

1 STATE OF NEW HAMPSHIRE
2 PUBLIC UTILITIES COMMISSION

3

4 February 28, 2007 - 10:09 a.m.
Concord, New Hampshire

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RE: DW 06-172
7 PENNICHUCK EAST UTILITY, INC.:
Petition for Approval of the Transfer of
8 Assets and Franchise Rights of Daniels
Lake Water Works. (Prehearing conference)

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PRESENT: Chairman Thomas B. Getz, Presiding
12 Commissioner Graham J. Morrison
Commissioner Clifton C. Below

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Diane Bateman, Clerk

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APPEARANCES: Reptg. Pennichuck East Utility, Inc.:
Sarah B. Knowlton, Esq.

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Reptg. PUC Staff:
Suzanne G. Amidon, Esq.

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24 Court Reporter: Steven E. Patnaude, CCR

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1 P R O C E E D I N G S

2 CHAIRMAN GETZ: Okay. Good morning.

3 We'll open the prehearing conference in docket DW 06-172.

4 On December 29, 2006, Pennichuck East Utility filed with

5 the Commission a petition for approval of the transfer of

6 assets and franchise rights of Daniels Lake Water Works

7 located in the Town of Weare to PEU. PEU proposes to

8 operate the Daniels Lake water utility and provide service

9 to approximately 30 customers in the Daniels Lake

10 franchise territory under the terms and conditions of

11 PEU's current tariff on file with the Commission.

12 An order of notice was issued on

13 January 22nd setting the prehearing conference for this

14 morning. And, I'll note for the record that the affidavit

15 of publication in the newspaper was filed with the

16 Commission on February 6.

17 Can we take appearances.

18 MS. KNOWLTON: Good morning, Chairman

19 Getz and Commissioners Morrison and Below. I'm Sarah

20 Knowlton with the McLane law firm. And, I'm here today on

21 behalf of Pennichuck East Utility, Inc., with Donald Ware
22 from the Company.

23 CMSR. BELOW: Good morning.

24 CHAIRMAN GETZ: Good morning.

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1 CMSR. MORRISON: Good morning.

2 MS. AMIDON: Good morning. Suzanne
3 Amidon, I'm here for the Commission Staff. And, with me
4 today is the Director of the Water Division, Mark Naylor;
5 the Engineer for the Water Division, Doug Brogan; and
6 Utility Analyst for the Water Division, Jim Lenihan. Good
7 morning.

8 CHAIRMAN GETZ: Good morning.

9 CMSR. MORRISON: Good morning.

10 CMSR. BELOW: Good morning.

11 CHAIRMAN GETZ: How do you wish to
12 proceed? Is there anything we need to address, other than
13 statements of positions?

14 MS. KNOWLTON: Not that I'm aware of.

15 MS. AMIDON: The only thing is that I
16 note that the Water Systems Operator is here. That's the
17 Company that has receivership of Daniels Lake. And, I
18 urge the Commission to ask him about the current status of
19 the amounts owed to Water Systems Operator for its
20 activities during receivership.

21 CHAIRMAN GETZ: Okay. Well, let's start

22 with Ms. Knowlton.

23 MS. KNOWLTON: Okay. Thank you. In

24 2006, the Company signed an Asset Purchase Agreement with

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1 Mr. Josef Fitzgerald and Daniels Lake Water Works, Inc. to
2 purchase the assets associated with this very small
3 system, which is located in Weare. The system -- The
4 Company, Pennichuck East Utility, has conducted due
5 diligence associated with this system and has determined,
6 in conjunction with its consultation with the Department
7 of Environmental Services, that there are a lot of
8 significant capital improvements that need to be made to
9 this system. It just has not been maintained as it should
10 have been. And, in particular, there are confined space
11 issues in -- at the system, which make it dangerous for
12 the Pennichuck employees to go in and service the system,
13 and those need to be remedied, you know, before any
14 further work can be done on the system.

15 But, that aside, the Company is prepared
16 to move forward with this acquisition, but at this time is
17 not ready to close on the transaction right now.
18 Pennichuck is under a lot of financial pressure right now
19 and is unable to access the bond market, given the
20 negotiations that are going on with the eminent domain

21 proceeding. And, because there are significant capital
22 improvements that need to be made to the system, my
23 understanding is to the tune of \$80,000 to \$100,000, you
24 know, it would be extremely expensive for the Company to

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1 go out and finance those improvements with short-term
2 debt, when Pennichuck East Utility's affiliate, Pennichuck
3 Water Works, is in the process of making significant
4 upgrades to its water treatment plant and is having to now
5 finance those improvements through its short-term debt
6 until it can access the bond market again.

7 So, you know, we are here prepared to
8 proceed, but we do need to resolve the eminent domain
9 matter, at least to determine whether or not the Company
10 is going to be sold through a voluntary negotiated sale or
11 whether we're going to go back to the litigated route.
12 And, once we've reached that point, which we expect to be
13 sometime in May, at that point then we would be able to
14 move forward with the closing on the system and the
15 capital improvements that are necessary, and would then
16 have the ability, we believe, to access the necessary
17 financial markets to finance the capital improvements
18 here. But, you know, between now and that time, the
19 Company is not in a position to be able to, you know,
20 close after receipt of an order and proceed.

21 So, that's where we are today. And, we
22 have been consulting with Staff about this. And, we're
23 hopeful that we can reach some agreement with Staff on a
24 schedule that would take all of that into account and to

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1 develop a plan accordingly.

2 CHAIRMAN GETZ: Thank you. Ms. Amidon,
3 would it be better to hear from the operator first or
4 after Staff?

5 MS. AMIDON: I think you should hear
6 from him now, and then I'll be happy to speak.

7 CHAIRMAN GETZ: Sir, if you could give
8 your name for the record and --

9 MR. DAMOUR: Yes. My name is Joe
10 Damour. And, I'm President of Water System Operators.
11 We've been operating the Daniels Lake system for the PUC
12 under receivership. And, I guess all you need to know
13 from me is the amount due as of today. The outstanding
14 amount, let's me see, I wrote it down here, if I can find
15 where I wrote it down, as of today, it was \$12,760.52.
16 Which is down a little from the last time we were here,
17 which was around 15,000, I don't remember the exact
18 amount. And, hopefully, we have not had any major crises,
19 and hopefully we don't have any.

20 CHAIRMAN GETZ: Okay. Thank you.

21 Ms. Amidon.

22 MS. AMIDON: Thank you. Staff supports

23 PEU's proposed acquisition of Daniels Lake. And, we

24 certainly understand the considerations that would call

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1 for a delay in the proceeding. We do, you know, believe
2 that PEU has the technical and financial capabilities of
3 operating the water system, as demonstrated by its
4 operation of water systems throughout the state. And, we
5 think that the transfer would be in the public good. And,
6 I just wanted to emphasize that for the record that we are
7 patient with the process and are, you know, are pleased
8 that PEU wants to go forward with this, despite the other
9 activities that are going on now which prevent that from
10 coming to a completion on a more prompt basis.

11 Regarding the capital adjustments, Staff
12 is willing to negotiate with PEU about supporting a step
13 adjustment of some sort to the rates for all PEU customers
14 or for Daniels Lake upon completion of the capital
15 investments, so that PEU won't be without this money for a
16 long period of time. In other words, we look to promptly
17 reward them, assuming that the acquisition goes through,
18 and that the capital improvements are made, we look
19 forward to promptly bringing them back to -- to paying for
20 that capital investment, I guess I would say.

21 The other thing I wanted to note,
22 though, was that the outstanding issue of monies owed WSO
23 is going to be a critical consideration here, because the
24 Company has let us know that they are not really

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1 interested in continuing to accept the surcharge from
2 Daniels Lake customers to pay WSO. And, again, once the
3 receivership ends upon the acquisition, the Staff believes
4 that WSO is entitled to be compensated for the costs it
5 has incurred in operating the system.

6 This is an issue that we don't have any
7 particular solution for at this point, but I just wanted
8 to point out to the Commission that it's something -- that
9 it's kind of another consideration that needs to be worked
10 through in this proceeding.

11 CHAIRMAN GETZ: I'm sorry, could you go
12 through that again, that the Company is unwilling to
13 accept the surcharge?

14 MS. AMIDON: PEU has told us, and I
15 think I should let Attorney Knowlton speak for the
16 Company.

17 MS. KNOWLTON: Sure. I mean, the
18 Company's position is is that right now we understand that
19 there's a surcharge to cover to collect for monies owed to
20 WSO. And, my understanding is is that, you know, even if

21 we were able to delay the closing of this transaction, you
22 know, for another six months, there's still at least
23 another six months or more of time that will be required
24 for the surcharge to remain in effect to recover the funds

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1 that were owed to WSO.

2 PEU's position is is, you know, it's
3 going to come in and, you know, take over the system, I
4 think the rates are probably going to go up as a result,
5 you know, if the PEU rates that are currently in effect
6 for other PEU customers are imposed here. You know, they
7 may be a little bit higher. There's capital improvements
8 that need to be made. I don't know if that will result in
9 a step adjustment where PEU would then be in a position to
10 layer onto that a surcharge, when we have a customer base
11 that's been, frankly, reluctant to pay their rates in the
12 past, it sounds like, from what I read from prior orders.
13 It puts PEU in a really difficult position of being the
14 middleman and having to collect for WSO and then pass
15 those funds through. And, that's really not the business
16 that PEU wants to be in.

17 So, you know, we would very much like to
18 be part of a discussion to explore another way to resolve
19 that, because they just don't want to be, frankly, the
20 financial middleman. There's enough to deal with that

21 system, and with, you know, fixing the capital problems
22 and then educating the customers about what it means to be
23 a customer of a water utility, you know, to pay rates
24 regularly, you know, they may be more higher rates than

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1 they have been paying, which, frankly, people really don't

2 like. And, so, there's a lot that needs to go on there.

3 And, we just don't -- the Company really does not want to

4 be the financial middleman, if at all possible.

5 CHAIRMAN GETZ: Okay. Is there anything

6 else, Ms. Amidon?

7 MS. AMIDON: No.

8 CMSR. BELOW: Well, just to clarify, the

9 current surcharge, the rate at which that's sort of

10 covering current costs, and assuming there isn't some

11 unanticipated new expense, and recovering past costs,

12 sounds like it would take about a year to bring WSO up to

13 even, is that right?

14 MS. AMIDON: Well, for your information,

15 in docket number DW 00-247, which is the investigation

16 into the quality of service for Daniels Lake, the

17 Commission issued Order Number 24,622 on May 12, 2006.

18 And, in that order, the Commission added a surcharge to

19 pay WSO in the amount of \$23.21, that was -- is that per

20 month, Mark?

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22 MR. NAYLOR: Yes.

23 MS. AMIDON: Thank you. And, the

24 estimate at that point was that the recovery would occur

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1 in 24 months. We understand that WSO didn't implement
2 that surcharge until, and we have him here, so we can ask
3 him, but I think he said "October". Therefore, it looks
4 like more of a year and a half to recover the amount that
5 was claimed back in May, and I think that was \$15,600.

6 So, the surcharge, to answer the
7 question, and it's a long answer, but it would go beyond a
8 year, as far as I could tell, maybe another year and a
9 half.

10 CMSR. BELOW: And, what's the current
11 state of arrearages, in terms of past due amounts that
12 have been billed that should have been paid by now?

13 MR. DAMOUR: You mean for the customers?

14 CMSR. BELOW: Yes.

15 MR. DAMOUR: I don't have it off the top
16 of my head, but I really think we have one customer that
17 we've kind of been chasing with bad checks and stuff.
18 But, other than that, everybody's covered.

19 CMSR. BELOW: Oh, good. Okay. Thank
20 you.

21 CHAIRMAN GETZ: Okay. Well, it sounds
22 like there's some discussions that need to proceed to try
23 and make sure we've got a handle on the collecting the
24 surcharge. But any other issues that we need to address

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1 this morning?

2 MS. AMIDON: None that I can think of.

3 CHAIRMAN GETZ: Okay. Are you
4 anticipating further discussions this morning in the
5 context of a technical session and --

6 MS. AMIDON: Yes.

7 MS. KNOWLTON: Yes.

8 CHAIRMAN GETZ: Okay. All right. Well,
9 then let's close the prehearing conference. We'll take
10 that matter under advisement. And, to the extent there's
11 anything in writing that you want to submit, we will await
12 the filing of a report from the technical session.

13 MS. AMIDON: Thank you.

14 CHAIRMAN GETZ: Thank you.

15 (Whereupon the prehearing conference
16 ended at 10:22 a.m. and parties convened
17 a technical session thereafter.)

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