



STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Docket No. DW 17-128

Pennichuck East Utilities, Inc.
Request for Change in Rates

2017 RATE CASE
SETTLEMENT AGREEMENT

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Docket No. DW 17-128

PENNICHUCK EAST UTILITIES, INC.

REQUEST FOR CHANGE IN RATES
SETTLEMENT AGREEMENT

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Please reply to: Concord Office

July 18, 2018

HAND DELIVERED

Debra A. Howland
Executive Director and Secretary
New Hampshire Public Utilities Commission
21 N. Fruit Street, Suite 10
Concord NH 03301

**Re: DW 17-128 Pennichuck East Utility, Inc.
Request for Change in Rates**

Dear Ms. Howland:

Enclosed please find the original and six (6) copies of the Settlement Agreement with regard to the above-captioned matter for filing with the PUC. In addition to the enclosed Settlement Agreement, please find a Motion For Waiver of PUC 1203.05(b), also for filing with the PUC in this matter.

Thank you.

Sincerely,



Richard W. Head

RHW/mrp
Enclosures

Cc: DW 17-128 Service list

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PEU0001

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Docket No. DW 17-128

Pennichuck East Utilities, Inc.
Request for Change in Rates

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into this 18th day of July 2018 (the “Agreement”), by and among Pennichuck East Utilities, Inc. (“PEU”) (a subsidiary of Pennichuck Corporation (“Penn Corp”), the Staff of the New Hampshire Public Utilities Commission (“Staff”) and the Office of the Consumer Advocate (“OCA”) with the intent of resolving all of the issues in the above-captioned docket. (PEU, Staff and the OCA are referred to collectively in this Agreement as the “Settling Parties.”) Michael Ranaldi (“Intervenor”) has not joined this Agreement.

I. PROCEDURAL HISTORY

On August 16, 2017, PEU, a water utility serving communities in central and southern New Hampshire, filed a notice of intent to file rate schedules seeking an increase in permanent rates and temporary rates pending a final order. The OCA filed a notice of participation pursuant to RSA 363:28 on August 29, 2017. On September 26, 2017, the Company filed with the Commission petitions for a permanent increase and step adjustment in rates pursuant to RSA 378:3 and 378:27-28, and for temporary rates pursuant to RSA 378:27. PEU also sought approval for certain modifications to the ratemaking protocols established and approved in the *Joint Petition of City of Nashua, Pennichuck Corporation et*

al, for Approval to Acquire Stock in Pennichuck Corporation, Order No. 25,292 (November 23, 2011) (the “Acquisition Order”) in Docket DW 11-026.

On October 16, 2017, PEU filed a motion to withdraw its original September 26 petitions and replace them with a new filing, which was made on October 18, 2017. In the October 18 filing, PEU included a request to waive N.H. Code Admin. Rules Puc 1604.05(c)(1), which requires that a rate case be filed no more than 60 days from the original notice of intent. On October 25, 2017, the Commission issued a secretarial letter granting the requested waiver pursuant to Puc 201.05 and accepting the withdrawal of the September 26, 2017 petitions.

Based on its proposed ratemaking modifications, PEU’s filing requested an overall permanent increase in its annual water revenues of approximately \$1.26 million, or 17.55%, based on a pro forma 2016 test year, and a step adjustment of an additional approximate \$80,000 based on the Company’s anticipated 2017 asset additions. PEU also proposed to modify its “North Country Capital Recovery Surcharge” (“NCCRS”), which was approved in 2009.¹ Based on its proposed modifications to the NCCRS, PEU proposed a reduction in the annual revenues derived from that surcharge of \$121,070. Finally, PEU proposed a temporary rate increase which was designed to increase its annual operating revenues by approximately \$983,000, or 13.70%, on a temporary basis effective January 1, 2018 and continuing for the pendency of the rate proceeding.

¹ The NCCRS was initiated to recover the acquisition and improvement costs related to PEU’s so-called “North Country Systems” consisting of Birch Hill in North Conway, Sunrise Estates in Middleton, and Locke Lake in Barnstead. *See* Order No. 25,051 (December 11, 2009).

A prehearing conference was held on December 20, 2017, at which time a motion to intervene filed by Michael Ranaldi was approved by the Commission. A technical session followed the prehearing conference where the parties agreed to a procedural schedule. Pursuant to that procedural schedule, the parties held a technical session/settlement conference on temporary rates on January 18, 2018, at which time the parties reached an agreement on temporary rates.

On February 7, 2018, PEU filed a Settlement Agreement on Temporary Rates entered into by all parties. The Settlement Agreement proposed a revenue increase from temporary rates of \$816,868 resulting in a uniform increase in customer rates of 12.24%, excluding the NCCRS. With regard to the NCCRS, the Settlement Agreement proposed reductions in the surcharges for Locke Lake and Birch Hill based on the refinancing of certain intercompany loans. The Settlement Agreement also proposed the elimination of the 4-ccf minimum consumption charge which was in effect for all North Country customers. As a result, the annual revenue derived from the NCCRS was reduced by \$121,070. Finally, the Settlement Agreement proposed an effective date for temporary rates of bills rendered on or after January 8, 2018. The net increase in PEU's overall revenue requirement resulting from the proposed Settlement Agreement was \$695,798, or 55% of the revenue increase sought by PEU for permanent rates (excluding the proposed step adjustment).

A hearing was held on February 26, 2018 to consider the Settlement Agreement on Temporary Rates. On February 27, 2018, PEU filed a motion for waiver of N.H. Code Admin. Rules Puc 1203.05(b), to enable the rate changes contemplated by the Settlement Agreement to be implemented on a bills-rendered basis. On May 31, 2018, the Commission issued Order No. 26,136 approving the Settlement Agreement on Temporary Rates.

On May 24 and June 18, 2018, the parties held settlement conferences on permanent rates, during which time the Settling Parties reached a settlement on all issues in this proceeding. On July 16, 2018, the Intervenor advised the Settling Parties that he would not join the Settlement.

II. RELEVANT BACKGROUND

A. Acquisition and Ownership by the City of Nashua.

1. PEU is a regulated public utility that is wholly-owned by Penn Corp, which is, in turn, a corporation that is wholly-owned by the City of Nashua, New Hampshire (the “City”). The City acquired its ownership of Penn Corp on January 25, 2012, pursuant to the Acquisition Order. In addition to PEU, Penn Corp also owns two other water utilities: Pennichuck Water Works, Inc. (“PWW”) and Pittsfield Aqueduct Company, Inc. (“PAC”).

2. The Acquisition Order approved a Settlement Agreement among the parties to DW 11-026 (the “DW 11-026 Settlement Agreement”), subject to certain conditions. Among other things, the settling parties to the DW 11-026 Settlement Agreement recommended that the Commission approve the City’s acquisition of Penn Corp, approve a modified ratemaking structure for Penn Corp’s three regulated water utilities (including PEU), approve the establishment of a \$5,000,000 Rate Stabilization Fund (“RSF”) to be maintained by PWW, and approve certain accounting matters and limitations on dividends and distributions from the three utilities to Penn Corp. These special provisions were instituted in order to allow the three utilities to have “rates at levels that are sufficient to enable each utility to meet their operating requirements and to satisfy each utility’s apportioned share of responsibility to pay the debt

service arising from the City Acquisition Bonds.”² (See DW 11-026 Settlement Agreement at 8.)³

B. Post-Acquisition Financings and Experience.

1. Subsequent to the City's acquisition, Penn Corp and its regulated utilities have accomplished multiple financings and refinancings, pursuant to approvals granted by this Commission.⁴ As a result of these financings, Penn Corp and PEU have acquired valuable experience with credit markets and knowledge of what potential lenders to PEU desire in order to furnish loans at affordable interest rates and favorable terms. The negotiation and completion of these financings has provided Penn Corp's management with actual experience as well as direct input and insights from the capital markets (i.e., lenders) regarding the response to the ownership of Penn Corp by the City, in addition to the operation of the utilities and the ratemaking methodology approved in the Acquisition Order within the new ownership structure.

2. The change in the ultimate ownership of Penn Corp, from a publicly-traded investor-owned utility to ownership by the City has had many important consequences, including that Penn Corp and its three utilities no longer have access to equity financing markets as a means of funding its capital and operating needs. Accordingly, Penn Corp and its utilities are now required to finance their on-going capital needs entirely through the issuance of debt.

3. Based on the experience of Penn Corp's management since the City's acquisition, as described in PEU's testimony in this as well as prior financing dockets, PEU is

² The rate component representing PEU's acquisition bond repayment obligation is described as the "City Bond Fixed Revenue Requirement" (CBFRR). During the test year, PEU's CBFRR was \$898,863.

³ An example of the rate-making methodology described in the DW 11-026 Settlement Agreement is shown on Settlement Attachment JPL-1, Schedule 1 – Original Rate Structure.

⁴ Specific financing and refinancing proceedings before the Commission pertaining to PEU include Docket Nos. DW 13-017, DW 13-125, DW 14-020, DW 14-282, DW 14-321, DW 15-044, DW 16-234, DW 17-055, and DW 17-157.

now seeking modifications to the ratemaking structure approved in the Acquisition Order as well as an increase in its permanent rates as determined pursuant to the proposed modified ratemaking structure. The Settling Parties agree that, for the reasons described in PEU's testimony as supplemented through discovery, modifications to PEU's ratemaking structure will improve PEU's ability to access debt at favorable rates in the credit markets. Thus, PEU will be able to access lower cost debt, which will ultimately be to the benefit of ratepayers.

4. The modified methodology proposed by PEU is consistent with the methodology described in the Settlement Agreement of all parties in PWW's most recent rate case, Docket DW 16-806, as approved in Order No. 26,070 (November 7, 2017).

III. TERMS OF THIS SETTLEMENT AGREEMENT

The Settling Parties agree and recommend action by the Commission in the form of approving the following:

A. Revenue Requirement, Permanent Rates, and Step Increase.

1. The Settling Parties agree to a total revenue requirement for PEU in the amount of \$8,276,261 (exclusive of revenues derived from the NCCRS) as calculated based on the proposed modified rate structure. In deriving this revenue requirement, the Settling Parties agree to a permanent rate increase of \$1,304,272, or 18.97%, based on pro forma test year 2016, as well as a step increase of \$97,973, or 1.43%, based on 2017 capital additions which are fully in service and used and useful.⁵

⁵ Settlement Attachment JPL-1, Schedule 7 indicates that PEU invested a total of \$765,577 in used and useful plant additions during 2017. These plant additions are financed by loans which appear on Schedule 1C-Step of Attachment JPL-1. The debt service associated with these loans is included in the total revenue requirement being proposed for PEU.

2. The Settling Parties reaffirm their agreement with the modifications made to PEU's NCCRS as described in the Settlement Agreement on Temporary Rates and approved by the Commission in Order No. 26,136 (May 31, 2018). These modifications reduce the annual revenue derived from the NCCRS from \$299,985 to \$178,915, or \$121,070 (-40.36%).

3. The Settling Parties agree to an overall revenue requirement for PEU, inclusive of the proposed permanent rate increase and step adjustment as well as the previously approved modifications to the NCCRS, of \$8,455,176 which represents a net increase of \$1,281,175, or 17.86%, over pro forma test year water revenues of \$7,174,001. The components of PEU's overall proposed revenue requirement are summarized on Exhibit 1.⁶ The proposed rate increases for each of PEU's rate classes are shown on Exhibit 2.

4. The Settling Parties agree that the underlying costs of the 2017 plant additions upon which the proposed step adjustment is based shall be audited by the Commission's Audit Staff prior to the implementation of customer rates. The Settling Parties agree that the Audit Staff shall issue a Final Audit Report based on its examination of the 2017 plant additions, and that if such report reveals a material difference between the actual underlying costs of those assets and the asset costs upon which the proposed step adjustment is based, an appropriate adjustment in the proposed step adjustment shall be recommended to the Commission for approval.

5. The Settling Parties agree that this represents a reasonable compromise of all issues relating to the revenue requirement pending before the Commission for the purposes of permanent rates and the step adjustment, including, but not limited to, debt service, pro forma

⁶ The calculations of the permanent rate increase and the step increase are fully detailed in Settlement Attachment JPL-1 and summarized on Schedule 1 – Modified Rate Structure of that attachment.

adjustments, capital additions, and operating expenses. As the sums expressed above are the result of compromise and settlement, they are liquidations of all revenue requirement issues and do not constitute precedent regarding any particular principle or issue. The Settling Parties agree that the revenue requirement recommended to the Commission results in rates for PEU's customers that are just and reasonable.

B. Effective Date for Permanent Rate and Step Adjustment.

1. The Settling Parties agree that the permanent rate increase of \$1,304,272, or 18.97%, shall be effective on a bills-rendered basis on or after January 8, 2018 in accordance with the Settlement Agreement on Temporary Rates approved by Commission Order No. 26,136. In order to reconcile the difference between temporary rates and permanent rates, the Settling Parties agree that PEU should be authorized to charge customers an amount equal to the difference between the revenues PEU would have collected had the agreed upon level of permanent rates been in effect for bills-rendered on and after January 8, 2018, and the actual revenues collected during the temporary rate period.

2. Upon the issuance of a Commission order approving this Agreement, PEU agrees to file, within 30 days of such, a calculation of the temporary-permanent revenue recoupment and surcharge recommendation for Commission review. The individual customer surcharges shall be calculated based on each customer's actual usage and shall be reflected as a separate item on each customer's bill. PEU's revenue recoupment filing will be subject to review by Staff, the OCA, and the Intervenor in this case who shall each have an opportunity to make recommendations to the Commission with regard to PEU's revenue recoupment filing. After which, the Commission shall make a determination, by issuing an order, as to the appropriate reconciliation between temporary and permanent revenues as well as an appropriate

surcharge to customers in accordance with RSA 378:29. Upon receipt of the Commission's order on PEU's proposed temporary-permanent revenue recoupment, PEU agrees to file, within 15 days of such, a compliance tariff supplement including the approved surcharge relating to the total recoupment of the difference between the level of temporary rate revenues and permanent rate revenues, as well as the average monthly surcharge for each customer class based on customers' individual usage.

3. The Settling Parties agree that the step increase described in Section III (A) shall be effective as of the date of the Commission order approving this Agreement.

4. The results of the revenue increases by customer class are set forth in Exhibit 2 to this Agreement.

The monthly bill of an average non-North Country residential customer using 7.29 hundred cubic feet (ccf) of water per month will increase from \$62.68 to \$75.47 (inclusive of the step adjustment), or \$12.79. This translates into an annual increase of \$153.48.

The monthly bill of an average Locke Lake residential customer using 3.5 hundred cubic feet (ccf) of water per month will increase from \$58.51 to \$59.79 (inclusive of the step adjustment and NCCRS modifications), or \$1.28. This translates into an annual increase of \$15.36.

The monthly bill of an average Birch Hill residential customer using 3.5 hundred cubic feet (ccf) of water per month will decrease from \$88.20 to \$59.79 (inclusive of the step adjustment and NCCRS modifications), or \$28.41. This translates into an annual decrease of \$340.92.

The monthly bill of an average Sunrise Estates residential customer using 3.5 hundred cubic feet (ccf) of water per month will increase from \$52.89 to \$57.72 (inclusive of the step

adjustment and NCCRS modifications), or \$4.83. This translates into an annual increase of \$57.96.

5. The Settling Parties agree that PEU shall file tariff pages implementing the terms contained in this Agreement by no later than 15 days from the date of the Commission order approving this Agreement.

C. Modifications to Ratemaking Structure.⁷

1. Reasons for Modifications to PEU's Ratemaking Structure.

a. In the Acquisition Order, the Commission approved a unique ratemaking structure as set forth in the DW 11-026 Settlement Agreement which was to be applied with respect to the future rate cases of each of the three regulated utilities owned by Penn Corp. In a subsequent order, the Commission approved clarifications to this ratemaking structure (See Commission Order No. 25,696 (July 25, 2014) at 3 in DW 13-126). The instant Agreement refers to this ratemaking structure, including the Commission's subsequent approved clarifications, as the "Original Rate Structure".

b. The Commission's approval of the Original Rate Structure provides guidance to interested stakeholders – such as the City, its lenders, the utilities and their management, their regulators, current and potential lenders to the utilities, and credit rating agencies – concerning how the Penn Corp utilities shall file for rate relief in subsequent rate cases, as well as the parameters under which the Commission shall review and set rates for the utilities in the future. While the Commission always retains all jurisdiction and authority to set just and reasonable rates in accordance with the Federal and State Constitutions and applicable

⁷ Exhibit 3 more fully describes the ratemaking modifications proposed in this section.

statutes, the Settling Parties agree and reaffirm that the Commission's provision of guidance regarding rate-setting with respect to the Penn Corp utilities, within the context where they are ultimately owned by the City, is in the public interest. Further, given that the City does not seek a traditional equity-based rate of return, in that it has no equity investment in the Penn Corp utilities, necessitates that modifications be made to the traditional rate-setting method in order to ensure that those utilities will charge rates at levels which are sufficient to enable each to meet their respective operating requirements, to satisfy their respective apportioned share of responsibility to pay the debt service arising from the City Acquisition Bonds, as well as to pay their respective debt service obligations arising from borrowings accomplished to finance their capital needs.

2. Specific Ratemaking Modifications.

The Settling Parties agree and recommend that, in addition to approving the rates as set forth above, the Commission also approve, pursuant to RSA 378:7 and RSA 378:28, the specific modifications to the Original Rate Structure applicable to PEU as set forth in the following paragraphs of this Agreement and as reflected in the proposed rates.

a. 5-Year Average Test Period.

i. PEU has proposed to substitute a five-year historical test period in place of the current single historical test year. The purpose for this proposal is to develop pro forma test year data relative to revenues and expenses which is less likely to reflect unusual or abnormal events, such as a uniquely dry or wet summer which may occur during a test year. The Settling Parties agree that PEU shall compute "test year" revenues using the trailing five-year average consumption at the most recently approved volumetric rates and fixed charges. The Settling Parties also agree that the five-year trailing average consumption determination shall be

based on the four calendar years immediately preceding the designated test year for which the rate case is filed as well as the test year itself. Additionally, all direct test year expenses which are affected by differences in consumption, including but not limited to purchased water expense, electricity expense, and chemical treatment expense, shall also include pro forma adjustments to reflect the pro forma difference in consumption between the five-year average and the test year. PEU shall also include pertinent pro forma adjustments with respect to the financial data of each year that is included in the determination of the five-year average in accordance with current principles. Further, the Settling Parties agree that PEU's use of a five-year average test period in computing its revenue deficiency in no way precludes either the Staff or the OCA from making an alternative recommendation in place of such with respect to the determination of PEU's revenue deficiency.

ii. The Settling Parties agree to phase in the five-year averaging methodology for PEU over two rate proceedings. For purposes of determining the revenue requirement proposed in this Agreement, a five-year consumption average encompassing the 2016 test year as well as the four preceding years of 2012 – 2015 was utilized. However, only 50% of the impact of which is reflected in the proposed revenue requirement. In PEU's next rate proceeding, 100% of the impact of the five-year consumption average computed in that case will be reflected in proposed rates. The purpose of this phased-in approach is to spread the impact of the 5-year consumption average methodology on customers over multiple years. By reflecting only 50% of the 5-year consumption average in the instant rate proceeding, the total rate increase sought is approximately 2.5% less than it would have been by using 100% of the five-year consumption average.

b. Revenue Requirement Components. The Settling Parties agree that PEU's overall revenue requirement shall consist of the following three components:

1. **City Bond Fixed Revenue Requirement (CBFRR)** as described in the Original Rate Structure.
2. **Operating Expense Revenue Requirement (OERR)** which is further composed of the following:
 - a. **Material Operating Expense Revenue Requirement (MOERR).**
 - b. **Non-material Operating Expense Revenue Requirement (NOERR).**
3. **Debt Service Revenue Requirement (DSRR)** which is further composed of the following:
 - a. **Debt Service Revenue Requirement - 1.0 (DSRR-1.0)**
 - b. **Debt Service Revenue Requirement - 0.1 (DSRR-0.1)**

b1. City Bond Fixed Revenue Requirement (CBFRR). The Settling Parties agree that the purpose of the CBFRR shall remain unchanged from that originally defined within the Original Rate Structure; that is, to include within PEU's overall revenue requirement a fixed rate level that is sufficient to enable PEU to contribute its apportioned share towards the repayment of the debt service arising from the City Acquisition Bonds. (See DW 11-026 Settlement Agreement at 8.)

The Settling Parties further agree that PEU's CBFRR component should be increased from an annual amount of \$898,863, as actually collected during the test year, to an annual amount of \$926,309, as reflected in the proposed revenue requirement above. The reason for this increase is that, under the Original Rate Structure, the revenue necessary to repay the City for the \$5,000,000 portion of the Acquisition Bonds used to fund the Rate Stabilization Fund (RSF) was derived as part of PWW's return on rate base investment. However, PWW's current rate structure, approved in DW 16-806, no longer includes a return on rate base component.

Therefore, a ratable share (based on PEU's approved revenue requirement in its last full rate proceeding, DW 13-126) of the \$5,000,000 RSF has been added to PEU's previously apportioned share of the City Acquisition Bonds in order to derive the new annual CBFR amount. The detailed calculation of the revised CBFR is contained on Exhibit 4 to this Settlement Agreement.

b2. Operating Expense Revenue Requirement (OERR). The Settling Parties agree that PEU shall include in its overall revenue requirement an "Operating Expense Revenue Requirement" ("OERR") amount, which shall be equal to the sum of PEU's pro forma test year Operation and Maintenance Expenses, Property Tax Expense, and Amortization Expense. The Settling Parties agree that the overall OERR revenue component shall be further segregated between the following:

i. Material Operating Expense Revenue Requirement (MOERR). This component shall include all expense items included in the OERR less those specific expenses that have been designated as "Non-material Operating Expenses" as described below.

ii. Non-material Operating Expense Revenue Requirement (NOERR). The Settling Parties agree that certain operating expenses should be designated as "Non-material Operating Expenses" due to the potential susceptibility of such expenses to be found completely or partially imprudent within the context of a rate proceeding. That portion of PEU's revenue requirement associated with these expenses is the "Non-material Operating Expense Revenue Requirement" ("NOERR") The NOERR associated expenses currently consist of the following:

<u>Account</u>	<u>Description</u>
923000	Outside Services
930200	Public Relations
930300	Meals
930410	Charitable Contributions.

The Settling Parties further agree that the categorization of an expense item in the NOERR does not preclude PEU's recovery of such in rates, as long as that expense item is found to be prudently incurred within the pro forma test year. Rather, those expenses which are designated as NOERR items shall not be included in any use of or replenishment from the "Material Operating Expense Revenue Requirement Rate Stabilization Fund" described below.

b3. Debt Service Revenue Requirement (DSRR). The Settling Parties agree that PEU shall include in its overall revenue requirement a "Debt Service Revenue Requirement" ("DSRR") amount, the total of which shall be equal to 1.1 times the pro forma annual principal and interest payments on PEU's outstanding long-term debt as of the end of the pro forma test year. The Settling Parties agree that the proposed DSRR essentially replaces both the return on rate base as well as depreciation expense, which are traditionally key components of utility rate-making before this Commission. However, the Settling Parties agree that, given PEU's current complete reliance on debt capital, as stated above, a rate structure based on debt service (i.e. total annual principal and interest payments) is critical to enabling PEU to access the lowest cost debt financing obtainable, in order to provide safe and reliable service to its customers at the lowest possible rates. The Settling Parties agree that the DSRR shall be segregated into two further revenue components, as follows:

i. DSRR-1.0. The DSRR-1.0 shall be equal to 100% of the pro forma debt service payments for the test year. The establishment of the DSRR-1.0 relates to the use and replenishment of the DSRR-1.0 RSF which is explained below.

ii. **DSRR-0.1.** The DSRR-0.1 shall be equal to 10% of the pro forma debt service payments for the test year. The intended purposes for the establishment of the DSRR-0.1 are: 1) to allow for the collection of revenues sufficient to satisfy the debt service coverage ratio requirements of PEU's debt financings and Penn Corp's covenant requirements for its working capital line of credit, which is used by Penn Corp and its subsidiaries as a "back stop" for short-term capital needs; and 2) to allow PEU to collect revenues over-and-above its actual debt service in order to comply with cash flow coverage requirements which are typical for such financings, as well as to meet obligations on new debt incurred between rate filings. The Settling Parties agree that any accumulated DSRR-0.1 revenues at the end of a given fiscal year will be utilized as the first funding source for capital expenditures incurred during the first months of the succeeding fiscal year and leading up to an annual bonding or financing event in support of capital expenditures for that succeeding year. The Settling Parties further agree that any accumulated DSRR-0.1 revenues at the end of a given fiscal year may also be used as a funding source for preliminary engineering studies or permitting costs associated with "Qualified Capital Project Adjustment Charge" (described below) projects which have a multi-year timeline for completion but which also will not be used and useful during the current fiscal year.

The Settling Parties further agree that, once approved by the Commission within the context of a rate proceeding, PEU's DSRR 1.0 and DSRR 0.1 amounts shall remain in effect until a subsequent rate proceeding, at which time new DSRR values shall be computed.

c. **Allocation of PEU's \$980,000 Rate Stabilization Fund among reserve accounts.** The DW 11-026 Settlement Agreement created a Rate Stabilization Fund ("RSF") that was initially funded at \$5,000,000 and maintained in its entirety in PWW. Under the terms of the approved Settlement Agreement in PWW's most recent rate case proceeding,

DW 16-806, the \$5,000,000 RSF maintained by PWW was re-allocated amongst the three Penn Corp regulated utilities. PWW's allocated share of the RSF was amended to \$3,920,000 and a portion was deposited amongst PWW's Rate Stabilization Funds as outlined in the DW 16-806 Settlement Agreement. With regard to the remaining \$1,080,000 of the original \$5,000,000 amount, the DW 16-806 Settlement Agreement indicated this was to be allocated between PEU and PAC. See DW 16-806 Settlement Agreement at 14-15. The Settling Parties agree that \$980,000 of the \$1,080,000 remaining amount shall be allocated to PEU and further apportioned between PEU's three respective Rate Stabilization Funds as explained below.

In order to better ensure that customer rates remain stable, even under adverse conditions, as well as to enable PEU to meet all of its cash obligations under such conditions, the Settling Parties agree that PEU's apportioned share of the RSF in the amount of \$980,000 should be allocated among three RSF accounts, as follows (See Exhibit 5):

1. CBFRR RSF: \$ 31,000
2. MOERR RSF: \$898,000
3. DSRR-1.0 RSF: \$ 51,000

In addition to the allocation of the \$980,000 currently available RSF proceeds, the Settling Parties agree that additional funds may be required in order to ensure that the values of the three imprest RSF accounts are at appropriate levels in order to sufficiently account for inflationary increases which may occur until PEU's next rate case, when new permanent rates will become effective. The increases in the three RSF accounts are currently estimated, as follows (See Exhibit 5):

<u>Reserve Fund</u>	<u>Initial Funding</u>	<u>Estimated Adequate Funding</u>	<u>Potential Additional Funding</u>
CBFRR RSF	\$ 31,000	\$ 60,000	\$ 29,000
MOERR RSF	\$ 898,000	\$1,760,000	\$ 862,000
DSRR-1.0 RSF	<u>\$ 51,000</u>	<u>\$ 100,000</u>	<u>\$ 49,000</u>
Totals	<u>\$ 980,000</u>	<u>\$1,920,000</u>	<u>\$ 940,000</u>

The Settling Parties agree that the three RSF accounts will be maintained at the initial funding levels, but that PEU will continually monitor these levels for purposes of evaluating adequacy. If, prior to its next rate proceeding, PEU determines that the levels of its RSF accounts become inadequate relative to its operating requirements, the Company will submit a financing petition in accordance with RSA 369 to request approval to procure and issue debt for the purpose of obtaining the funds necessary to fully provide for the RSF accounts, at the then determined appropriate levels. The amount and duration of the financing will be negotiated at the time the financing is sought.

The Settling Parties also agree that if such a financing petition is filed before PEU's next rate case, it shall also include a request for a step increase in rates to be approved at a level sufficient to recover 1.1 times the principal and interest payments associated with the approved RSF funding debt. The Settling Parties further agree that the approved increase in rates should be recoverable as of the date of the issuance of the debt. The Settling Parties agree this is necessary in order to provide PEU with the cash flow required to make timely payments on the new debt, which would initiate as of the date of the issuance and receipt of the proceeds thereon.

c1. City Bond Fixed Revenue Requirement Rate Stabilization

Fund (CBFRR RSF). The Settling Parties agree that the purpose of this reserve fund will be the

same as described relative to PWW in the Original Rate Structure; that is, it will enable PEU to maintain stable water rates, even under adverse conditions, by providing a mechanism to ensure that PEU will meet its obligations relative to the City Acquisition Bond. (See DW 11-026 Settlement Agreement at 13ff.) The CBFRR RSF shall be established and maintained in accordance with the existing guidelines for the RSF approved in the DW 11-026 Acquisition Order as well as Section III (C) (2) (c) of this Agreement. The Settling Parties agree that the CBFRR RSF should be initially established at an imprest level of \$31,000 via a transfer of funds in such amount from the PWW CBFRR RSF.

c2. Material Operating Expense Revenue Requirement Rate

Stabilization Fund (MOERR RSF). The Settling Parties agree that this fund will be used to ensure stable rates by enabling PEU to meet its material operating expense obligations in the event of adverse revenue developments such as lower than expected consumption patterns due to wet weather and/or increases in material operating expenses above anticipated levels which may occur between test years. The establishment of the MOERR RSF is intended to provide lenders to PEU with reasonable assurances the Company will have the necessary cash available to pay its material operating expenses while, at the same time, having sufficient cash reserves to ensure payment of its debt service obligations on its issued long-term debt. The existence of cash reserves by PEU will accordingly facilitate the Company's ability to borrow funds at reasonable interest rates and on reasonable terms, which will directly benefit customers in the form of a reduced debt service requirement. The MOERR RSF will be established and maintained in accordance with the procedures set forth in Exhibit 3 to this Agreement as well as Section III (C) (2) (c) above. The Settling Parties agree that the MOERR RSF should be initially established at an imprest level of \$898,000 via a transfer of funds in such amount from the PWW CBFRR RSF.

c3. Debt Service Revenue Requirement-1.0 Rate Stabilization

Fund (DSRR-1.0 RSF). The Settling Parties agree that this fund will be used to ensure that, even in adverse revenue conditions such as wet weather, there will be a sufficient cash reserves available to enable PEU to pay the debt service obligations on its long-term debt. The Settling Parties agree that the intended purpose for the establishment of the DSRR-1.0 RSF is to provide PEU's lenders with reasonable assurances that PEU will have sufficient cash available to pay its debt service obligations. This will better facilitate PEU's ability to borrow funds at reasonable interest rates and on reasonable terms, which will directly benefit customers in the form of a lower debt service requirement. The DSRR-1.0 RSF will be established and maintained in accordance with the procedures set forth in Exhibit 3 to this Agreement as well as Section III (C) (2) (c) above. The Settling Parties agree that the DSRR-1.0 RSF should be initially established at an imprest level of \$51,000 via a transfer of funds in such amount from the PWW CBFRR RSF.

d. Establishment of a Qualified Capital Project Annual

Adjustment Charge (QCPAC). PEU seeks the establishment of a Qualified Capital Project Annual Adjustment Charge ("QCPAC") that is consistent in form and operation as the QCPAC for PWW described in the DW 16-806 Settlement Agreement and approved in Order No. 27,070. The Settling Parties agree that the concept of an on-going annual surcharge between rate cases, based on essentially all of the capital projects undertaken and completed by PEU each year, is appropriate and will help to maintain adequate cash flows. Such adjustment surcharge is to be implemented pursuant to a capital budget that has been previously reviewed and approved by the Commission. This approach offers an effective and balanced interim mechanism to allow PEU to collect revenues necessary to service the debt obligations that will be incurred to finance the capital projects which have been placed in service and are used and useful between full rate case

anticipated in approximately October of each year.⁸ Such review shall also consist of an audit, as well as an accompanying report thereon, by the NHPUC Audit Staff.

- (v) The Settling Parties agree that due to the nature of the QCPAC program whereby filings will occur on an annual basis, PEU's submissions to the Commission should accurately reflect actual project costs and be substantially free of material errors. If after review of PEU's filings, including an examination by the NHPUC Audit Staff of the underlying documentation in support thereof, either the Staff or the OCA deems those filings to be materially deficient in any respect, either may make a recommendation to the Commission to immediately reject the filings.
- (vi) Upon approval of a QCPAC by the Commission, the QCPAC shall become eligible for annual recoupment for bills rendered after the date for which bonded debt or other financing incurred with respect to the specific eligible projects is issued or consummated. It is anticipated that this date will be approximately April 1 of each year.
- (vii) The QCPAC surcharge shall consist of: (1) the annual principal and interest payments with respect to the applicable capital project debt, multiplied by 1.1; and (2) incremental property taxes associated with the specific capital projects, as determined in the year of the granting of the QCPAC for such projects.

⁸ Because PEU is unable to issue bonded debt under its current size and capacity, all of its issued debt is either State Revolving Fund (SRF) term loans or term loans issued by banking institutions, repayable on either a monthly or quarterly payment frequency, and as such, its first principal and interest payments on new debt is due within one to three months after issuance. Therefore, as the Company awaits the Commission's ruling on its annual QCPAC surcharge request (anticipated in October of each year), PEU will fund such interest payments from the DSRR-1.0 RSF or the working capital line of credit until such time as the QCPAC surcharge is approved by the Commission (recoupable to the date of the issuance of the debt).

- (viii) Notice to customers shall be made each year in conjunction with the annual filing described in subparagraph (ii) above, within 30 days of the date of such filing.
- (ix) Customer bills will include the annual QCPAC upon the issuance of an order approving such surcharge in the month following the effective date of the order.
- (x) After PEU's submission of the current year annual capital budget, PEU shall also file updates with the Commission for the purpose of keeping the Commission apprised of its progress with regard to its proposed current year capital projects, and any changes to the components of the overall and aggregate capital budget, as individual projects may change in overall scope or cost and/or be substituted for other projects within the overall context of the aggregate capital budget. PEU shall file these updates with the Commission on August 15, November 15, and January 15 (following the end of the fiscal year) detailing known or expected capital expenses for Capital projects based on the periods ending June 30, September 30, and November 30.
- (xi) The Settling Parties agree that PEU shall file an interim QCPAC submission within 45 days of the Commission's order approving this Agreement. The interim QCPAC submission shall include the anticipated 2018 QCPAC budget and a forecast of capital project expenditures for the fiscal years 2019 and 2020. PEU's proposed capital budget for 2018 shall specifically correspond with PEU's anticipated filing(s) for financing approval of its 2018 capital projects.

3. Administrative and Rate Case Requirements.

- a. As noted above, the Settling Parties agree and recommend that the Commission approve the modifications to the Current Ratemaking Structure described above.

The details of the computations and impacts of these proposed modifications are reflected in Attachment JPL-1 to this Settlement Agreement. The Settling Parties further agree and recommend that the Commission require PEU to file its next rate case in accordance with the procedures and methodologies described in this Settlement Agreement and consistent with the computations set forth in the exhibits and attachments to this Agreement.

b. The Settling Parties agree and recommend that the Commission require PEU to provide monthly reports to the Commission, the Staff and the OCA regarding the status of the CBFRR RSF, the DSRR-1.0 RSF, and the MOERR RSF at the times PEU files its monthly statement of operations with the Commission.

c. The Settling Parties agree PEU should be required to file a full rate case in certain situations when the total amount of funds held in the CBFRR RSF, the DSRR-1.0 RSF, and the MOERR RSF as maintained for the benefit of PEU (the “Combined PEU Rate Stabilization Funds”) grow to be materially greater than the target of such funds most recently established by the Commission. As such, the Settling Parties agree and recommend that the Commission require PEU to file a full rate case at any time that the average of the amounts of cash held in the Combined PEU Rate Stabilization Funds as of the last day of each month for the 13-month period ending on December 31 of each year is greater than 150% of the combined target amount for such funds as most recently established by the Commission. When the monthly reports filed by PEU indicate that this excess amount has occurred, then PEU shall file a full rate case within 6 months following the filing of such monthly report. In the next rate case, the Company understands that the parties may issue data requests seeking a comparison of the revenue requirements under the instant Agreement, and those that would have been required

under the rate-making structure established in Docket No. DW 11-026. If a party makes such a request, the Company agrees to furnish such data to the best of its ability.

D. Rate Case Expense Surcharge.

The Settling Parties agree and recommend to the Commission that PEU should be allowed to recover its reasonable rate case expenses for this proceeding through a surcharge. PEU's rate case expenses may include, but are not limited to, its legal and consultant expenses, as well as its incremental administrative expenses such as copying and delivery charges. PEU agrees to file its final rate case expense request, pursuant to Puc 1905.02, no later than 30 days from the date of the Commission's order approving this Settlement Agreement. The Staff, the OCA, and the Intervenor shall have an opportunity to review the rate case expenses submitted by PEU and provide recommendations to the Commission for approval.

E. Dividend Distributions for City Eminent Domain Expenses.

The Settling Parties agree and recommend that the Commission should clarify and require that neither PEU, PWW, nor PAC may collect revenues from customers for the purpose of distributing cash to Penn Corp or ultimately as a special dividend or other form of distribution to the City to reimburse eminent domain costs or for any other purpose whatsoever. The Settling Parties further agree and recommend that the dividend restrictions contained in the DW 11-026 Settlement Agreement remain in full force and effect.

IV. Conditions

1. The Settling Parties expressly condition their support of this Agreement upon the Commission's acceptance of all its provisions, without change or condition. If the Commission does not accept the provisions in their entirety, without change or condition, any party hereto, at its sole option exercised within 15 days of such Commission order, may withdraw from this

Agreement, in which event it shall be deemed to be null and void and without effect and shall not be relied upon by any Settling Party to this proceeding or by the Commission for any purpose.

2. The Commission's acceptance of this Agreement does not constitute continuing approval of, or precedent regarding, any particular principle or issue in this proceeding, but such acceptance does constitute a determination that the adjustments and provisions set forth herein in their totality are just and reasonable and consistent with the public interest. In its order addressing the approvals recommended in this Agreement, the Commission should expressly find that the approvals recommended herein are unique to this case and should not be viewed as having precedential impact with respect to any particular principle or issue in this proceeding for any other case or situation for reasons.

3. The discussions that produced this Agreement have been conducted on the explicit understanding that all offers of settlement relating thereto are and shall be confidential, shall be without prejudice to the position of any party or participant representing any such offer or participating in any such discussion, and are not to be used in connection with any future proceeding or otherwise.

4. This Agreement may be executed in counterparts.

IN WITNESS WHEREOF, the Settling Parties have caused this Agreement to be duly executed in their respective names by their fully authorized agents.

PENNICHUCK EAST UTILITIES, INC.

By its attorneys

Rath, Young and Pignatelli, P.C.

Dated: 7/18/18

By: 

Richard W. Head

STAFF OF THE NEW HAMPSHIRE PUBLIC
UTILITIES COMMISSION

Dated: 7/18/18

By: 

F. Anne Ross

General Counsel

OFFICE OF THE CONSUMER ADVOCATE

Dated: 7/18/2018

By: 

D. Maurice Kreis

Consumer Advocate