

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DW 20-064**

**PENNICHUCK WATER WORKS, INC.**

**Emergency Petition for Financing Approval  
Under the Federal Paycheck Protection Program**

**Order Modifying Reporting Requirement**

**ORDER NO. 26,477**

**April 30, 2021**

This order modifies the reporting requirements established in Order No. 26,424. It allows Pennichuck Water Works, Inc., to defer submission of a copy of the request for loan forgiveness until it is filed with the bank. It also requires PWW to file by June 1, 2021, a report regarding how the funds were used.

**I. BACKGROUND**

On May 6, 2020, the Commission authorized Pennichuck Water Works, Inc. (PWW or the Company) to borrow up to \$2,543,662 from the Paycheck Protection Program (PPP). *Pennichuck Water Works, Inc.*, Order No. 26,354 (May 6, 2020). The PPP, administered by the federal Small Business Administration (SBA), originated from the Coronavirus Aid, Relief, and Economic Security (CARES) Act. *Id.* at 2. The PPP is a “loan designed to provide a direct incentive for small businesses to keep their workers on the payroll.” *Id.* The funds borrowed are subject to partial or full loan forgiveness if certain requirements are met. *Id.*

Order No. 26,354 directed PWW to “submit detailed company financial information pertaining to the time period during which the PPP loan funds were used, including but not limited to analysis of the revenue shortfall the Company would experience during that time if the PPP loan funds were not available .... as a report to the Commission no later than October 1,

2020.” *Id.* at 9. The Commission also directed PWW to submit a copy of the request for loan forgiveness that the Company submits to its lender, TD Bank, with that filing. *Id.* The purpose of the report is “to ensure that the direct benefit of the financing flows to PWW’s ratepayers.” *Id.*

On October 28, 2020, PWW requested extension of the reporting deadline to May 2, 2021, relying on advice of the Company’s accounting firm and the SBA’s modification of the PPP’s rules and requirements. *Pennichuck Water Works, Inc.*, Order No. 26,424 at 2 (November 24, 2020). The Commission granted PWW’s request. *Id.* at 3. In doing so, the Commission found “that the uncertainties surrounding the application and impact of loan forgiveness faced by the Company justify its delay in filing for loan forgiveness... [thus] it would be premature to require PWW to file the required reports until it has filed for loan forgiveness.” *Id.* at 3.

On April 19, 2021, the Company filed a Motion for Modification of Order No. 26,424 (Motion). PWW requested that the Commission modify the reporting requirement, allowing the Company to delay the filing of its report until its next full rate case, scheduled for 2022. Motion at 4-5.<sup>1</sup> PWW stated that the SBA’s recent modification of the PPP rules and requirements warranted further extension for loan forgiveness until June 15, 2021, and consequently, extension of its May 2, 2021, reporting requirement. *Id.* at 3-4. The Company also cited uncertainties with pending state legislation, New Hampshire Senate Bill SB-3, which pertains to the tax implications of PPP funds in support of its modification request. *Id.* at 3. With those uncertainties, PWW stated that deferment of its report until its next rate proceeding is “appropriate to balance the impacts of the PPP program, allow time for application and a loan

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<sup>1</sup> Per an approved settlement agreement in its last rate proceeding, PWW is required to file a full rate case every three years. *Pennichuck Water Works, Inc.*, Order No. 26,383 at 10-11, 18 (July 24, 2020). PWW’s next full rate case is scheduled for 2022.

forgiveness decision, as well as clarity on tax treatment of that forgiveness given pending legislation, all against the overall rates presented” in its 2022 full rate proceeding. *Id.* at 5. Commission Staff assented to the Motion. *Id.*

PWW’s Motion, as well as previous filings and orders, other than any information for which confidential treatment has been requested of or granted by the Commission, are posted on the Commission’s website at: <https://www.puc.nh.gov/Regulatory/Docketbk/2020/20-064.html>.

## II. COMMISSION ANALYSIS

The Commission has the authority “to alter, amend, suspend, annul, set aside, or otherwise modify” its prior orders under RSA 365:28. The authority granted under this provision is to be “liberally construed.” *Appeal of the Office of the Consumer Advocate*, 134 N.H. 651, 657 (1991); *Meserve v. State*, 119 N.H. 149, 152 (1979).

We exercise our authority under RSA 365:28 to modify the filing dates of the required PWW reports. We find that the enduring uncertainties surrounding the application for and impact of loan forgiveness faced by the Company justify its delay in filing for loan forgiveness. We direct PWW to file a copy of its loan forgiveness application with the commission when it is filed with TD Bank.

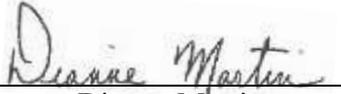
We do not believe, however, it would be appropriate to wait until the Company’s next scheduled full rate case for PWW to file its report on how it used the loaned funds. Instead, we will require PWW to file by June 1, 2021, the detailed financial report on how the funds were used during the pandemic, including but not limited to analysis of the revenue shortfall the Company would have experienced during that time if the PPP loan funds were not available.

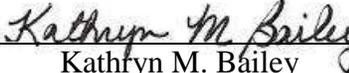
The deadline for reporting the required information pursuant to Order No. 26,424 is so modified.

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

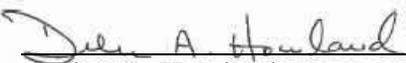
**ORDERED**, that Order No. 26,424 is modified, as discussed in the body of this order.

By order of the Public Utilities Commission of New Hampshire this thirtieth day  
of April, 2021.

  
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Dianne Martin  
Chairwoman

  
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Kathryn M. Bailey  
Commissioner

Attested by:

  
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Debra A. Howland  
Executive Director

## Service List - Docket Related

Docket#: 20-064

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