

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

I N D E X

PAGE NO.

DISCUSSION RE: Copies of the notices published in newspapers 5

STATEMENTS OF PRELIMINARY POSITION BY:

Ms. Brown 11

Ms. Amidon 19

QUESTIONS BY CMSR. SIMPSON (to NH DOE) 21

QUESTIONS BY CMSR. SIMPSON (to PWW) 23, 32

QUESTIONS BY CMSR. Chattopadhyay (to PWW) 26, 34

FINAL STATEMENTS BY:

Ms. Amidon 51

Cmsr. Chattopadhyay 51

P R O C E E D I N G

1
2 CMSR. CHATTOPADHYAY: Good morning,
3 everyone. I'm Commissioner Chattopadhyay, in the
4 presiding role, as Chairman Goldner is not
5 available. I'm joined today by Commissioner
6 Simpson.

7 We are here this morning in Docket
8 22-040 -- just a moment -- for a prehearing
9 conference noticed on August 17, 2022. That
10 notice acknowledged that the issues that this
11 instant docket raises include whether special
12 circumstances exist so that the Commissioner --
13 sorry -- the Commission's approval of the
14 proposed amendments to the Special Contract
15 between PWW and PEU providing for rates different
16 from the general schedules would be just and
17 consistent with the public interest under RSA
18 378:18.

19 The Commission also notes that the
20 docket raises the question of whether the
21 deviation from a general tariff can retroactively
22 amend the wholesale water supply contract between
23 PWW and PEU to July 1st, 2021.

24 We also have some analytical questions

1 with respect to the rate design that
2 characterizes the contract amendment. For
3 example, even with significant increases in the
4 fixed meter charge and base monthly fees and
5 one-third increase in the minimum purchase volume
6 per day, why is PEU's projected bill for annual
7 purchase lower? Is it entirely because of the
8 decrease in the volumetric rates, or is there
9 something else going on?

10 So, we hope that this prehearing
11 conference will help move matters forward,
12 particularly with respect to the adjudicative
13 issues at hand pertaining to the amendment of the
14 Special Contract between PWW and PEU.

15 Let's begin by taking appearances. For
16 Pennichuck Water Works?

17 MS. BROWN: Good morning,
18 Commissioners. Thank you for holding today's
19 prehearing. My name is Marcia Brown, and I'm
20 with NH Brown Law. And I am representing
21 Pennichuck in this case.

22 And present today, to my right, is
23 Larry Goodhue, who is Pennichuck Water Works' and
24 Pennichuck East Utility's CEO and Chief Financial

1 Officer; to his right is Don Ware, who is
2 Pennichuck Water and Pennichuck East's Chief
3 Operating Officer; immediately behind me is Jay
4 Kerrigan, who is the Regulatory and Treasury
5 Financial Analyst for Pennichuck; and to his
6 right is George Torres, who is the Corporate
7 Controller, Treasurer, and Chief Accounting
8 Officer.

9 Thank you.

10 CMSR. CHATTOPADHYAY: Thank you.

11 MS. AMIDON: Good morning.

12 CMSR. CHATTOPADHYAY: Good morning.

13 MS. AMIDON: I'm Suzanne Amidon. I'm
14 here for the Department of Energy Regulatory
15 Division, the Water Group.

16 To my left is Jayson Laflamme, who is
17 the Director of the Water Group; and to his left
18 is David Goyette, who is an Analyst in the Water
19 Division.

20 Thank you.

21 CMSR. CHATTOPADHYAY: Thank you. So,
22 I'm just going to begin with the preliminary
23 matters. There's one that I want to talk about.

24 I was just looking at the Puc 200

1 rules, and stumbled upon the Rule 203.12(d). It
2 appears that the affidavits of publication that
3 were filed did not include the copies of the
4 notices that were published.

5 And, so, I think it would be helpful if
6 the Company could file those. So, I know that
7 you had filed the affidavits. But the copies of
8 those publications were not provided. So, that
9 would be helpful if you include them.

10 MS. BROWN: If I could speak to that
11 issue, too?

12 CMSR. CHATTOPADHYAY: Sure.

13 MS. BROWN: Because I had, in past
14 years, filed both the affidavit, which was
15 notarized, and the tear sheet, and noticed that
16 the Commission never published the tear sheet.
17 So, I figured, why file them?

18 But I am happy to file those tear
19 sheets, and will do those today by end of day.

20 If I can also speak to the affidavits
21 of publication? The Commission's order had
22 required that the order postings be by September
23 7th, and that indeed was the case. For Conway
24 Daily Sun, that tear sheet or the notice appeared

1 on August 25th; for the Union Leader, that
2 appeared on August 31st; for the Telegraph, that
3 appeared on September 4th; and, for the Concord
4 Monitor, that order appeared on August 26th.

5 The hiccup, in complying with the
6 September 16th deadline, because we had tariff
7 affidavits -- sorry -- we had affidavits of
8 publication filed on the 12th and the 19th. We
9 had a hard time getting the notarized, the
10 physical notarized copy to file in time for the
11 16th. So, I filed two that I had received on the
12 12th, and then followed up with the remaining two
13 on the 19th.

14 I don't think the Commission needs to
15 waive its order deadline of the 16th, because I
16 think we substantially complied by filing proof
17 of the affidavits of at least two out of the four
18 newspapers that we had to notice in, because of
19 the wide geographic area of PEU.

20 So, I just wanted to raise that. We
21 think that we complied with the order, because at
22 least two out of the three were filed by the time
23 of September 16th, and, in fact, all of the
24 notices did occur in the newspapers by the

1 required deadline.

2 CMSR. SIMPSON: And can you elaborate
3 on that a bit more? I just didn't follow the
4 perceived deficiency that you articulated for us.
5 Can you just restate that for me?

6 MS. BROWN: The order required that the
7 affidavits be filed --

8 CMSR. SIMPSON: Uh-huh.

9 MS. BROWN: -- by the 16th. I had two
10 ready and filed on the 12th. And the two
11 stragglers I did not get and file until the 19th.

12 CMSR. SIMPSON: Okay.

13 MS. BROWN: So, I was technically
14 after. And, while we're crossing t's and dotting
15 i's, I just wanted to bring that to the
16 Commission's attention, and make the argument
17 that we think that we substantially complied with
18 the order. And, if not, we would ask, you know,
19 forgiveness, because the reason was the logistics
20 in this remote -- still remote world of getting a
21 physical notary to sign a piece of paper and then
22 get it.

23 CMSR. SIMPSON: Thank you for restating
24 that for me.

1 CMSR. CHATTOPADHYAY: Do you have
2 anything else? I saw you conferring, so --

3 MS. BROWN: Yes. Yes. In addition to
4 the publication in the newspapers, the Company
5 posted the orders on its website. So, we think
6 that there's been sufficient notice to the public
7 with that addition as well.

8 Thank you.

9 CMSR. SIMPSON: And are you able to
10 provide a copy of the publication notice as well?

11 MS. BROWN: Yes. So long -- so, I take
12 this as a record request, and I will submit all
13 of the tear sheets, so that the Commission has
14 documentation of that, as well as a screen
15 capture of the notice that was published on the
16 website, for completeness.

17 CMSR. CHATTOPADHYAY: Yes.

18 MS. BROWN: Thank you.

19 CMSR. CHATTOPADHYAY: You know, this is
20 what happens when an economist becomes a
21 commissioner. Because there are legal stuff that
22 I rely on, and I look at Commissioner Simpson,
23 and I have other lawyers that are helping me.
24 So, we will take that matter under advisement

1 about the 16th versus 19th issue.

2 But, personally, I'm quite fine with
3 what I've seen. It's just that I want to make
4 sure that we follow the rules.

5 Are there any preliminary matters,
6 other than the one that I talked about, that
7 needs to be looked into or talked about?

8 MS. BROWN: If I can ask for
9 clarification? Can we address that question, the
10 Commissioner question, after putting our
11 preliminary remarks in?

12 CMSR. CHATTOPADHYAY: The question for
13 the 16th versus 19th?

14 MS. BROWN: No. The question that you
15 posed about "why PEU's rate was going down?", and
16 the explanation behind it?

17 CMSR. CHATTOPADHYAY: Oh, absolutely.
18 We will have some questions on that. So, not an
19 issue. We'll go there.

20 MR. GOODHUE: Good.

21 CMSR. SIMPSON: And if you want to
22 address it in the opening, --

23 CMSR. CHATTOPADHYAY: Yes.

24 CMSR. SIMPSON: -- I'm sure we'd

1 entertain that.

2 CMSR. CHATTOPADHYAY: So, okay. So,
3 let's start with the preliminary positions.
4 Let's go with PWW, and PEU, because both are here
5 at the same time.

6 MS. BROWN: Thank you. Good morning,
7 Commissioners.

8 Pennichuck Water Works and Pennichuck
9 East have petitioned the Commission to approve an
10 amendment to its existing contract. And this
11 contract, as noted in the Petition, does not
12 expire until October 9th, 2038, and that's if the
13 two five-year extensions aren't triggered.

14 The amendment seeks to amend the rates
15 only, so that the rates are more closely aligned
16 to the new and existing forward-looking cost of
17 production. The result is that the base monthly
18 fixed fee will slightly increase, but the
19 volumetric charge will decrease. And these
20 changes were dictated by a cost of service study
21 that was conducted.

22 And, by way of background, for the
23 record in this proceeding, and as the Commission
24 is aware, Pennichuck Water Works has filed a

1 number of revised special contracts recently, and
2 this is because there was a major change in use
3 among one of Pennichuck's large special contract
4 customers, and that was that the Town of Hudson
5 lost two major water supply wells, its Dame and
6 Ducharme wells, so that suddenly Hudson needed
7 much more water from Pennichuck than it had
8 previously taken.

9 Now, there was also a ripple effect in
10 that, because PEU also took up to 15 percent of
11 Hudson's production from the Dame and Ducharme
12 wells, that Pennichuck East also needed to find a
13 new supplier, and that was in Pennichuck Water
14 Works, and that's reflected in the filing here.
15 Now, these changes occur in the use, from Hudson,
16 occurred on or about July 1st, 2021.

17 Now, the change -- the ripple effect
18 that I was talking about is specifically that
19 there was a change in the relative share of plant
20 and distribution capacity that is shared among
21 the customers based on the customer's average day
22 guaranteed minimum purchase, peak day, and peak
23 hour usages.

24 So, then, to summarize the filings that

1 have been caused because of this change in
2 Hudson's use, as the Commission is aware, there
3 was a existing review docket for Anheuser-Busch,
4 that was Docket DW 21-115. And midway through
5 the Commission's review, Pennichuck asked for a
6 pause, and refiled a special contract and cost of
7 service study to reflect that there was a change
8 in Hudson's use that would ripple through the
9 share that Anheuser-Busch would have of plant and
10 distribution capacity.

11 Also, there was the filing for a
12 special contract for Hudson, and that is
13 presently docketed as DW 22-029. That, at a high
14 level, is to convert it from a seasonal special
15 contract usage, to a more permanent for a term of
16 years.

17 And then, Pennichuck has filed the
18 instant docket. And, under this docket,
19 Pennichuck East seeks to replace the about
20 118,000 gallons per minute per day -- I'm
21 sorry -- gallons per day that it used to take
22 from Hudson, it is now taking it from Pennichuck
23 East. And, by order of magnitude, this is about
24 a 33 percent increase in Pennichuck East's take

1 of water from Pennichuck Water Works. So, it's
2 not insubstantial.

3 For completeness, there's a Town of
4 Milford contract that is coming up for expiration
5 next year, that will be coming soon, and this
6 ripple effect from Hudson's use will also flow
7 through to that filing, and that filing is
8 imminent.

9 And, to round out, there was a special
10 contract with the Town of Tyngsborough. But
11 Hudson's use did not affect that special
12 contract, so that you're not going to see any
13 contract revision for that special contract.

14 Now, as I mentioned, a cost of service
15 study was performed for this instant Special
16 Contract. And, by way of background, the cost of
17 service study is used to determine the cost to
18 provide the water service under the unique needs
19 of that particular customer, and it ensures that
20 there is no cost-shifting to other customer
21 classes.

22 Now, there is a rate case going on for
23 Pennichuck Water Works. And Pennichuck has
24 proformed the changes in these various special

1 contracts into its rate filing, so that there is
2 a accurate reflection in the proposed revenue
3 requirement by these changes. And, you know,
4 these -- having a separate docket for a special
5 contract is not unusual, and also proforming
6 these known changes into the revenue -- proposed
7 revenue requirement is also a normal course of
8 action.

9 And I mentioned that this is not the
10 first time that there have been active reviews of
11 special contracts while there's been a rate case
12 pending. Because, in 2017, in DW 17-071,
13 Pennichuck Water and Pennichuck East had a
14 special contract under review while Pennichuck
15 East had its general rate case, in Docket DW
16 17-128. And also, back in 2010/2011 timeframe,
17 Pennichuck Water Works had its general rate case
18 at the same time that the Anheuser-Busch Special
19 Contract was open.

20 I say that because -- or, I raise this
21 issue because there was some criticism from OCA,
22 in a past special contract docket for Hudson,
23 that, you know, "special contracts should be
24 reviewed in the context of a rate case". Well,

1 the history before the Commission is that that's
2 not been the case. You know, these have been
3 separately noticed investigations. They do
4 relate, you know, we're not denying that. But
5 that the review is not placed into the rate case
6 so as to burden that rate case review. We
7 believe it can be a stand-alone docket, as it is
8 right now.

9 Now, with respect to the retroactive
10 effective date, because Hudson's change of use
11 occurred on or about July 1, 2021, Pennichuck is
12 trying to start all of its special contracts that
13 need to be revised all on the same footing, and
14 have a retroactive application in effect back to
15 July 1, 2021.

16 And there may be some question as to
17 why, you know, here it is in September 2022, that
18 this request is being made, it's because cost of
19 service studies take months to do to conduct.
20 When you're dealing with municipalities, there's
21 also that delay. Then, you overlay regulatory
22 lag. So, it's, you know, not surprising that,
23 here we are in yet another docket, and Milford to
24 be coming, too, that it took this time -- oh,

1 well, Milford is not being -- is not a
2 retroactive docket. I just misspoke about that,
3 sorry. It's not unusual that it took this long
4 to determine the true rates past a July 1, 2021
5 proposed effective date.

6 There is a policy reason for asking for
7 the retroactivity, and that is because, if these
8 rates aren't allowed to go back to 2021, then, in
9 effect, Pennichuck East's customers are going to
10 be paying more than what the cost of service
11 study dictates that they should be paying. And,
12 so, it becomes a fairness issue of "why should
13 one particular customer base be paying more than
14 they should?", when there is a ability to
15 reconcile or give a credit, such as what the
16 Commission has allowed in the Anheuser-Busch
17 docket.

18 And, with respect to the
19 reconciliation, and this is an issue that
20 Department of Energy raised in the Hudson docket,
21 is the Pennichuck East/Pennichuck Water Works
22 Special Contract is just an amendment to the
23 rates. We didn't amend and include a clause for
24 the reconciliation. We were thinking that would

1 be something separate. But, I think, after this
2 prehearing, we will talk in the tech session of
3 perhaps having that reconciliation either spelled
4 out in a settlement agreement or as a addendum to
5 the Special Contract amendment. So, I just
6 wanted to flag that issue, that we are aware
7 that, you know, it probably would be a good idea
8 to write that down, other than in a -- in
9 testimony, you know, have that presented to you
10 in a settlement agreement, or amendment to the
11 Special Contract amendment.

12 So, with that, I will close, and say
13 that we will look forward to working with OCA and
14 DOE in this matter, and in the tech session
15 afterwards. And we'll propose a procedural
16 schedule. I know DOE has also gotten a jump on
17 discovery, and we responded to discovery already.

18 And, as far as the questions, we
19 will -- I'll let Don Ware or -- and Larry Goodhue
20 respond to the questions more fully, after we
21 finish with opening statements.

22 Thank you.

23 CMSR. CHATTOPADHYAY: Thank you. Let's
24 go to DOE.

1 MS. AMIDON: Thank you.

2 As Attorney Brown indicated, we've
3 already commenced discovery. And there may be --
4 I think that we can look at the procedural
5 schedule, probably somewhat shortened. However,
6 you know, Don Kreis, the Consumer Advocate, is
7 not here today. We don't know if he will be
8 participating in later phases of the docket.
9 Obviously, any procedural schedule we agree to
10 today, will have to be subject to his --

11 MS. BORDEN: Excuse me. Do you have
12 your mike on?

13 MS. AMIDON: Nope. You don't want me
14 to begin again, do you? Steve, --

15 MR. PATNAUDE: I got it.

16 CMSR. CHATTOPADHYAY: As long as Steve
17 is good, I'm good.

18 MS. AMIDON: All right. I can hear
19 myself. So, that's -- I'm the primary audience
20 for myself.

21 CMSR. SIMPSON: And we could hear you
22 as well. And the stenographer has a record of --

23 MS. AMIDON: Yes.

24 CMSR. SIMPSON: -- your comments.

1 MS. AMIDON: Thank you very much.

2 CMSR. SIMPSON: Please proceed.

3 MS. AMIDON: So, and now I forget where
4 I left off.

5 We don't know what role the Consumer
6 Advocate will play in this docket. Obviously,
7 we'll have to run the procedural schedule that we
8 may agree to with the Company by him as well.
9 And, hopefully, we'll get his assent. Otherwise,
10 we'll probably file it as agreed to by the two
11 parties you see today, and note that the Consumer
12 Advocate has not taken a position.

13 With respect to whether this contract
14 should be part of the rate case, we agree with
15 the Company, provided that -- pardon me again --
16 all of the special contracts have been able to be
17 reviewed and resolved in some manner before PWW
18 submits its final revenue -- its required revenue
19 calculation for the rate case.

20 So, we're looking to have this done by
21 mid-March. So, as long as we can have those
22 revenue requirements modified, and then updated
23 in the rate case, along with the other elements
24 that may have to be updated, we look to finish

1 this -- conclude this proceeding by mid-March.
2 And I just wanted to alert the Commission to
3 that, because the deadline is important, in that
4 that is the impact it has on the rate case, it's
5 the revenue requirement.

6 We know that this is a unique contract,
7 but we're trying to be sensitive to all the
8 environmental issues going on around the state,
9 and understand that the Department of
10 Environmental Services has a role in this process
11 as well. So, we will move ahead and work with
12 the Company to, you know, answer any questions we
13 might have, and to hopefully move the process
14 along for the Commission.

15 Thank you.

16 CMSR. CHATTOPADHYAY: Thank you. I
17 will note that I'm aware that the Consumer
18 Advocate has filed a participation letter. But,
19 obviously, he's not here today. So, you know,
20 just I understand that.

21 Then, we will go to the Commissioners'
22 questions now. So, I'll start with Commissioner
23 Simpson.

24 CMSR. SIMPSON: I'd ask Attorney

1 Amidon, with respect to the question of
2 retroactivity, do you have any preliminary
3 thoughts for us on the matter?

4 MS. AMIDON: One moment please.

5 *(Atty. Amidon conferring with*
6 *Mr. Laflamme.)*

7 CMSR. SIMPSON: Sure.

8 MS. AMIDON: I think that it's a little
9 unusual. And that will be part of our review, to
10 make sure that we understand how the various
11 pieces work together. As Attorney Brown said,
12 there's a cost of service study and multiple
13 impacts on different entities with whom they have
14 special contracts. So, we're going to have to
15 take a close look at that.

16 Thank you.

17 CMSR. SIMPSON: And, just so I clearly
18 understand your position, it's the Department's
19 view that you want to resolve any of the special
20 contract matters through final order from the
21 Commission prior to finalizing the revenue
22 requirement for the Company's general rate case?
23 Is that -- did I understand that correctly?

24 MS. AMIDON: I think that is the

1 preferred way to go, because the rate case is on
2 a definite schedule.

3 CMSR. SIMPSON: Uh-huh.

4 MS. AMIDON: These contracts are not.
5 But, in this case, because they do affect revenue
6 requirement calculations for the rate case, we,
7 you know, we aspire to have those completed.
8 Like I said, we're trying to work towards
9 expediting the Commission's ability to review
10 these contracts and to look at the issues that it
11 wishes to examine in connection with them, such
12 as the retroactivity.

13 CMSR. SIMPSON: Okay. Thank you.

14 MS. AMIDON: You're welcome.

15 CMSR. SIMPSON: And then, for the
16 Company, with respect to the cost of service
17 study that you updated, given the sought changes
18 in the Special Contract, would you use the same
19 cost of service study in your general rate case?

20 MR. WARE: No.

21 CMSR. CHATTOPADHYAY: It was specific
22 for PEU, as a customer?

23 MR. WARE: Right. So, there was no
24 overarching cost of service study as part of the

1 Pennichuck Water Works rate case.

2 CMSR. SIMPSON: Uh-huh.

3 MR. WARE: The last rate case, it had a
4 cost of service study, which allocated amongst
5 the General-Metered class of customers.

6 CMSR. SIMPSON: Uh-huh.

7 MR. WARE: Each special contract that
8 we have has its unique cost of service study done
9 specific to that customer and what it takes to
10 serve them. So, in this case, the cost of
11 service study between PWW and PEU is unique to
12 the sales from PWW to PEU.

13 CMSR. SIMPSON: And, in terms of scale,
14 relative to PWW's total customer base, how large
15 is PEU?

16 MR. WARE: So, this contract requires a
17 guaranteed minimum purchase of 400,000 gallons a
18 day by Pennichuck Water Works. We also have a
19 guaranteed purchase amount, I believe it's a
20 million gallons a day from Hudson that's under
21 consideration, 900,000 gallons a day -- or,
22 excuse me, something less, 667,000 gallons from
23 Anheuser-Busch.

24 And, so, when you aggregate the various

1 special contracts, they amount to about a little
2 over 20 percent of the usage or sales above and
3 beyond the General-Metered class.

4 CMSR. SIMPSON: Okay. That's helpful.

5 MS. BROWN: If I can also just clarify,
6 when Mr. Ware was referring to the take of
7 "400,000 gallons per day", "Pennichuck East", not
8 "Pennichuck Water".

9 MR. WARE: Yes.

10 MS. BROWN: Just to clarify.

11 CMSR. SIMPSON: Thank you. And it
12 sounds like the parties are going to convene in a
13 tech session after this hearing and develop a
14 procedural schedule. Any initial thoughts on a
15 requested final hearing or order in this matter?

16 And you can defer that question. Just
17 my own for planning.

18 MS. BROWN: I think it would be the
19 Company's preference to have a approval of a
20 settlement agreement patterned after the
21 Anheuser-Busch investigation. Because, in that
22 docket, the Commission considered the Settlement
23 Agreement, and I believe issued an order *nisi*, so
24 that we could just efficiently dispense. I mean,

1 there doesn't seem to be a lot of interest in
2 this docket. So, I think an order *nisi*, rather
3 than a full-fledged expensive hearing, would be
4 preferred.

5 CMSR. SIMPSON: Okay. I don't have any
6 further questions at this time, Commissioner
7 Chattopadhyay. Thank you.

8 CMSR. CHATTOPADHYAY: Thank you. So, I
9 have a record request to start with. And I'm
10 going to read it exactly the way it's written
11 here, which is: Refer to Attachment DLW-1 to the
12 direct testimony of Mr. Ware. Please provide the
13 Cost of Service Study in live Excel format,
14 inclusive of formulae, links to other worksheets
15 or attachments, and explanations for assumptions.

16 And, so, this will be -- we'll prepare
17 a PO with the RRs. Okay. How much time would
18 you need? That would be good to know.

19 (*Atty. Brown conferring with Mr. Ware*
20 *and Mr. Goodhue.*)

21 MS. BROWN: I would just offer that we
22 could provide that within the week, within a
23 week, you know, by next Wednesday. However, I
24 will also note to the Commission that the docket

1 clerk and I are having a dialogue on how you
2 redact a formula. Because, under the 200 rules,
3 it's envisioning redactions on *pdf* pages. But,
4 if you, you know, if this vendor wants to protect
5 their formulas, then I'm going to need to file a
6 Motion for Protective Treatment, and then we have
7 to grapple with the 200 rules in how you mark a
8 hidden formula that doesn't appear on a page.

9 So, we have -- I have, hopefully, a
10 discussion with the Clerk's Office after this
11 prehearing.

12 CMSR. CHATTOPADHYAY: Okay. I hear
13 what you're saying, and you might need a little
14 bit more time to wrap this up. So, maybe Friday
15 next week would be a good deadline.

16 MS. BROWN: Thank you. Yes. We'll use
17 that one.

18 CMSR. CHATTOPADHYAY: Okay.

19 MS. BROWN: Will the Commission be
20 issuing a formal paragraph on that record
21 request, so I can just use that in my cover
22 letter? I've taken notes, but --

23 CMSR. CHATTOPADHYAY: Yes. So, what I
24 meant was, with the PO, we'll have this question,

1 this RR clearly spelled out there.

2 MS. BROWN: Thank you.

3 CMSR. CHATTOPADHYAY: Okay? And, if
4 there are anything else that come up as we talk
5 about stuff here, we will also include them.

6 MR. GOODHUE: Got it.

7 CMSR. CHATTOPADHYAY: Okay. So, I
8 think you have addressed this in your opening
9 comments. But, in the Petition, on Page 3, it
10 says something to the effect of "This cost change
11 for the water supplied by PWW to PEU in this
12 existing special contract is also affected by
13 other large users changing how much supply they
14 will be taking on an ongoing basis going
15 forward."

16 So, I heard you talk about Town of
17 Milford, you know, --

18 MR. GOODHUE: -- and Hudson.

19 CMSR. CHATTOPADHYAY: -- and Hudson, as
20 well as perhaps even Anheuser-Busch. So, I don't
21 know. Can you give me -- can you go back to that
22 question and give us a general sense what you
23 meant there?

24 MR. WARE: So, typically, cost of

1 service studies for special contracts don't all
2 fall in a line. So, a cost of service study is
3 done at the time, based on what's known and
4 measurable, as far as General-Metered customer
5 usage. And, again, you're looking at the
6 components of, you know, guaranteed minimums,
7 average day, peak day, and peak hour are the
8 parameters that distribute costs amongst the
9 parties. So, typically, again, these are kind of
10 done as stand-alones. And, when you do a new
11 one, because you have a contract that's 20 years
12 long, you don't go back and revisit that.

13 As it was, we had the Anheuser-Busch
14 Special Contract, which was due July 1st of -- to
15 transition July 1st of 2021 from the Fourth
16 Special Contract to the Fifth.

17 Simultaneously, we had two existing
18 contracts, with Hudson and PEU, that weren't due
19 for a number of years. But, because of the PFAS
20 contamination and change in usage, we said "Well,
21 let's line up all these special contracts that we
22 can and use the same platform." So, you know,
23 make sure that the relative usage, which, you
24 know, has changed, is the same in all the

1 contracts. Make sure that the base for the
2 analysis, in this case, DW 19-084's revenue
3 requirement is the same. So, it was a unique
4 opportunity to wrap those all up.

5 But we kind of stretched out. We had
6 filed the Anheuser-Busch case before we knew
7 about the PFAS contamination. When that came up,
8 we said "Oh, that's going to change the relative
9 percentages of those four components across the
10 special contracts. So, let's pull them
11 altogether."

12 And, in the case of Milford, Milford
13 came to us in May of this year, because their
14 contract is up next February, and said "Oh, we
15 want to renegotiate a special contract. And, oh,
16 we want to change the parameters that are" --
17 "those four parameters."

18 So, we wrapped everything up, with the
19 idea that, you know, everything is -- will be all
20 aligned for those particular special contracts.

21 CMSR. CHATTOPADHYAY: Thank you. So,
22 have the customer "guaranteed take" allocations
23 across customer classes changed between the
24 previous and the amended contracts as a result of

1 this additional need for PWW to serve PEU's
2 additional water needs?

3 MR. WARE: Okay. So, relative to PEU,
4 in the original contract, there was a guaranteed
5 usage of 300,000 gallons per day. And that is
6 changing from 300,000 gallons a day to 400,000
7 gallons a day. And that differential is the lost
8 water that PEU used to buy from Hudson. But,
9 when Hudson had to shut down the Dame and
10 Ducharme wells, which produced roughly 785,000
11 gallons a day, PEU had a 15 percent allotment of
12 that, or, roughly, 118,000 gallons. So, that
13 water had to come from someplace. And, so, that
14 hence, PEU would, you know, in terms of cost,
15 PEU's cheapest cost of water is from Hudson.
16 And, so, -- but Hudson couldn't provide all of
17 PEU's needs, hence the contract with PWW.

18 Now, Hudson can produce less, PEU needs
19 more. And, again, we looked, in the original
20 contract, Manchester was a potential source of
21 water, but a more expensive source than PWW,
22 based on the cost of service study. So, this is
23 a change, because PEU needs additional water, and
24 because of Dame and Ducharme. And, so, this

1 contract changes the dynamics micks of how much
2 PEU will guarantee to purchase on a daily basis.

3 CMSR. SIMPSON: May I ask a question
4 about that, Commissioner Chattopadhyay?

5 CMSR. CHATTOPADHYAY: Absolutely. Yes.

6 CMSR. SIMPSON: Is Hudson water still
7 the least expensive, given the closure of the
8 wells?

9 MR. GOODHUE: Yes.

10 CMSR. SIMPSON: And, just generally
11 speaking, can you comment on the cost of
12 water, --

13 MR. WARE: Yes.

14 CMSR. SIMPSON: -- from a macro
15 perspective right now in New Hampshire?

16 MR. WARE: Yes. So, relative to
17 Hudson, Hudson still has one active well, which
18 is a Weinstein well, which produces about 800,000
19 gallons of water a day. PEU is allowed 15
20 percent of that, or roughly 120,000 gallons a day
21 at Hudson's current variable cost of production,
22 which there is no treatment, so it's electricity
23 and disinfection or chlorine. And it runs about
24 35 cents a hundred cubic feet. You know, we're

1 looking at rates, and there is no guaranteed
2 minimum and there's no annual payment fixed
3 charge to Hudson, so, by far, the cheapest source
4 of water.

5 This contract, based on cost of
6 service, again, based on current 19-084 rates,
7 which again are subject to the QCPACs that are in
8 effect or coming starts at 84 cents. So, more
9 than twice the relative cost, plus it has a
10 substantial, you know, annual fixed charge, so
11 that PEU is covering their cost of -- PWW's cost
12 of capital investment in its raw water and
13 production facilities.

14 *(Mr. Goodhue and Mr. Ware conferring.)*

15 MR. WARE: Yes.

16 MR. GOODHUE: So, we do still take
17 advantage -- we do still take advantage in
18 obtaining our allotment of that water from the
19 Weinstein well. It's the water loss from the
20 other wells that is being made up for from PWW
21 through the Special Contract. So, we still do
22 take advantage of that cheapest source of water,
23 to the extent it's available.

24 CMSR. SIMPSON: Thank you both.

1 CMSR. CHATTOPADHYAY: So, maybe the
2 term "guaranteed take" isn't the right term. And
3 I will try to phrase my question differently
4 right now. What I'm trying to understand is, you
5 have a new situation, you're trying to deal with
6 it. And how does the -- so, ultimately, this is
7 still about PWW providing a service to others.
8 So, you have a customer base. And I'm trying to
9 understand how this has altered the allocation
10 across customer classes, and meaning "what burden
11 the customers across the different classes will
12 face?"

13 And I'm not sure whether "guaranteed
14 take" is the right term, because it's used in the
15 context of the contract. But, if you know what
16 I'm trying to get a sense of, like, how does this
17 change the allocation?

18 MR. WARE: So, it results in PEU using
19 a larger part, if you look at the total
20 production in PWW, and that production goes out
21 to its General-Metered customers, as well as the
22 five special contract customers. PEU and Hudson,
23 in particular, are taking a large -- when you
24 look at the total, they are a larger percentage

1 of the total. And, as a result, their share of
2 the fixed costs, the principal and interest on
3 the raw water facilities and the treatment plant,
4 go up, because they are using a larger percentage
5 of that. So, the percentage of that, those costs
6 to the General-Metered, comes down.

7 CMSR. CHATTOPADHYAY: In the -- in the
8 effort to accommodate this, the new situation, I
9 understand what you just said. So that, if you
10 look at the apportionment, it's going to be
11 smaller for the general customers.

12 But, because of this new reality, is
13 there something incremental that's happening out
14 there that also has, I mean, if the allocation is
15 not necessarily the way you describe it, and
16 there's more stuff that you also have to -- more
17 costs you have to assign to the general
18 customers? That's what I'm trying to get a sense
19 of.

20 MR. WARE: So, there's no -- when you
21 look at this contract, and, you know, the
22 change -- if PEU could stay where they were,
23 their, you know, if they didn't need any more
24 water, and the rates were charged that are under

1 the existing contract, their contribution towards
2 general and admin. costs and towards the plant is
3 less than with them using more water. So,
4 there's a net increase in revenues to PWW, which
5 reduces the revenue requirement to the
6 General-Metered with this transition. PEU, if
7 they buy this additional water, but at the
8 current cost, would be paying more than their
9 share of general and admin. and fixed costs.

10 And it goes back to -- it's very
11 important, the most important part of a special
12 contract is, one, the guarantee: If they don't
13 buy it, they're still paying for it. So, it's a
14 known and measurable stream of income.

15 Secondly, what's equally important to that is
16 the fact that it's a year-round demand. It's
17 not -- there's not a big seasonal adjustment.

18 When you look at the spread of the
19 General-Metered usage from average day to peak,
20 the factor is 2.0. When you look at PEU, the
21 difference is something less than that, it's like
22 1.5, I believe, is what the differential is. So,
23 again, it's, you know, and, because PEU has its
24 own storage, you know, the production out of the

1 plant doesn't have to meet the demands in the
2 system. PEU takes water on a consistent basis
3 based on the pump rate. It doesn't vary with the
4 usage by time of day, which happens in the
5 typical core system.

6 CMSR. CHATTOPADHYAY: Can you provide
7 an explanation as to why there is a reduction in
8 the maximum daily demand, from 0.7 million
9 gallons per day to 0.65 million gallons per day?
10 Because, intuitively, someone might think that
11 they need more. So, what's going on?

12 Just, and maybe I misunderstand it,
13 based, you know, in some very basic way.

14 MR. WARE: It's based on the pump
15 station as it finally ended up. So, when the
16 station was designed under the original contract,
17 the goal was to pump 700,000 gallons a day. Due
18 to the complexity of the hydraulics and pump
19 selections, and varied usage, that station can
20 only put out 650,000 gallons maximum rate. And,
21 so, that peak hour rate reflects, if all the
22 pumps are on, what can it do? And this is just
23 now having knowledge that, when the original
24 contract was done, the target was for that

1 station to produce 700,000 gallons a day; it
2 can't.

3 CMSR. CHATTOPADHYAY: Thank you. That
4 was helpful. So, you mentioned something about
5 the administrative and general, you know, the
6 cost. Give me a sense of how does PEU pay its
7 share of PWW's administrative and general costs,
8 like, you know, based on the contract that you
9 have?

10 MR. GOODHUE: So, as been discussed in
11 prior rate cases and dockets, there is a
12 preapproved cost allocation methodology, a
13 management fee. And what that is is a
14 multi-tiered and consistently applied formulaic
15 approach to how shared costs are allocated
16 between PWW and its sister subsidiaries, and
17 Pennichuck Corporation and all of its
18 subsidiaries, relative to, you know, the cost of
19 the operations that are shared costs. And, so --
20 and one of the drivers in that is the *pro rata*
21 revenues between the entities. And, so, you
22 know, if you had more revenues, that's going to
23 gobble up more of those fixed costs *pro rata*.
24 It's also based on assets, it's based on number

1 of customers, based on employees, the whole bit.
2 But it's based on that approved cost allocation
3 formula, which is consistently applied, as
4 approved. And, like I say, is involved in every
5 docket that we have relative to general rate
6 cases.

7 CMSR. CHATTOPADHYAY: So, I'm going to
8 go to the point that I made right at the
9 beginning when we started the prehearing
10 conference today. I mean, I notice that you have
11 a 102 percent increase in the fixed meter charge.
12 There is an increase in the minimum annual
13 purchase volume, you know, from 0.3 gallons [sic]
14 per day to 0.4 gallons [sic] per day. So,
15 roughly, 60 percent increase in the Base Monthly
16 Fee. So, and then, yet you have the PEU's bill
17 for an annual purchase cost for 0.40
18 million gallons per day is lower. So, resulting
19 in savings of \$40,700, roughly, \$40,700. Can you
20 just explain what's going on?

21 MR. WARE: Yes. So, you go back to the
22 cost of service study, and the cost of service
23 study relates to our revenue requirements. So,
24 PWW has, as you're aware, buckets of revenue

1 requirements. The CBFRR, the payment to the
2 City, which is fixed, regardless of usage. So
3 the cost of service study, in that monthly or
4 annual fixed charge, includes PEU's share of that
5 CBFRR. That's why it's fixed.

6 Now, since their share of, you know,
7 their desired share went from 300,000 gallons a
8 day to 400,000 gallons, that affects the amount
9 of their share. Also, in that fixed charge is
10 the recovery of the principal and interest
11 associated with PWW's investment in the
12 facilities necessary to serve its customers. So,
13 the raw water transmission facilities and pumping
14 station, and the treatment plant, and any
15 distribution main and storage that serve that
16 area. So, there's a dollar amount there that's
17 picked up in that fixed charge.

18 The volumetric charge recovers the
19 variable costs, plus a contribution towards
20 general and admin. So, in this case, the
21 volumetric charge, because they're willing to
22 guarantee a volume, can be lower, because we can
23 be assured that gives a -- that, you know, a
24 similar contribution towards the general, you

1 know, and admin. as the cost of service study
2 says. So, if we lowered again that -- if PEU
3 said "we're only going to guarantee 300,000
4 gallons a day", that volumetric rate goes up.

5 But it is more than -- so, again, it's
6 all driven by the cost of service study. The
7 fact that the volumetric rate is meant to pick up
8 or cover the variable cost of production, plus a
9 *pro rata* share of the general and admin., and,
10 you know, distribution and water supply
11 operational costs of staff and labor and whatnot,
12 that are not variable, but are there.

13 CMSR. CHATTOPADHYAY: I'll try to frame
14 this question as best as I can. But what I'm
15 going into is maybe a confusion that I have.

16 So, you had, you know, a mention in
17 Page 18 of your testimony, in Lines 10 through
18 14, that there's an "overpayment" issue of
19 \$51,000, right? And, so, what I want to
20 understand, that's because of the retroactive
21 issue?

22 MR. WARE: Yes.

23 CMSR. CHATTOPADHYAY: Your calculation
24 of the "\$40,671", does that already account for

1 that?

2 MR. WARE: So, --

3 CMSR. CHATTOPADHYAY: And maybe --

4 MR. WARE: Not sure, the 41,000 you're
5 referring to --

6 CMSR. CHATTOPADHYAY: That is the
7 difference that you just talked the rates are
8 going to go down, okay?

9 MR. WARE: Yes.

10 CMSR. CHATTOPADHYAY: And I'm trying to
11 focus on, generally, when you do a cost of
12 service study, you're looking into the future.
13 So, I want to get a sense of, regardless of what
14 happened over the last, you know, from July 1st,
15 2021 through now, I want to get a sense of what's
16 going on, what's going to happen going forward?
17 So, do the costs go up for PEU customers or go
18 down? That's what I'm trying to understand.

19 MR. WARE: So, the component here,
20 first of all, is is that the 41,000 is an
21 annualization based on the difference in rates in
22 the same usage pattern that is proposed by the
23 current contract. Okay? So, PEU, if it
24 continued to buy water as it has since July 1 of

1 2021, but under the current special contract
2 rates, would pay a little over \$41,000 more a
3 year than under the proposed contract. So,
4 that's number one.

5 So, PEU saves, at the current -- at the
6 current purchase amount, since July of last year,
7 41,000. The \$51,000 credit is more than a year.
8 That's from July 1 through October 1. But that
9 reflects that same, if you extended instead of
10 over 12 months, you're now looking over 15
11 months. That's where the -- they're one in the
12 same number.

13 CMSR. CHATTOPADHYAY: So, I think I
14 understand what you're saying. The \$40,671, that
15 amount, is really about sort of getting a sense
16 of going forward what's -- that's what I wanted
17 to understand.

18 MR. WARE: Yes.

19 MR. GOODHUE: Yes. That's the new
20 platform.

21 CMSR. CHATTOPADHYAY: Yes. So, Page 3
22 of the Amendment to the Special Contract,
23 Section 2(a) indicates that "any change in the
24 base monthly fixed fee may be adjusted only in

1 direct response to a regulatory change by the
2 U.S. EPA or New Hampshire DES", and I'm
3 paraphrasing a bit there.

4 Can you please explain what regulatory
5 change triggered the requested amendment to the
6 contract? First of all, if I'm true, that this
7 is about a regulatory change.

8 MR. WARE: So, what happened is is that
9 the state established a standard for the PFAS
10 contaminants. So, they regulated four out of the
11 36 contaminants. One of those being PFOA, which
12 they set a standard of 12 parts per trillion.
13 That 12 parts per trillion standard resulted in
14 the -- again, the Dame and Ducharme wells, which
15 are a source of supply both for Hudson and for
16 PEU, the level of PFOA over the last -- since
17 they started monitoring in 2016, has gone from 7
18 and 8, in last -- June of last year, the
19 quarterly average was going to exceed 12. So,
20 they were going to be in violation, and it's
21 continued to creep up, of a standard that the
22 state established that the first compliance
23 period was effectively after four quarters of
24 monitoring, the last of those quarters was second

1 quarter of 2021. And, so, that was the driver.

2 CMSR. CHATTOPADHYAY: So, --

3 MR. GOODHUE: Can I just offer?

4 CMSR. CHATTOPADHYAY: Sure. Yes.

5 MR. GOODHUE: That, prior to that 12,
6 the state had had in place for about two years an
7 emergency standard at 70 parts per trillion. So,
8 you had a change in regulation that caused the
9 situation to change. So, the numbers, as they
10 were, were well in compliance with the 70. But
11 now, with the new standard established at 12, now
12 became problematic.

13 CMSR. CHATTOPADHYAY: Yes. I think
14 that is what I was trying to get at. That, if it
15 was 12 right from the beginning, --

16 MR. GOODHUE: It wasn't.

17 CMSR. CHATTOPADHYAY: -- and you just
18 ended up bumping up, and then going beyond 12,
19 then that's not a regulatory change. That's --
20 and, so, what you're saying is, before that, the
21 standard was 7, and I forget what units it would
22 be, and then, yes, that when this was projected,
23 you were aware that that emergency option wasn't
24 available anymore. So, I think I understand that

1 piece.

2 Can you tell me whether 12 was the
3 standard, you know, if you ignore the emergency
4 issue, and even before, and from when? I just
5 want to --

6 MR. WARE: So, there is still no
7 national standard for PFAS. There was a health
8 advisory from the EPA going back to 2016 at what
9 was 400, and then they dropped it to 70 parts per
10 trillion, combination of the various PFAS
11 constituents. The state, in the meantime, moved
12 forward with its own, and they can, as a primacy
13 agency, its own set of standards that, you know,
14 for PFAS. And that process went through, and,
15 like I said, there was the beginning of quarterly
16 sampling, they, as Mr. Goodhue had mentioned,
17 they had a health advisory established at 70
18 parts per trillion going back to 2016 that
19 mirrored EPA's. But, when EPA did not move
20 forward with rapidity that the state felt was
21 appropriate, given the contaminant, the state, in
22 its own rulemaking, established its own standard
23 for PFAS, which, again, is a combination of
24 they're looking at four of the 36 compounds, each

1 one of them has an individual standard, that is
2 based on a quarterly running average of four,
3 that base level was set at 12. And, you know,
4 the samples were third quarter '20, fourth
5 quarter '20, first and second quarter of 2021 to
6 get the first four-quarter compliance sample.

7 And, so, you know, it really -- there
8 was a change, and it all took effect as of July,
9 end of second quarter of 2021. And, again, that
10 was the driver.

11 Hudson was looking at, you know, the
12 fact that they pumped those wells after July 1st,
13 that they were going to have a violation of the
14 state standard for PFOA. Which, in turn, was
15 going to impact us, because we get water from
16 their wells, "us" being Pennichuck East.

17 CMSR. CHATTOPADHYAY: Okay. So, this
18 is kind of a hypothetical question, but I'll ask
19 this.

20 Let's say the standard remains
21 unchanged, okay? But, for some reason,
22 there's -- the quality of the water deteriorates,
23 and at some point you are violating that
24 standard. You don't consider that to be a

1 regulatory change, right?

2 MR. GOODHUE: Can I say that your
3 hypothetical question is very optimistic. The
4 standard will be changing, and it will be
5 lowering, based on information that we know is
6 happening at the EPA. So, a national standard is
7 in the process of being set that is below the 12
8 part per trillion.

9 CMSR. CHATTOPADHYAY: Yes. I think,
10 again, I'm not talking about the numbers here.

11 MR. GOODHUE: Right.

12 CMSR. CHATTOPADHYAY: Think about the
13 hypothetical situation as forget about the
14 numbers, if there is a standard, and then you're
15 not violating it, but, over time, you end up
16 violating it.

17 MR. WARE: So, --

18 CMSR. CHATTOPADHYAY: Would you
19 consider that as a "regulatory change" or not?

20 MR. WARE: So, --

21 CMSR. CHATTOPADHYAY: Because I'm
22 really, and let me finish, I'm really trying to
23 get at the point about it has impacts on the
24 rates. So, I'm trying to understand what -- is

1 that, in the Company's belief, is that a
2 "regulatory change" or not?

3 MR. WARE: So, relative to this
4 contract, so, this is, when we think about this,
5 this is saying that PWW, not Pennichuck East, --

6 CMSR. CHATTOPADHYAY: Uh-huh.

7 MR. WARE: -- has a standard that has
8 to be met, you know, that -- and, so, again, even
9 if there's an established standard, if water
10 quality were to diminish, that would require us
11 now to build, as an example, if the PFAS
12 regulation changes, we may have to put in
13 tertiary filtration at the Pennichuck Water Works
14 plant to meet that standard that would meet that
15 requirement.

16 If the standard didn't change, but,
17 say, the raw water quality out of the Merrimack
18 River or Pennichuck Brook went from under 12 to
19 over 12, that would require an investment, which,
20 in turn, would trigger impact to the base monthly
21 fixed fee under the paragraph in the contract
22 where it talks about that's a fixed fee, it
23 doesn't change, unless there is a, you know,
24 change required, you know, as it mentions,

1 "improvements to PWW's Nashua water treatment
2 plant, raw water source of supply facilities,
3 dams", you know, all those things that are
4 currently fixed, because the investment's done.
5 But, now, something cause -- you know, changes
6 that causes us to have to invest more in one of
7 those facilities.

8 CMSR. CHATTOPADHYAY: The way you have
9 described it, when I read, again, the same thing
10 from the Page 3 of the Amendment to the Special
11 Contract, Section 2(a), it says any change in the
12 Base Monthly Fixed Fee may be adjusted only in
13 direct -- it says "only in direct response to a
14 regulatory change."

15 The second scenario that you described,
16 the one that I was creating hypothetically, I
17 really don't see that as a "regulatory change".
18 I mean, you're required to meet the standards,
19 that's true. But I'm a little concerned about
20 this language. I'll just leave it at that, and
21 we will move on.

22 So, that's all I have. I'm going to go
23 back to the issue of the procedural order, we'll
24 send it out. And we'll have -- I'll have to

1 quickly look at the dates, next Friday would be
2 7th. So, we'll have a deadline for that.

3 Is there anything else we need to talk
4 about?

5 *(Atty. Amidon indicating in the*
6 *negative.)*

7 CMSR. CHATTOPADHYAY: Okay. It's still
8 better to look at my notes before I speak.

9 CMSR. SIMPSON: I think Attorney Amidon
10 has a comment.

11 MS. AMIDON: Yes. I would suspect
12 that, as between the Company and the Department,
13 we would be able to reach agreement on a
14 procedural schedule probably today. Would you
15 like to see that, even though the Office of
16 Consumer Advocate is not here, or would you
17 rather wait until -- to receive that and do a
18 separate order or, you know, approval?

19 CMSR. CHATTOPADHYAY: My recommendation
20 would be, because the OCA has filed a
21 participation letter, I would appreciate if you
22 talk to OCA, and then finalize that.

23 MS. AMIDON: Very good. Thank you.

24 CMSR. CHATTOPADHYAY: Yes. So, we will

1 let you all proceed to the technical session.

2 Thank you, everyone. We are

3 adjourned.

4 ***(Whereupon the prehearing conference***
5 ***was adjourned at 10:04 a.m., and a***
6 ***technical session was held thereafter.)***

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24