

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 20-019

Pennichuck East Utility, Inc.

**2020 Amended Petition of Pennichuck East Utility, Inc. for
Qualified Capital Project Annual Adjustment Charge**

**Order Dismissing Petition and
Acknowledging Receipt of Capital Project Expenditure Forecasts**

O R D E R N O. 26,525

September 23, 2021

This order dismisses as moot the petition of Pennichuck East Utility, Inc. (“Petitioner”) seeking a finding that Petitioner’s 2019 capital improvement projects are prudent, used and useful; and preliminary approval that its 2020 capital projects are eligible for the Qualified Capital Project Annual Adjustment Charge (“QCPAC”) mechanism. This order, furthermore, acknowledges receipt of Petitioner’s 2021 and 2022 Capital Project Expenditure Forecasts, which were submitted by Petitioner for informational purposes only. This order will not result in any additional charge to Petitioner’s customers.

I. PROCEDURAL HISTORY

Petitioner is a regulated public utility that provides water service to customers in several communities throughout New Hampshire. On February 13, 2020, Petitioner submitted a petition for approval of recovery of its 2019 capital improvement projects through the QCPAC mechanism and for preliminary approval its 2020 capital improvement projects for the QCPAC mechanism.¹ The petition included pre-filed

¹ Petitioner also sought approval to pay interest on its fixed asset line of credit (“FALOC”). However, because Petitioner no longer seeks this approval, the Commission need not address this request.

testimony from Donald L. Ware, Petitioner's Chief Operating Officer, and John J. Boisvert, Chief Engineer, Pennichuck Water Works.² Petitioner's filing also included estimated QCPAC capital budgets for 2021 and 2022. On February 26, the Office of Consumer Advocate ("OCA") submitted a notification that it would be participating in this docket. On March 11, 2021, Commission Staff submitted a recommendation that the petition be granted. The Commission received no other requests to intervene or otherwise participate in this Docket.³

On a parallel track, Petitioner filed, on September 23, 2020, a request for change in rates. This initiated a separate docket dedicated to that subject, Docket DW 20-156. On December 11, 2020, the OCA submitted a notification that it would be participating in Docket DW 20-156. The Commission received and granted numerous requests for intervention in Docket DW 20-156. On April 26, 2021, Petitioner, the OCA, PUC staff, and six intervenors reached a settlement agreement in Docket DW 20-156. Under the terms of this settlement, Petitioner agreed to forgo the 2019 and 2020 QCPAC surcharges, zero out the QCPAC, and establish a temporary rate based upon the books and records on file with the Commission. Settlement Agreement on Temporary Rates at 4-5.

The Commission considered the settlement agreement at a hearing held on May 10, 2021. On August 16, 2021, the Commission issued Order No. 26,508 in Docket DW 20-156 approving the settlement agreement. The order further directed Petitioner to file an amended petition in Docket No. DW 20-019 eliminating its request for a rate surcharge. On August 17, 2021, Petitioner filed an amended petition ("Am. Pet.").

² Pennichuck Water Works is an affiliate of PEU and provides various services to Petitioner.

³ On July 9, 2021, the newly created New Hampshire Department of Energy notified the Commission that it would succeed Public Utilities Commission staff pursuant to RSA 12-P:9.

II. SUMMARY OF THE PETITION

A. Pennichuck East Utility, Inc.

In the amended petition, Petitioner states that it “forgoes and no longer requests a QCPAC surcharge” for its completed 2019 projects. Am. Pet. at 4 ¶ 12. Petitioner, furthermore, states that it “will not seek the [2020 QCPAC] surcharge.” Am. Pet. at 5 ¶ 15. Although it no longer seeks approval for QCPAC purposes, Petitioner still sought, through its amended petition, a finding that its 2019 projects were “prudent, used, and useful” and a preliminary finding that its 2020 projects are “eligible for recovery through the QCPAC surcharge mechanism.” Am. Pet. at 6 ¶ (a)–(b). Petitioner also submitted forecasts of its proposed 2021 and 2022 projects for informational purposes only.

III. COMMISSION ANALYSIS

The Commission discussed how to dispose of this docket at the May 10, 2021 hearing on the settlement in Docket DW 20-156.⁴ Marcia Brown, one of Petitioner’s attorneys at the hearing, opined that the Commission had two options: it could defer the prudent, used, and useful findings for the 2019 and 2020 projects to the rate case in Docket 20-156, or it could make that finding in Docket 20-019. Tr. at 106–07. Attorney Brown further explained that Petitioner intended to recover the costs of its 2019 and 2020 projects through “the rate case mechanism, rather than the QCPAC surcharge rate mechanism.” Tr. at 107. The representatives from the OCA and the PUC staff member present at the hearing agreed with Attorney Brown’s characterization. Tr. at 108.

⁴ The transcript for this May 10, 2021 hearing in Docket 20-156 is referred to as “Tr.” in this order.

Because Petitioner no longer seeks to utilize the QCPAC surcharge mechanism to recover the costs of its 2019 and 2020 projects, the Commission finds that the 20-019 docket is no longer the appropriate place to make a prudent, used, and useful finding for the 2019 projects. Nor is it the appropriate place to opine as to whether the 2020 projects are hypothetically eligible for recoupment under QCPAC. Any determination by the Commission on those questions in this docket would amount to little more than an advisory opinion. These issues are now moot for the purposes of this docket.

Additionally, a prudent, used, and useful finding in this docket could have consequences for the rate case in Docket DW 20-156. Petitioner, the OCA, and numerous intervenors have participated actively in Docket 20-156. Dozens more have submitted comments. To the extent that a prudent, used, and useful finding will have consequences for the base rate, the parties to Docket DW 20-156 should have an opportunity to be heard before the Commission makes such a finding. As noted above, no parties other than Petitioner and the OCA are on the service list for Docket DW 20-019, nor has there yet been a noticed hearing. It is, therefore, appropriate for any prudent, used, and useful finding for the 2019 and 2020 projects to be made in Docket DW 20-156 and not here.⁵

The Commission acknowledges receipt for informational purposes only of Petitioner's forecast of capital project expenditures for 2021 and 2022.

⁵ The Commission is mindful that staff of the Commission, now with Energy, already prepared a detailed report and recommendation on the 2019 and 2020 QCPAC projects. To the extent that Energy determines that portions of that report and recommendation may be reused and resubmitted in Docket DW 20-156, those efforts need not be duplicated.

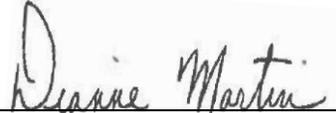
Based upon the foregoing, it is hereby

ORDERED, that the amended petition is **DISMISSED AS MOOT** to the extent Petitioner seeks a finding that the 2019 projects are prudent, used, and useful; and it is

FURTHER ORDERED, that the amended petition is **DISMISSED AS MOOT** to the extent Petitioner seeks preliminary approval that its 2020 projects are eligible for recovery through the QCPAC mechanism; and it is

FURTHER ORDERED, that Petitioner shall cause a summary of this order to be published once in a statewide newspaper of general circulation in those portions of the state where operations are conducted. Such publication is to be no later than October 1, 2021, and is to be documented by an affidavit filed with this office on or before October 20, 2021.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of September, 2021.


Dianne Martin
Chairwoman


Daniel C. Goldner
Commissioner

Service List - Docket Related

Docket# : 20-019

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