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STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

September 27, 2021 - 9:08 a.m.
21 South Fruit Street
Suite 10
Concord, NH

[Hearing also conducted via Webex]

RE: DW 20-080
PENNICHUCK EAST UTILITY, INC.
AND TOWN OF SALEM:
Petition to Transfer Service
Territory and Assets and to
Commence Business.

PRESENT: Chairwoman Dianne H. Martin, Presiding
Commissioner Daniel C. Goldner

Doreen Borden, Clerk
Corrine Lemay, PUC Hybrid Hearing Host

APPEARANCES: **Reptg. the Town of Salem:**
Thomas B. Getz, Esq. (*McLane Middleton*)
Roy Sorenson, Dir./Municipal Services

Reptg. Pennichuck East Utility, Inc.:
Donald L. Ware, Chief Operating Officer

Reptg. New Hampshire Dept. of Energy:
Christopher R. Tuomala, Esq.
(*Regulatory Support Division*)

Court Reporter: Steven E. Patnaude, LCR No. 52

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P R O C E E D I N G

CHAIRWOMAN MARTIN: Good morning.

We're here today in Docket DW 20-080 for a hearing regarding the Pennichuck East Utility, Incorporated, and Town of Salem Petition to Transfer Service Territory and Assets and to Commence Business.

Please let's start with appearances. Attorney Getz.

MR. GETZ: Thank you. Good morning, Madam Chair, Commissioner. I'm Tom Getz. I'm an attorney from the law firm of McLane Middleton. I'm here on behalf of the Town of Salem this morning. And with me is Roy Sorenson, Salem's Director of Municipal Services.

Also here is Don Ware, the Chief Operating Officer for Pennichuck East. He will make his own appearance. I am not an attorney on behalf of Pennichuck. But, because the Petition was filed jointly, I will make arguments on behalf of both parties, and then I will do the direct examination for both witnesses.

Thank you.

CHAIRWOMAN MARTIN: Okay. Thank you

1 very much, Attorney Getz.

2 Mr. Ware, would you like to make your
3 appearance now?

4 MR. WARE: Yes. Good morning. My name
5 is Donald Ware. I am the Chief Operating Officer
6 of Pennichuck East Utilities, and am here to
7 represent Pennichuck East Utilities in Docket DW
8 20-080.

9 CHAIRWOMAN MARTIN: Okay. Thank you,
10 Mr. Ware. And Mr. Tuomala.

11 MR. TUOMALA: Good morning, Madam
12 Chairwoman, Commissioner Goldner. Christopher
13 Tuomala, the attorney representing the New
14 Hampshire Department of Energy.

15 CHAIRWOMAN MARTIN: Okay. Thank you.
16 And, Mr. Tuomala, if you can just keep your voice
17 up, that would be great.

18 All right. Exhibits 1 through 4 have
19 been prefiled and premarked for identification.

20 I also want to note for the record
21 that, on September 2nd, 2021, Ramos Realty
22 requested a hearing following an order *nisi*
23 issued in this case. In response, the Commission
24 scheduled this hearing. No request for

1 intervention -- excuse me -- have been received.

2 At this time, we'll provide the
3 opportunity for public comment. Is there anyone
4 who is not a party who would like to be heard to
5 state their position at this time? Ms. Lemay, do
6 we have anyone?

7 *(Ms. Lemay indicating in the negative.)*

8 CHAIRWOMAN MARTIN: Could you speak
9 your response please?

10 MS. LEMAY: Sorry. No. There is no
11 one else.

12 CHAIRWOMAN MARTIN: Okay. Thank you
13 very much.

14 Then, we will proceed to hear from the
15 witnesses. Mr. Patnaude, could you please swear
16 in the witnesses.

17 *(Whereupon **Donald L. Ware** and
18 **Roy Sorenson** were duly sworn by the
19 Court Reporter.)*

20 CHAIRWOMAN MARTIN: Okay. And who will
21 be seen first, Attorney Getz?

22 MR. GETZ: Mr. Ware will take the stand
23 first.

24 CHAIRWOMAN MARTIN: Okay. Mr. Ware,

[WITNESS: Ware]

1 come on up.

2 Okay. Attorney Getz, go ahead.

3 MR. GETZ: Thank you.

4 **DONALD L. WARE, SWORN**

5 **DIRECT EXAMINATION**

6 BY MR. GETZ:

7 Q Mr. Ware, will you please state your name,
8 employer, and position for the record?

9 A Yes. My name is Donald Ware. My employer is
10 Pennichuck Water Works. I am here to represent
11 Pennichuck East Utilities as their Chief
12 Operating Officer.

13 Q With respect to Exhibit 1, Attachment D, which
14 begins at Bates stamp Page 126, was that prepared
15 by you or under your supervision?

16 A Yes. That exhibit was prepared by me.

17 Q And do you have a copy of that available to you
18 this morning?

19 A I do.

20 Q Do you have any changes or additions?

21 A No, I do not.

22 Q Do you adopt this exhibit as your testimony in
23 this proceeding?

24 A I do.

{DW 20-080} {09-27-21}

[WITNESS: Ware]

1 Q Could you please briefly summarize your
2 testimony?

3 A Yes. My testimony goes through the reason for
4 this franchise exchange. This is a result of
5 what's called the "Southern Regional
6 Interconnection Project". The State, DES, funded
7 an extension of water essentially from Manchester
8 Water Works down to the southeastern part of the
9 state due to MtBE contamination. It was found in
10 the Towns of Windham, Salem, Hampstead, Atkinson,
11 and Plaistow. And this interconnection runs
12 through -- starts in Manchester, runs through the
13 Town of Derry, Town of Windham, Town of Salem,
14 Atkinson, and ultimately makes its way to
15 Plaistow to deliver water from Manchester Water
16 Works, to replace contaminated supplies, both
17 public and private.

18 And, when the process began, the
19 franchise area, as noted in my testimony, along
20 Route 28, where this main transmission main runs,
21 was in our franchise area. But, due to the
22 unique nature of our structure, our continuing to
23 hold on to that franchise, with the primary
24 purpose of this water moving through to provide

[WITNESS: Ware]

1 water to Salem, to HAWC, Hampstead Area Water
2 Company, and to the Town of Plaistow, really was
3 going to increase the costs for all parties.

4 And why was that? So, first of all,
5 because we are still a private company, the plant
6 that was going to be paid for with a grant by the
7 New Hampshire Department of Environmental
8 Services was going to have to be recognized as
9 CIAC, or contribution in aid of construction,
10 and, as such, was going to be subject to both
11 federal and state income taxes. So, an \$11
12 million project was going to require close to a
13 \$14.2 million grant. So, additional money that
14 the state would have to provide to us, so we, in
15 turn, could pay both federal and state income
16 taxes on the value of that contribution. So, it
17 was going to make the project more expensive, and
18 take some of the state's valuable grant
19 resources.

20 Secondly, as a private entity, that
21 \$11 plus million of plant would have been subject
22 to local property taxes. And, so -- and the
23 statewide utility tax. And the net impact would
24 have been, as stated in my testimony, I think

[WITNESS: Ware]

1 around \$360,000 of property taxes, that would
2 have had to have been recovered through an
3 increase in rates to the communities that were
4 receiving water through that pipeline.

5 And, so, as we looked at it, it is a
6 direct corridor to the Town of Salem. In
7 discussions with all the parties involved, it
8 appeared to be beneficial and made sense to
9 transfer the corridor along Route 28, from the
10 Derry/Windham line, southerly to the
11 Windham/Salem line, to the Town of Salem, so
12 those additional costs could be avoided, and
13 water could be delivered down to that area at the
14 lowest possible cost.

15 And, as a result, you know, we worked
16 diligently with the Town of Salem and other
17 parties, inclusive of Windham, to create a
18 franchise area that we would transfer that would
19 allow this line to be used effectively and
20 immediately, at the lowest possible cost to all
21 the beneficiaries.

22 Q Does that complete your summary?

23 A Yes.

24 MR. GETZ: Mr. Ware is available for

[WITNESS: Ware]

1 questioning.

2 CHAIRWOMAN MARTIN: Okay. Thank you.

3 Mr. Tuomala, questions?

4 MR. TUOMALA: Thank you, Madam
5 Chairwoman. I just have one follow-up question
6 on the value.

7 **CROSS-EXAMINATION**

8 BY MR. TUOMALA:

9 Q Mr. Ware, could you state for the record again
10 for me the CIAC avoidance as a result of this
11 transfer?

12 A Yes. So, the estimated project cost, if you look
13 at my testimony, on Bates Page 129, was \$14.9
14 million. That was prior to CIAC. So, that
15 \$14.9 million would be subject to, when the
16 project is complete, by the way, but would be
17 subject to the Federal Income Tax rate in effect
18 at the time, I wish Mr. Goodhue was here, because
19 I don't pay attention to Federal tax rates, I
20 believe it's 24 percent, and then the associated
21 Business Profits Tax from New Hampshire. And I
22 believe that brings us to about a 31 percent
23 gross-up on that 14.9 million to get to what we
24 would have to pay in taxes.

[WITNESS: Ware]

1 Q Okay. So, just one more follow-up question. To
2 summarize, then, PEU is avoiding a great deal of
3 costs that would eventually have to be borne by
4 its ratepayers for essentially donated property?

5 A Yes. So, two parts to that. First of all, and,
6 actually, on Bates 129 I did quantify, the total
7 projected Federal and State Income tax was 5.1
8 million. We do have in our tariff, as approved
9 by the Commission, the ability to pass that tax
10 on to the entity who is contributing the
11 property. So, as we stated before, the DES would
12 have either had to increase the grant by that
13 amount, to avoid any impact on ratepayers, and
14 again our tariff would require that. But, once
15 you get beyond that, there is the operating
16 expense associated with property taxes that we
17 would have to pay on that \$14.9 million plant
18 addition, that the Town of Salem would not have
19 to pay. So, that property tax, at the current
20 mill rate, \$6.60 per \$1,000 for the statewide
21 Utility Tax, and whatever Windham's local
22 property tax is, I believe it's about \$22 or \$23
23 per \$1,000, would have resulted in the additional
24 expense that ratepayers would have had to borne.

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[WITNESS: Ware]

1 And, actually, if you go to Bates Page
2 130, Paragraph 2, when this was prepared, the
3 Town of Windham's millage rate and the New
4 Hampshire millage rate combined were \$26.84,
5 resulting in a tax expense of about \$40,000 --
6 \$400,000 a year that would have had to have been
7 borne by some ratepayer.

8 MR. TUOMALA: Okay. I appreciate that,
9 Mr. Ware. Thank you. No further questions,
10 Madam Chairwoman.

11 CHAIRWOMAN MARTIN: Okay. Thank you.
12 Commissioner Goldner, any questions?

13 COMMISSIONER GOLDNER: No questions.

14 CHAIRWOMAN MARTIN: Okay. I just have
15 a couple of questions, based upon the reason that
16 we're here this morning.

17 BY CHAIRWOMAN MARTIN:

18 Q Did you review the letter from Ramos Realty?

19 A I did.

20 Q And are you aware of the properties that are
21 identified there?

22 A I am.

23 Q Were those properties considered to be
24 incorporated into that franchise that you

[WITNESS: Ware]

1 mentioned having worked on creating?

2 A No, they were not. The franchise was created
3 essentially one lot deep along the regional
4 pipeline. And beyond that one lot deep, based
5 on, you know, discussions between the Town of
6 Windham, the Town of Salem, and ourselves, it was
7 decided that the franchise should remain with
8 Pennichuck East Utility.

9 So, those two lots are serviceable from
10 the Route 111 water main that's owned by Salem.
11 But what would happen is is that they -- those
12 two lots would be serviced by a main extension
13 under our tariff, and we would connect to the
14 Town of Salem, and that would be a wholesale
15 connection at that point. And then, anything
16 beyond what would be a meter pit located at the
17 Route 111 right-of-way, running off Route 111,
18 would be a customer of ours. So, there would
19 still be public water available, just through
20 ourselves, rather than the Town of Salem.

21 Q Okay. Thank you. And was that requested during
22 the creation of the franchise or is this the
23 first time that the request -- that you've been
24 aware of a request for this?

[WITNESS: Ware]

1 A This is the first time that we were aware of a
2 request.

3 CHAIRWOMAN MARTIN: Okay. Thank you
4 very much. No other questions.

5 Any redirect?

6 MR. GETZ: No questions, Madam Chair.

7 CHAIRWOMAN MARTIN: Okay. Then, we'll
8 excuse this witness, and move onto Mr. Sorenson.

9 Attorney Getz.

10 MR. GETZ: Thank you, Madam Chair.

11 **ROY SORENSON, SWORN**

12 **DIRECT EXAMINATION**

13 BY MR. GETZ:

14 Q Mr. Sorenson, please state your name, employer,
15 and position for the record?

16 A My name is Roy Sorenson. I am the Salem, New
17 Hampshire, Municipal Services Director, where I
18 oversee the Engineering, Water Utility, Sewer
19 Utility, and Public Works Division.

20 Q With respect to Exhibit 1, Attachment E,
21 beginning at Bates Page 133, was that prepared by
22 you or under your supervision?

23 A Yes, it was.

24 Q Do you have any changes or additions?

[WITNESS: Sorenson]

1 A I do not.

2 Q Do you adopt this exhibit as your testimony in
3 this proceeding?

4 A Yes, I do.

5 Q Please briefly summarize your testimony.

6 A So, what you have before you in my testimony is
7 basically explaining Salem's interest in this
8 project. As Mr. Ware mentioned, this was a
9 regional water project to serve water to impacted
10 towns south of Manchester, particularly Salem,
11 Windham, Atkinson, and Plaistow, due to MtBE
12 contamination in each of those towns,
13 respectively. This project itself would take
14 water from Manchester, through Derry's system.
15 Windham does not have a public water system. So,
16 major infrastructure was built and constructed in
17 Windham, and that work was overseen by Salem as
18 part of this project. The water enters into
19 Salem's system. We have a system in Salem,
20 serves over 7,700 customers. It wheels through
21 Salem's system, and then it connects on our
22 south/southeast side to HAWC, which is the
23 Hampstead Area Water Company, in Atkinson, and
24 then flows through their system, ultimately

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[WITNESS: Sorenson]

1 ending up in Plaistow. Again, Plaistow, similar
 2 to Windham, does not have a water system, other
 3 than a fire suppression. That is being converted
 4 to a potable water system, so thereby all those
 5 communities would have clean and potable water
 6 coming from Manchester and into those systems.

7 As part of this project, Salem, as I
 8 mentioned, agreed to take the lead for the
 9 Windham aspect of the project, which was to
 10 construct and oversee the engineering and full
 11 construction of that project. That's a 20-inch
 12 water main, that basically encompasses the length
 13 of Route 28 -- excuse me -- from the Derry
 14 border, down to the Windham/Salem border. And
 15 then, it also has a stub on Route 111, going
 16 west. And that's going to connect eventually or
 17 it would come up to the intersection of Range
 18 Road and to the Pennichuck East Utility system, I
 19 believe it's Edgewood down in that area where
 20 their system currently is set up.

21 At the time, we met with Pennichuck,
 22 and we agreed to establish what may be a
 23 franchise area for Salem to take on. We also met
 24 with the Town of Windham officials. So, those

[WITNESS: Sorenson]

1 three parties involved, Salem, PEU, and the Town
2 of Windham, sat down collectively to look at the
3 potential franchise area, that included their
4 Community Development Department as well. So,
5 all parties involved, we determined that
6 franchise area. We submitted the Petition to
7 PUC.

8 And I think -- I think that covers most
9 of it. Unless you have any other questions?

10 MR. GETZ: The witness is available,
11 Madam Chair.

12 CHAIRWOMAN MARTIN: Okay. Thank you.
13 Attorney Tuomala.

14 MR. TUOMALA: Thank you, Madam
15 Chairwoman. Good morning, Mr. Sorenson.

16 WITNESS SORENSON: Good morning.

17 **CROSS-EXAMINATION**

18 BY MR. TUOMALA:

19 Q I had a follow-up question for you regarding
20 Staff's recommendation. I don't know if you have
21 Exhibit 3 in front of you, by any chance?

22 A I do not.

23 *(Atty Getz handing document to Witness*
24 *Sorenson.)*

[WITNESS: Sorenson]

1 WITNESS SORENSON: I have it now, yes.

2 BY MR. TUOMALA:

3 Q Okay. I'm referring to the section on Bates
4 Page 5, regarding Staff's -- at that time it was
5 Commission Staff's position on "Salem as a Public
6 Utility", and it references the possibility of a
7 "wholesale water contract".

8 Do you have any further information for
9 the record regarding that possible wholesale
10 water contract between Salem and PEU?

11 A So, to date, we're currently in negotiating with
12 PEU on that. I think we have a general agreement
13 in principle. It's not official yet. We
14 actually just -- so, we have two agreements as
15 part of this project. One is with the Town of
16 Windham, and that one has just been finalized.
17 And, as you have mentioned here, we are still
18 working on what's a wholesale agreement. The one
19 with Windham is a retail agreement. I should
20 have perhaps added that in my original testimony.
21 So, as part of that, we will sell water to those
22 customers in our franchise area at our in-town
23 rate times 15 percent.

24 But that agreement that you mentioned,

[WITNESS: Sorenson]

1 as I mentioned, we have an agreement in
2 principle, I believe, at this time. And it's
3 just not finalized yet.

4 Q I have two follow-up questions for you, Mr.
5 Sorenson, please. Based on the PEU agreement,
6 you have an agreement in principle, to my
7 understanding. What further approvals are
8 necessary before that contract is finalized?

9 A So, I think, and I don't want to speak to Mr.
10 Ware and Pennichuck, but, as far as Salem is
11 concerned, it would just be to be certified and
12 approved by our Board of Selectmen.

13 Q Okay. Thank you for that. And you said that
14 there is an additional contract or a retail
15 agreement with the Town of Windham to sell water
16 for no more than 15 percent of what you charge
17 your residential customers, is that correct?

18 A Yes. That is correct.

19 Q Is that something that was discussed in the
20 record or the recommendation previously?

21 A Yes, it was.

22 Q It was. Do you happen to know where the
23 agreement with Windham was discussed? Is that
24 the "customers" -- I'm sorry, if I might strike

[WITNESS: Sorenson]

1 that, Madam Chairwoman.

2 Is that referring to the "new
3 customers" that are going to be transferred from
4 PEU and the possible addition of new customers?

5 A No. So, as part of our Petition to the PUC, we
6 generated what was a franchise turnover, or from
7 Pennichuck to Salem. And we demonstrated, I
8 believe, and Attorney Getz can correct me, but we
9 demonstrated that within that area we would serve
10 those customers at retail, which is the Town of
11 Salem rate currently is at \$3.70 per ccf, times
12 15 percent. So, roughly, we'd be providing water
13 to Windham today at around \$4.26, I believe, per
14 ccf.

15 We did not add any areas, I think, if
16 that was your question. It was just whatever
17 that map that was submitted as part of our
18 docket.

19 MR. TUOMALA: Okay. Thank you, Mr.
20 Sorenson. No further questions, Madam
21 Chairwoman.

22 CHAIRWOMAN MARTIN: Commissioner
23 Goldner?

24 COMMISSIONER GOLDNER: No questions.

[WITNESS: Sorenson]

1 CHAIRWOMAN MARTIN: I have a question.

2 BY CHAIRWOMAN MARTIN:

3 Q Can you clarify your testimony? I believe you
4 said the rates would be "retail rates times 15
5 percent". My understanding from the testimony
6 and the Petition was that it would be "at rates
7 that would be 15 percent above the retail rates."
8 Can you just clarify for me?

9 A Sure. So, when I mentioned "retail rate", what
10 I'm calling the "retail rate" would be the Town
11 of Salem current rate to its customers in town.
12 As an example, that rate is currently \$3.70 per
13 ccf. So, if you live in Salem and/or have a
14 business, that's what you're paying.

15 As part of our submission to the PUC,
16 we would charge the Salem rate, which would be
17 3.70, and up to, but not more than, 15 percent,
18 with all of our fees and rates. So, it would be
19 3.70 times 15, I believe as I mentioned, I think
20 it's 4.26 if we were serving water today. That
21 would be retail.

22 In an instance where we might serve a
23 wholesale customer, we would just go back to the
24 separate rate, which was established through the

[WITNESS: Sorenson]

1 Southern interconnection agreement, which would
2 be the -- I'm not sure on that rate right now,
3 but it's the Manchester rate, plus 50 cents. And
4 that would be if we provided water *per se*, in
5 this instance, to Pennichuck at a bulk rate. So,
6 they would buy bulk water, they would pay a
7 wholesale rate.

8 CHAIRWOMAN MARTIN: Okay. Thank you
9 for that clarification.

10 Attorney Getz, any redirect?

11 MR. GETZ: Nothing, Madam Chair.

12 CHAIRWOMAN MARTIN: Okay. Thank you.
13 The witness is excused.

14 WITNESS SORENSON: Thank you.

15 CHAIRWOMAN MARTIN: All right. Without
16 objection, we will strike ID on Exhibits 1
17 through 4 and admit those as full exhibits.

18 And I would like to hear closing
19 arguments from the counsel, starting with
20 Attorney Tuomala.

21 MR. TUOMALA: Thank you, Madam
22 Chairwoman.

23 The Department stands by its
24 recommendation, as stated before, which was filed

1 then considered "Commission Staff", and now we're
2 the "Department of Energy". But we still support
3 that recommendation, which was also noted in the
4 Commission's *nisi* order, that was Exhibit 3. We
5 believe that the Town and PEU have met the
6 standard for the exchange, and that the Town can
7 provide water service.

8 And, as far as being regarded as a
9 public utility, we note that our recommendation
10 was a bit different from what the Commission
11 ultimately decided. But, at the end, we support
12 the reinstatement of the order *nisi*.

13 And a few other notes that I would like
14 to make, as far as I believe it's Exhibit 4,
15 which was the letter from Ramos Realty, we had no
16 information on that whatsoever. That was the
17 first that the Department had heard that that was
18 a consideration. And that's why we have nothing
19 to add for the record today. We did not have a
20 reasonable opportunity to look at any of the
21 alternatives. So, we don't have a position on
22 that.

23 We do note that the Department is
24 fairly confident that these two parcels are

1 currently in the PEU franchise territory. I
2 believe that PEU owns most of the franchise
3 rights in Windham, and thus these parcels would
4 fall into PEU territory. So, the usual course of
5 events for a utility performance would be for
6 those customers to contact the utility that
7 currently has a present franchise right, and try
8 to arrange with them for water service.

9 But, again, that is -- we do not have
10 any further information, other than what the
11 Commission has also seen with that filing by
12 Ramos Realty.

13 And, in conclusion, once again, we
14 support the findings made in the order *nisi*
15 regarding Salem's ability to provide water
16 service and to remain unregulated as a public
17 utility.

18 Thank you, Madam Chairwoman.

19 CHAIRWOMAN MARTIN: Thank you very
20 much, Attorney Tuomala. Attorney Getz.

21 MR. GETZ: Thank you, Madam Chair.

22 The Commission's order *nisi* made the
23 important findings already in this proceeding,
24 that the transfer of the service territory is for

1 the public good; that Salem has the financial,
2 managerial, and technical capacity to commence
3 business as a public utility in the State of New
4 Hampshire; and that, inasmuch as Salem will not
5 charge more than the statutory maximum of 15
6 percent above its own rates, that it is therefore
7 not considered a public utility for purposes of
8 rate regulation.

9 The Ramos Realty request raised one
10 issue only. It did not challenge the
11 Commission's original findings. It asked to
12 expand the franchise territory to include two
13 parcels beyond the agreement among Salem,
14 Windham, and PEU.

15 As Mr. Ware testified, there's no
16 reason to expand the service territory. The two
17 parcels are in PEU's service territory, and then
18 they are capable of being served by PEU.

19 As Salem noted in the response that it
20 filed on September 9th to the Ramos Realty
21 filing, the request appears premature at best.
22 It's not clear who owns the parcels. It's not --
23 it's not clear whether there are any active plans
24 to develop those parcels, who they would be

1 developed by or when. And Salem is, you know,
2 not prepared to expand its obligations beyond the
3 existing agreements that are subject to this
4 proceeding.

5 It's not categorically opposed at some
6 point to expanding to other parcels beyond the
7 territory, but would have to be consistent with
8 particular facts on the ground that may arise at
9 the time. And it does not believe that these
10 are -- there are sufficient facts to do this, or
11 that, if Ramos Realty had sought intervention,
12 whether it even has an interest that would be
13 protected under RSA 541-A:32. And there
14 certainly does not seem to be any evidence that
15 would support a finding that the -- that the
16 service territory should be expanded. So, the
17 parties stand by their position on the expansion.

18 One other issue that we had raised in
19 the response on September 9th, in the order *nisi*
20 included a requirement that Salem file a
21 compliance tariff. And, on Pages 3 and 4 of the
22 response, we address those issues. And there's
23 only one municipal utility that has a compliance
24 tariff on file, that's Manchester Water Works,

1 and that tariff that's on file at the Commission,
2 that's on the website, is just a single page of
3 their rates. And, if you look at the discussion
4 behind that, that appears to be an issue that it
5 is grandfathered, you know, before the changes in
6 the statute to -- that says that municipal
7 utilities, who are serving outside their
8 franchise territory, are not considered public
9 utilities, so long as they don't charge rates
10 above -- 15 percent above their in-town rates.

11 And I had also gone through the
12 Commission's records to see, you know, how it has
13 treated previous municipal expansions. And, of
14 the few orders that I did find in the past ten
15 years, there was no requirement for those
16 municipalities to file a compliance tariff.

17 So, we would ask that for similar
18 treatment, and that the compliance tariff not be
19 required for the Town of Salem.

20 So, with that, I don't have anything
21 else to add. But would be happy to answer any
22 questions that you might have.

23 CHAIRWOMAN MARTIN: Attorney Tuomala,
24 do you have any response to the questions related

1 to the compliance tariff?

2 MR. TUOMALA: I believe Attorney Getz
3 is correct, that the only municipality's tariff
4 that appears on the PUC website is Manchester
5 Water Works. And I believe that that stems from
6 the Commission's continuing jurisdiction over the
7 Merrimack Source Development Charge, not MWW or
8 Manchester Water Works as a whole.

9 So, I would agree with Attorney Getz
10 that, in this instance, a compliance tariff is
11 probably unnecessary, given precedents in other
12 Commission determinations of municipalities
13 expanding outside of its franchise territory. If
14 I can remember correctly, there was the Town of
15 Derry, in 18 -- Docket Number DW 18-099, and I
16 believe Docket Number 18-187, that's just off the
17 top of my head.

18 But I know that, as of recent, there
19 have been franchise expansions by municipalities.
20 And I believe Attorney Getz is correct that the
21 Commission has not required a compliance tariff.
22 And I would agree that, if that is the case,
23 subject to verification, the Commission would not
24 need a compliance tariff in this aspect, in this

1 docket as well.

2 CHAIRWOMAN MARTIN: Thank you.

3 Commissioner Goldner, did you have any questions?

4 COMMISSIONER GOLDNER: I do not.

5 CHAIRWOMAN MARTIN: Okay. And,

6 Mr. Ware, did you plan to give a closing?

7 MR. WARE: I do not.

8 CHAIRWOMAN MARTIN: All right.

9 MR. WARE: I do not.

10 CHAIRWOMAN MARTIN: All right. Thank
11 you.

12 Anything else before we close for the
13 day?

14 *[No verbal response.]*

15 CHAIRWOMAN MARTIN: All right. Well,
16 then, we will take this under advisement and
17 issue another order. Thank you, everyone. Have
18 a good day.

19 ***(Whereupon the hearing was adjourned***
20 ***at 9:41 a.m.)***

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