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Please reply to: Concord Office

August 3, 2023

**VIA ELECTRONIC MAIL**

Daniel C. Goldner, Chairman  
New Hampshire Public Utilities Commission  
21 South Fruit Street, Suite 10  
Concord, NH 03301-2429

**Re: Petition of Pennichuck East Utility, Inc. for Approval of  
Financing from CoBank, ACB  
Docket DW 23-046**

Dear Chairman Goldner:

On behalf of Pennichuck East Utility, Inc., please find the attached Affidavit of Compliance with exhibits evidencing publication of the Commission's Order *Nisi* No. 26,862 ("Order") issued in Docket No. DW 23-046 on July 27, 2023. This Affidavit of Compliance is filed pursuant to the Order and PUC Rules 203.12(b) as proof that the Order was posted on the Company's website on July 28, 2023.

This filing is made electronically in accordance with the Secretarial Letter dated March 17, 2020. Thank you for your attention to this matter.

Sincerely,

James J. Steinkrauss

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STATE OF NEW HAMPSHIRE  
PUBLIC UTILITY COMMISSION  
Docket DW 23-046

\_\_\_\_\_)  
\_\_\_\_\_)  
PENNICHUCK EAST UTILITY, INC. \_\_\_\_\_)

Petition for Approval of Financing from CoBank, ACB \_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)

Affidavit of Notice Compliance

On July 28, 2023, Pennichuck East Utility, Inc. (hereinafter "Company") published on its website Order *Nisi* No. 26,862 ("Order") approving the Company's Petition for Approval of Financing from CoBank, ACB issued by the NH Public Utility Commission ("Commission") on July 28, 2023, in Docket No. DW 23-046. This publication was done pursuant to PUC Rule 203.12(b) and in accordance with the terms of the Order. A true and accurate copy of the evidence of publication on the Company's website is attached hereto as Exhibit A, in accordance with PUC Rule 203.12(d).

Signed under the pains and penalties of perjury this the 1<sup>st</sup> day of August 2023.

By: \_\_\_\_\_


Jay Kerrigan  
Manager of Regulatory Affairs

**EXHIBIT A**

**Copy of the Publication of Order No. 26,862 on the Company's Website**

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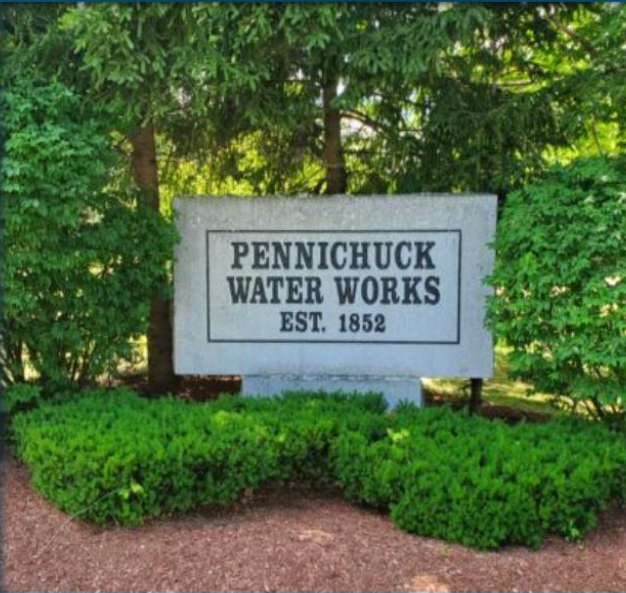
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**Public Utilities Commission (PUC)**

**Activity: Please click here to view all filings, petitions, and orders.**

**Mission:** Pennichuck Corporation's Mission is to be a premier supplier of water in New Hampshire by providing reliable, high quality, and affordable water in sufficient quantities, and New England's premier supplier of water related contract services by providing high quality solutions to meet our customer's needs.

**WHAT'S NEW**

**Pennichuck Water Works – Request for Change in Rates**

In [this order](#) the Commission approves a final revenue requirement of \$40,736,437, which includes proposed revenues from base rates of \$40,143,045. This yields an annual revenue increase of \$3,714,300, which adjusted for previously approved Qualified Capital Projects Adjustment Charge (QCPAC) revenues, yields a revenue increase of \$1,150,938. The average residential customer using 7.76 hundred cubic feet of water and currently paying \$55.46 monthly base rate, will see an increase to \$61.27 per month. Accounting for the interim increases through the QCPAC, the monthly rate will see an increase of about 2.75 percent.

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DW 22-032**

**PENNICHUCK WATER WORKS, INC.**

**Request for Change in Rates**

**Order Approving Final Revenue Requirement and Resulting Rates**

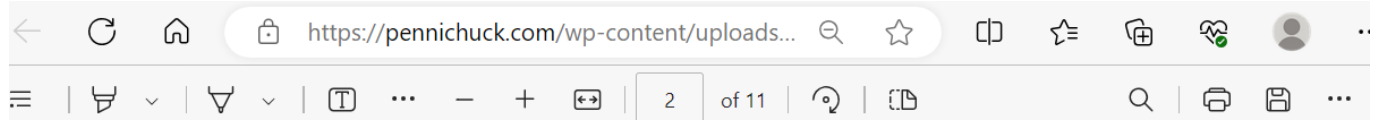
**ORDER NO. 26,862**

**July 27, 2023**

In this order the Commission approves a final revenue requirement of \$40,736,437, which includes proposed revenues from base rates of \$40,143,045. This yields an annual revenue increase of \$3,714,300, which adjusted for previously approved Qualified Capital Projects Adjustment Charge (QCPAC) revenues, yields a revenue increase of \$1,150,938. The average residential customer using 7.76 hundred cubic feet of water and currently paying \$55.46 monthly base rate, will see an increase to \$61.27 per month. Accounting for the interim increases through the QCPAC, the monthly rate will see an increase of about 2.75 percent.

**I. PROCEDURAL HISTORY**

On May 19, 2022, Pennichuck Water Works, Inc. (PWW) filed its Notice of Intent to File Rate Schedules with the Commission. The Department of Energy (DOE) filed an appearance on June 2, 2022. The Office of Consumer Advocate (OCA) indicated that it would participate in this docket on June 27, 2022. PWW filed its proposed permanent rate schedules and a request for temporary rates on June 27, 2022. The rate filing contained proposed tariffs for effect August 1, 2022. The Commission issued Order No. 26,652 on July 26, 2022 suspending the proposed tariffs and scheduling a prehearing conference. There were no intervenors.



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On October 26, 2022 the parties by settlement withdrew the request for temporary rates. On May 31, 2023 the parties filed a settlement agreement on permanent rates and a hearing was held on the same date. At the Commission's direction, PWW filed a proposed tariff on June 7, 2023 and a revised proposed tariff on June 12, 2023. DOE filed a suggested adjustment to the revised tariff on June 14, 2023.

## **II. POSITIONS OF THE PARTIES**

### **A. PWW**

PWW's rate case filing proposed an overall increase to revenues from base rates of 13.06 percent to bring PWW's allowed revenues from base rates to \$40,883,431. *See*, PWW June 27, 2022 filing at 87 (temporary rate petition); and Schedule A at 113-114. The proposed rate increases for the individual customer classes varied between 12.97 percent and 16.46 percent. PWW Petition Schedule 9, Bates Page 17. Permanent rates for PWW were last approved in Docket No. DW 19-084. *See* PWW Petition Bates Page 18; Testimony of Donald Ware at Bates Page 81.

PWW asserted that a rate increase was necessary to cover PWW's current operating expenses and to meet the costs of servicing PWW's debt and its share of the City Bond Fixed Revenue Requirement (CBFRR). PWW's permanent rate filing also included a proposed adjustment to its Material Operating Expense Factor (MOEF) from 9.5 percent to 9 percent.

### **B. OCA**

The OCA supported the Settlement and recommended approval of the rates and terms contained in the Settlement.



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### **C. DOE**

The DOE supported the Settlement and recommended approval of the rates and terms contained in the Settlement. DOE provided an audit of PWW's rate filing. DOE indicated that the Settlement resolved the issues raised in the DOE audit.

### **III. SETTLEMENT ON PERMANENT RATES**

All the Parties to this docket, PWW, OCA and DOE, executed the Settlement Agreement filed with the Commission on May 31, 2023 (Settlement). The principal terms of the Settlement are summarized below.

#### **A. Adjustment of Material Operating Expense Factor**

The Settlement provides an adjustment of PWW's MOEF from 9.5 percent to 9.45 percent instead of the initially proposed 9 percent. Based on an analysis of PWW's allowed revenue components and projected annual Rate Stabilization Fund (RSF) balances, the Settling Parties project that a MOEF factor of 9.45 percent will maintain PWW's cumulative RSF balance at or near the currently authorized level of \$3,920,000. See Exhibit 4 at 8.

#### **B. Reconciliation of Rate Stabilization Fund (RSF) Accounts**

The Settlement provides for the re-establishment of the values of PWW's RSFs at the levels previously approved by the Commission. Specifically, the City Bond Fixed Revenue Requirement (CBFRR)-RSF was to be set at \$680,000; the Material Operating Expense Revenue Requirement (MOERR)-RSF at \$2,850,000; and the Debt Service Revenue Requirement-1.0 (DSRR-1.0)-RSF at \$390,000.

In Docket Nos. DW 16-806 and DW 19-084, the Commission approved the continuation of the RSF reconciliation mechanism in PWW's subsequent rate proceedings, whereby the target RSF balances would be maintained via charge or credit adjustments to PWW's established revenue requirements. The Settling Parties

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agree that as of December 31, 2022, the cumulative balance of PWW's Debt Service Revenue Requirement-1.0 RSF was \$5,188,612, which is \$1,268,612 greater than the agreed upon cumulative amount of \$3,920,000. The Settling Parties recommend that the Commission approve a reconciliation of this excess amount in the form of an annual refund to customers to be applied against PWW's overall annual revenue requirement over a three-year period leading up to the anticipated 2025 rate case.

### **C. Revenue Requirement**

The Settlement provides for an increase to PWW's overall revenue requirement to \$40,736,437. The components of the revenue requirement include a City Bond Fixed Revenue Requirement (CBFRR) of \$7,729,032; an Operating Expense Revenue Requirement (OERR) totaling \$25,249,661, inclusive of the proposed 9.45 percent MOEF; a Debt Service Revenue Requirement (DSRR) of \$8,180,615, and an annual Rate Stabilization Fund (RSF) credit to customers of \$422,871. The proposed revenue requirement includes proposed revenues from base rates of \$40,143,045 and other pro forma operating revenues of \$593,392. When compared with the Company's pro forma test year water revenues from base rates of \$36,428,745, the proposed revenue requirement of \$40,143,045 represents an increase of \$3,714,300, or 10.20 percent.

The recommended revenue requirement also includes capital projects previously approved in PWW's Qualified Capital Projects Adjustment Charge (QCPAC) program since PWW's last rate case. Those capital projects were completed and used and useful in 2019, 2020, and 2021. By subtracting PWW's previously approved QCPAC revenues totaling \$2,563,362, the increase in non-QCPAC attributable revenues is 2.75 percent. Transcript May 31 at 87. The Settlement anticipates that the current QCPAC revenue requirement will be subsumed into the proposed revenues from base rates. *See Attachment A, Summary Schedule.*



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#### **D. Rate Impacts**

The impact of the recommended rate change on the monthly bill of a single-family residential customer using approximately 7.76 hundred cubic feet (CCF) of water, would be to increase the current \$55.46 monthly base rate charge, to \$61.27. See Exhibit 4 at 12. Inclusive of QCPAC charges that the ratepayers are currently paying as a separate charge, the net monthly bill increase for the average residential customer is 2.75 percent.

#### **E. Continuation of Current Rate Design Changes**

Based on a cost-of-service study, the Commission approved, a reallocation of revenues to the private and municipal fire protection customer classes with an increase of 3 percent each year over six years and a corresponding decrease to general metered (GM) volumetric and meter charges to reach the equivalent overall revenues as an adjustment to Municipal Fire Protection rates. See Order Nos. 26,383 and 26,425. The most recent adjustment occurred on November 24, 2022, and the sixth and final annual adjustment is scheduled to occur on November 24, 2026. The next annual 3 percent increase to the Municipal Fire Protection charges and associated decrease in volumetric and meter charges is scheduled to occur on November 24, 2023. If the Settlement is approved, the next annual rate adjustments will be based on the permanent rates approved in the Settlement and will maintain the previously approved 3 percent increase to the Municipal Fire Protection charges and associated decrease in volumetric and meter charges. A full migration of the cost-of-service study (COSS) reallocation is expected to be completed for the 2028 rate case with a 2027 test year.

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#### **F. Effective Date for Permanent Rates**

Based on the Settling Parties' agreement to forego temporary rates under RSA 378:27, there is no reconciliation of permanent rates back to an existing effective date. See RSA 378:29. The Settlement provides that the effective date for permanent rates will be the effective date of the Commission's order establishing permanent rates on a service-rendered basis pursuant to N.H. Code Admin. R. Puc 1203.05(b).

#### **IV. COMMISSION ANALYSIS**

The Commission is authorized to fix rates after a hearing, upon determining that rates, fares, and charges are just and reasonable. RSA 378:7. In circumstances where a utility seeks to increase rates, the utility bears the burden of proving the necessity of the increase pursuant to RSA 378:8. In determining whether rates are just and reasonable, the Commission must balance the customers' interest in paying no higher rates than are required against the investors' interest in obtaining a reasonable return on their investment. *Eastman Sewer Company, Inc.*, 138 N.H. 221, 225 (1994). In this way, the Commission serves as arbiter between the interests of customers and those of regulated utilities. See RSA 363:17-a; *see also* EnergyNorth Natural Gas, Inc. d/b/a National Grid NH, Order No. 25,202 at 17 (March 10, 2011)

Unless precluded by law, disposition may be made of any contested case at any time prior to the entry of a final decision or order. RSA 541-A:31, V(a). Pursuant to N.H. Admin. R., Puc 203.20(b), the Commission shall approve the disposition of any contested case by stipulation if it determines that the result is just and reasonable and serves the public interest. The Commission encourages parties to settle disagreements through negotiation and compromise because it is an opportunity for creative problem solving, allows parties to reach a result in line with their

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expectations, and is often a better alternative to litigation. *Hampstead Area Water Company, Inc.*, Order No. 26,131 at 3 (May 3, 2018). Nonetheless, the Commission cannot approve a settlement, even when all parties agree, without independently determining that the result comports with applicable standards. *Id.*

Since its acquisition by the City of Nashua in 2011, PWW has been funded by debt only, with cash needs funded by debt issuances, and with strict limitations on dividends of excess cash flows up to the parent Pennichuck Corporation. *See* Order No. 25,292 (November 23, 2011) at 32 and 45. Given its capital structure fully comprised of debt,<sup>1</sup> the Commission has approved several ratemaking mechanisms designed to maintain adequate cash flow to support PWW's operations and capital investments.

The components of PWW's revenue requirement are: City Bond Fixed Revenue Requirement (CBFRR) of \$7,729,032; an Operating Expense Revenue Requirement (OERR) totaling \$25,249,661, inclusive of the proposed 9.45 percent MOEF; a Debt Service Revenue Requirement (DSRR) of \$8,180,615, an annual Rate Stabilization Fund (RSF) credit to customers, and revenue required for capital projects previously approved since PWW's last rate case in PWW's Qualified Capital Projects Adjustment Charge (QCPAC) program. These QCPAC's include capital projects added in 2020, 2021 and 2022.

As of December 31, 2022, the cumulative balance of PWW's RSFs was \$5,188,612, which is \$1,268,612 greater than the agreed upon cumulative amount of \$3,920,000. We approve a reconciliation of this excess amount as an annual refund to

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<sup>1</sup> With the exception of limited accumulated earnings which are reported as equity, PWW has a debt only capital structure.

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customers of \$422,871 ( $\$1,268,612 \div 3$ ) to be applied against PWW's overall annual revenue requirement over a three-year period ending in 2025.

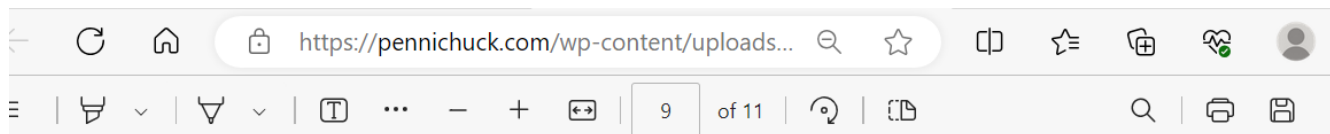
These revenue components have been approved in previous rate cases and we find each of the revenue components to represent reasonable measures of PWW's cost of delivering water service. Further, in reliance on the DOE audit filed in this docket we find that the expenses in each category are prudently incurred and properly calculated. *See Exhibit 4, Attachment F at 481.*

The Commission has already found the capital projects added during 2020, 2021, and 2022, used and useful and the expenses prudently incurred and reasonable in each of its prior approvals of the QCPACs since the last rate case. *See Order No. 26,555 (December 9, 2021) (nisi approval of 2020 QCPAC); Order No. 26,598 (March 29, 2022) (approving 2021 QCPAC); Order No. 26,697 (October 11, 2022) (nisi order approving settlement for 2022 QCPAC).* These prior QCPAC adjustments are subsumed in the new rates we approve today.

The MOEF is a percentage factor applied to the Material Operating Expense Revenue Requirement (MOERR) component of PWW's overall revenue requirement to provide adequate cash flow coverage. The MOEF allows for increases in material operating expenses between rate cases.<sup>2</sup> The MOEF is an adjustable factor, which is re-evaluated and revised, as necessary. *See, Exhibit 9 in DW 19-084, settlement agreement at pages 29-30.* We approve the MOEF at 9.45 percent. While the MOEF will increase PWW's revenues, ratepayers are protected against misuse of any excessive cash generated because the cash cannot be distributed as additional dividends to the City of Nashua per the Settlement Agreement in Docket No. DW 11-

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<sup>2</sup> In Commission Order No. 26,383 (July 24, 2020), the Commission approved a modification to PWW's ratemaking structure to include an imbedded Material Operating Expense Factor (MOEF) within PWW's overall revenue requirement.



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026. See Order No. 26,383 (July 24, 2020). Further, the MOEF will be re-examined and reset in a subsequent rate case.<sup>3</sup>

The proposed revenue requirement for base rates of \$40,143,045 represents an increase of \$3,714,300, which, when accounting for rate increases through the QCPAC leads roughly to 2.75 percent increase in revenues. We approve the increased annual revenue requirement, including cumulative QCPACs, of \$40,736,437, along with the resulting rates set forth in the table below.

Table 1 - Revenue Requirement Adjustment (\$millions)*						
Pro Forma Operating Income Per Settlement	Revenue Increase per Settlement	Revenue Requirement per Settlement	QCPAC Revenues	Net of QCPAC Increase	Other Operating Revenues and Water Resale Revenues	Revenue Requirement per Settlement
(a)	(b)	(c)	(d)	(e) = (b) - (d)	(f)	(g) = (c) + (f)
\$36.43	\$3.71	\$40.14	\$2.56	\$1.15	\$0.59	\$40.73

\*Any variations are due to rounding

Table 2 - Approved Rates	
Monthly 5/8 inch Meter Customer Charge	\$ 26.90
Monthly Volumetric Charge based on Usage **	\$ 34.38
Total Average Single Family Residential Monthly Bill***	\$ 61.27

\*\*Volumetric Charge per CCF granted in DW19-084 (In effect at end of 2021)

\*\*\*Average Single Family Residential Monthly Usage (CCF) based on 5 year average

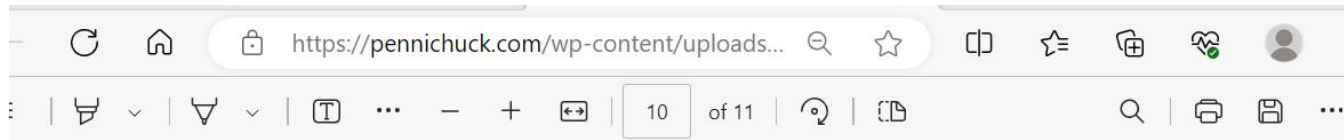
**Based upon the foregoing, it is hereby**

**ORDERED**, PWW's request to increase its annual revenue requirement to \$40,736,437 is **APPROVED**; and it is

**FURTHER ORDERED**, that the resulting rates set out in the settlement agreement and in this order are **APPROVED**, effective for service rendered on and after the date of this order; and it is

<sup>3</sup> Pursuant to the settlement agreement in Docket No. DW 11-026 dividends from PWW to Pennichuck Corporation are strictly limited. See Order No. 25,292 (November 23, 2011) at 32 and 45.





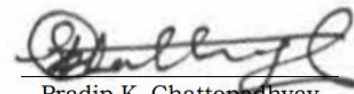
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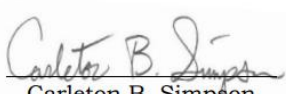
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**FURTHER ORDERED**, that the terms of the Settlement are **APPROVED**; and it is

**FURTHER ORDERED**, that PWW shall file tariffs conforming to the terms of this order on or before 15 days following the date of the order.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of July, 2023.

  
Pradip K. Chattopadhyay  
Commissioner

  
Carleton B. Simpson  
Commissioner

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## Service List - Docket Related

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