

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 21-137

PENNICHUCK WATER WORKS, INC.

Petition for Approved Modification of Accounting Treatment of Leases

COMMENCEMENT OF ADJUDICATIVE PROCEEDING AND NOTICE OF HEARING

On November 12, 2021, Pennichuck Water Works, Inc. (PWW or the Company) filed a petition requesting the Commission for authority to account for its lease obligations on a “cash requirement basis,” instead of using the accrual methodology required by the Financial Accounting Standards Board (FASB). In support of its petition, PWW filed the direct testimony of George Torres, its chief accounting officer, treasurer, and corporate controller. The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are available on the Commission’s website at <https://www.puc.nh.gov/Regulatory/Docketbk/2021/21-137.html>.

I. BACKGROUND AND PROCEDURAL HISTORY

PWW is a public utility providing retail water service, which is wholly owned by the City of Nashua. It is financed almost entirely by debt. In Order No. 26,070 (November 7, 2017), the Commission approved a settlement agreement which, among other things, amended PWW’s ratemaking structure to resemble a model revolving around cash flows and debt service, because the Company has no equity or access to equity markets. *See id.* at 5, 16-17, 19.

In its petition, PWW stated that use of the accounting treatment of leases required under FASB Accounting Standard Codification (ASC) 840 adopted in 1977, and new ASC 842, effective for years beginning December 15, 2021, could result in a

number of problems. PWW explained that ASC 840, which distinguishes between “capital leases,” required to be recorded as a liability on financial statements, and operating leases, which are not, requires straight-line accounting of the total lease expense over the entire lease term. It noted that ASC 842, which replaces ASC 840, would require all leases with a term over one year to be capitalized. According to PWW, use of these accounting methods would not accurately reflect the monthly and annual cash requirements under a lease and could cause PWW’s financial statements to be inconsistent with the basis for calculating its revenue requirement under prior Commission orders.

PWW averred that using the accounting methodologies under ASC 840 and 842 would require numerous pro forma adjustments to be made in subsequent rates cases filed by it, as well as its related entities, Pennichuck East Utility, Inc. (PEU) and Pittsfield Aqueduct Company, Inc. (PAC), because some expenses, such as the lease costs for PWW’s main office at 25 Walnut Street in Nashua, are also allocable to PEU and PAC. In addition, PWW contended that use of the new methodology could significantly increase the Company’s reported assets and liabilities, which could increase its debt-to-equity ratios, and have a negative impact on PWW’s ability to comply with bank financial covenants. As a result, PWW maintained that its access to future debt financing could be limited or the cost of debt could increase, leading to increased rates. Therefore, PWW requested the Commission, pursuant to RSA 374:8, to authorize it to account for its lease obligations on a “cash requirement basis” rather than using the accrual methodology required by ASC 840 and ASC 842.

PWW's petition requested the Commission to issue an order no later than December 31, 2021. On December 7, 2021, however, PWW filed a proposed procedural schedule, in which it stated that its request for a Commission decision was postponed until January 31, 2022.

II. ISSUES PRESENTED

The filing presents the following issues: whether the Commission has authority under RSA 374:8 and RSA 374:13 to permit PWW to account for its lease obligations on a "cash requirement basis;" whether accounting for PWW's lease obligations on a "cash requirement basis" would be consistent with PWW's existing revenue rate structure, as approved by the Commission in previous orders; and whether PWW's use of a methodology, which would account for its lease obligations on a "cash requirement basis," is just and reasonable under the circumstances. Accordingly, an adjudicative proceeding will be convened to address these issues.

The Commission will be conducting any hearings scheduled in this matter in person. Parties may, however, file a written request for the Commission to also use video conferencing to conduct the proceedings. Parties should support the request with reasoning as to why the hearing should use video conferencing, such as a health condition, or to reduce the cost of witness travel. Any party requesting a hybrid hearing format to accommodate those who will be participating remotely should file a written request with the Commission's Clerk's Office no later than fifteen (15) days prior to the hearing date. If the Commission determines that a hybrid approach will be used, then individuals in the Commission's hearing room, including the Commissioners, will be broadcast on a web-enabled platform, and a remote hearing link will be posted on the Commission's website.

Based upon the foregoing, it is hereby

ORDERED, that an adjudicative proceeding be commenced for the purpose of reviewing and resolving the foregoing issues pursuant to RSA chapter 541-A, RSA 374:8, RSA 374:13, and the Commission's procedural rules; and it is

FURTHER ORDERED, that the Commission will hold a hearing in this matter at its offices located at 21 S. Fruit St., Suite 10, Concord, New Hampshire, on January 21, 2022, at 9:00 a.m. Three hours shall be allotted for this hearing; and it is

FURTHER ORDERED, that any entity or individual may petition to intervene and seek to be admitted as a party in this proceeding. Each party has the right to have an attorney represent the party at the party's own expense; and it is,

FURTHER ORDERED, that, consistent with N.H. Admin. R., Puc 203.17 and Puc 203.02, any entity or individual seeking to intervene in the proceeding shall file with the Commission a petition to intervene with copies sent to PWW and any other parties on the service list, on or before January 10, 2022. The petition shall state the facts demonstrating how the petitioner's rights, duties, privileges, immunities, or other substantial interests may be affected by the proceeding, consistent with N.H. Admin. R., Puc 203.17; and it is

FURTHER ORDERED, that any party objecting to a petition to intervene make said objection on or before January 20, 2022; and it is

FURTHER ORDERED, that parties shall file any proposed exhibits, written testimony, motions, or other documents intended to become part of the record in this proceeding with the Commission. Pursuant to the secretarial letter issued on March 17, 2020, which is posted on the Commission's website at <https://www.puc.nh.gov/Regulatory/Secretarial%20Letters/20200317-SecLtr-Temp-Changes-in-Filing-Requirements.pdf>, all Commission rules requiring the filing of paper

copies are suspended until further notice. Parties may elect to submit any filing in electronic form unless otherwise ordered by the Commission. Filings will be considered filed as of the time the electronic copy is received by the Commission; and it is

FURTHER ORDERED, that routine procedural inquiries may be made by contacting the Commission's Clerk's Office at (603) 271-2431 or ClerksOffice@puc.nh.gov. All requests to the Commission should be made in a written pleading filed with the Commission. Unless otherwise authorized by law, *ex parte* communications are prohibited; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. R., Puc 203.12, PWV shall notify all entities and individuals desiring to be heard at this hearing by publishing a copy of this order of notice on its website no later than two business days after the date of issue, such publication to be documented by affidavit filed with the Commission on or before January 4, 2022. In addition, the Clerk shall publish this order of notice on the Commission's website no later than two business days after the date of issue; and it is

FURTHER ORDERED, that any hearings in this matter shall be conducted in accordance with the attached hearing guidelines.

So ordered, this twenty-first day of December, 2021.



Daniel C. Goldner
Presiding Officer
Chairman

Individuals needing assistance or auxiliary communication aids due to sensory impairment or other disability should contact the Americans with Disabilities Act Coordinator, NHPUC, 21 S. Fruit St., Suite 10, Concord, New Hampshire 03301-2429; 603-271-2431; TDD Access: Relay N.H. 1-800-735-2964. Notification of the need for assistance should be made one week prior to the scheduled event.

ClerksOffice@puc.nh.gov
carolann.howe@pennichuck.com
christopher.r.tuomala@energy.nh.gov
donald.ware@pennichuck.com
Energy-Litigation@energy.nh.gov
George.Torres@Pennichuck.com
jay.kerrigan@pennichuck.com
jayson.p.laflamme@energy.nh.gov
jjs@rathlaw.com
john.boisvert@pennichuck.com
larry.goodhue@pennichuck.com
ocalitigation@oca.nh.gov
smw@rathlaw.com