PEU notified PWW that it wished to change the terms of the present contract in response to PEU's need for additional water, and PWW commissioned a Cost of Service Study (COSS) to determine what charges would be appropriate based on PEU's changed water needs. *Id.* at 5, 10-11. The COSS indicated that, if PEU buys a guaranteed minimum of 195,187 hundred cubic feet (CCF) of water per year, then the monthly meter charge, monthly fixed charge, monthly volumetric charge, and annual demand charge would change. *Id.* at 10-12, 14-17. The volumetric charge, for example, would decrease from \$1.3920 to \$0.8240 per CCF, but would be subject to any approved Qualified Capital Project Adjustment Charges. *Id.* at 11-12, 19-20.

PWW's proposed amendments to its current contract with PEU would require PEU to guarantee a minimum annual purchase of 195,187 CCF of water per year and would charge PEU the rates contained in the COSS. *Id.* at 10, 15, 17, 20. The twenty-year term of the contract would remain the same. *Id.* at 17. Amending the contract, as proposed by

PWW, would result in annual savings to PEU of approximately \$40,000. *Id.* at 20. Mr. Ware testified that the proposed amended rates better reflect PWW's actual cost of supplying PEU with water under the existing circumstances. *Id.* at 19. PEU has agreed to the terms of the proposed amendment. *Id.* at 5.

PWW has proposed that the amendments be retroactive to July 1, 2021, when PEU's water needs changed. Pet., ¶ 12. Mr. Ware testified that, if the amended rates were applied retroactively from July 1, 2021 to October 31, 2022, PEU would be entitled to a credit of approximately \$51,000, which PWW would return over a twelve-month period. Ware Testimony at 18.

In its petition, PWW requested the Commission to approve the proposed amendments to its current contract with PEU and to retroactively waive New Hampshire Code of Administrative Rules, Puc 1606.02(a) (1), which requires a utility proposing a special contract to file the terms of the contract "at least 30 days before its proposed effective date." PWW maintained that it would be just and reasonable for the proposed amendments to be made effective as of July 1, 2021, in order to represent the actual cost of PWW supplying water to PEU under the changed circumstances. Further, PWW asserted that a waiver of Puc 1606.02(a)(1) would not disrupt the orderly and efficient resolution of this proceeding.

On July 18, 2022, the New Hampshire Department of Energy filed an appearance in this docket. The Office of Consumer Advocate filed a letter of participation on August 1, 2022.

II. ISSUES PRESENTED

The filing presents, *inter alia*, the following issue: whether special circumstances exist so that the Commission's approval of the proposed amendments to the special contract between PWW and PEU providing for rates different from the general schedules would be just and consistent with the public interest under RSA 378:18. Accordingly, an adjudicative proceeding will be convened to address this issue.

The Commission will be conducting the prehearing conference and any hearings scheduled in this matter in person. The Commission will consider requests to conduct hearings using a hybrid format to permit remote participation by a specific individual only if the Commission has determined that a sufficient reason has been provided for why that individual would be unable to attend in person. Any party requesting that a specific individual be permitted to participate remotely should file a written request with the Commission's Clerk's Office no later than fifteen (15) days prior to the prehearing conference or hearing date. If the Commission determines that one or more individuals will be permitted to appear remotely, then individuals in the Commission's hearing room, including the Commissioners, will be broadcast on a web-enabled platform.

Based upon the foregoing, it is hereby

ORDERED, that PWW's request to waive the requirements of Puc 1606.02(a)(1) is GRANTED pursuant to Puc 201.05; and it is

FURTHER ORDERED, that an adjudicative proceeding be commenced for the purpose of reviewing and resolving the foregoing issue pursuant to RSA chapter 541- A, RSA 378:18, and the Commission's procedural rules; and it is

FURTHER ORDERED, that the Commission will hold a prehearing conference, pursuant to N.H. Admin. R., Puc 203.15, at its offices located at 21 S. Fruit St., Suite 10, Concord, New Hampshire, on September 28, 2022, at 9:00 a.m., at which each party should be prepared to address any of the issues set forth in N.H. Admin. R., Puc 203.15; and it is

FURTHER ORDERED, that during the prehearing conference, the Commission will consider the matters listed in Puc 203.15(c) and (d), including the establishment of a procedural schedule governing the remainder of the proceeding. Parties and potential parties are

encouraged to facilitate the development of a procedural schedule by conferring prior to the prehearing conference, so that the presiding officer can address any matters on which there is disagreement during the prehearing conference. Any procedural schedule, however, will not be approved until after the prehearing conference and after consulting the Commission's calendar; and it is

FURTHER ORDERED, that, immediately following the prehearing conference, PWW shall make appropriate personnel available for the parties to hold a technical session to review the filing; and it is

FURTHER ORDERED, that any entity or individual may petition to intervene and seek to be admitted as a party in this proceeding. Each party has the right to have an attorney represent the party at the party's own expense; and it is

FURTHER ORDERED, that, consistent with N.H. Admin. R., Puc 203.17 and Puc 203.02, any entity or individual seeking to intervene in the proceeding shall file with the Commission a petition to intervene with copies sent to PWW and any other parties on the service list, on or before September 13, 2022. The petition shall state the facts demonstrating how the petitioner's rights, duties, privileges, immunities, or other substantial interests may be affected by the proceeding, consistent with N.H. Admin. R., Puc 203.17; and it is

FURTHER ORDERED, that any party objecting to a petition to intervene make said objection on or before September 23, 2022; and it is

FURTHER ORDERED, that parties shall file any proposed exhibits, written testimony, motions, or other documents intended to become part of the record in this proceeding with the Commission. Pursuant to the secretarial letter issued on March 17, 2020, which is posted on the Commission's website at <https://www.puc.nh.gov/Regulatory/Secretarial%20Letters/20200317-SecLtr-Temp-Changes-in-Filing-Requirements.pdf>, all Commission rules requiring the filing of paper copies are suspended until further notice. Parties may elect to submit any filing in electronic form unless otherwise ordered by the Commission. Filings will be considered filed as of the time the electronic copy is received by the Commission; and it is

FURTHER ORDERED, that routine procedural inquiries may be made by contacting the Commission's Clerk's Office at (603) 271-2431 or ClerksOffice@puc.nh.gov. All requests to the Commission should be made in a written pleading filed with the Commission. Unless otherwise authorized by law, *ex parte* communications are prohibited; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. R., Puc 203.12, PWW shall notify all entities and individuals desiring to be heard at this hearing by publishing a copy of this order of notice no later than September 7, 2022, in a newspaper with general circulation in those portions of the state in which operations are conducted, such publication to be documented by affidavit filed with the Commission on or before September 16, 2022. In addition, the Clerk shall publish this order of notice on the Commission's website no later than two business days after the date of issue; and it is

FURTHER ORDERED, that any hearings in this matter shall be conducted in accordance with the attached hearing guidelines.

So ordered, this seventeenth day of August, 2022.

Daniel C. Goldner, Chairman

Pradip K. Chattopadhyay, Commissioner

Carleton B. Simpson, Commissioner

Individuals needing assistance or auxiliary communication aids due to sensory impairment or other disability should contact the NHPUC, 21 S. Fruit St., Suite 10, Concord, New Hampshire 03301-2429; 603-271-2431; TDD Access: Relay N.H. 1-800-735-2964. Notification of the need for assistance should be made one week prior to the scheduled event.