

ORIGINAL
N.H.P.U.C. Case No. DW 10-091
Exhibit No. # 6
Witness Panel 2
DO NOT REMOVE FROM FILE

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DW 10-091

In the Matter of:
Pennichuck Water Works, Inc.
Petition for Permanent Rates and Step Increase

DIRECT TESTIMONY

Of

James L. Lenihan
Staff Utility Analyst, Gas and Water Division

March 31, 2011

1 **Q. Please state your name, business address and occupation.**

2 **A.** My name is James L. Lenihan, and my business address is 21 South Fruit St. Concord,
3 New Hampshire 03301. I am employed as a Utility Analyst by the New Hampshire
4 Public Utilities Commission (Commission). I am a graduate from St. Francis College,
5 Maine with a B.A. in Economics, and subsequently completed graduate courses at the
6 University of Maine. In 1985 I attended the Michigan State University Regulatory
7 Studies Program. During the period 1969-73 I was a Junior High School instructor in
8 Biddeford, Maine. In the fall of 1973 I joined the Cost of Living Council in Washington,
9 D.C. From 1974 to 1984 I held various positions in the Federal Energy Administration
10 and the Department of Energy as an Analyst in the areas of fossil fuel availability,
11 distribution, and price for the residential, industrial and utility sectors on a national as
12 well as regional level. In July of 1984 I joined the staff of the New Hampshire Public
13 Utilities Commission over the years I have testified in a number of rate proceedings on
14 behalf of the Commission's Gas and Water Division.

15

16 **Q. What is the purpose of your Testimony?**

17 **A.** The purpose of my testimony is to review Pennichuck Water Works Inc.'s (Pennichuck,
18 Petitioner or Company) Cost of Service findings and recommendations as to how the
19 Petitioner proposes to recover the revenue increase submitted in this permanent rate
20 proceeding.

21

22 **Q. How many customers are provided water service by Pennichuck?**

23 **A.** Pennichuck serves approximately 25,300 water customers primarily located in the City of

1 Nashua. In addition, Pennichuck serves the Town of Amherst, limited areas in the towns
2 of Merrimack, Hollis, Bedford, Derry, Plaistow, Milford, Epping, Salem and Newmarket.
3 Anheuser-Busch and the Towns of Milford and Hudson are served under the terms of
4 special contracts. Pennichuck also provides municipal as well as private fire protection in
5 a number of its service territories.

6
7 **Q. How much of an increase in annual revenue is Pennichuck seeking in this**
8 **proceeding?**

9 **A.** Pennichuck is requesting a permanent increase in rates to reflect an increase in annual
10 revenues of \$3,916,164, a step increase of \$887,494 for a combined increase in annual
11 revenues over the test year ending on December 31, 2009 in the amount of \$4,803,658.
12 for total increase of 19.92 percent annual increase in revenue.

13
14 **Q. Would you describe Pennichuck's current rate structure?**

15 **A.** Pennichuck provides a general metered service which is comprised of a monthly \$18.18
16 customer charge for a 5/8 in. residential meter as well as a volumetric rate of \$2.90 per
17 hundred cubic feet for all water consumed. The consumption portion of the bill is a
18 single rate for all water consumed for all meter sizes. In addition to metered water
19 service, Pennichuck provides municipal and private fire service. The private fire service
20 costs are recovered through means of graduated charges increasing based on the size of
21 the service pipe entering the property. The current monthly rate for a 4 inch or smaller
22 connection is \$55.70; for a 6 inch connection \$93.46 and for an 8 inch or larger
23 connection \$137.60. The rates for municipal fire protection consist of a monthly charge

1 per hydrant of \$17.16 and an “inch foot” rate of \$0.11828 to cover the cost of linear pipe
2 4 inches and larger.

3
4 **Q. What are the proposed rates from the combined permanent and step increases?**

5 **A.** If approved as originally submitted, Pennichuck’s monthly customer charge will increase
6 to \$26.11 for a 5/8 in. residential meter and an increase in the volumetric rate to \$3.12 per
7 hundred cubic feet for all water consumed regardless of meter size. The monthly private
8 fire service rates will increase to \$57.52 for a 4 inch or smaller service; \$96.51 monthly
9 for a 6 inch connection and \$142.08 for an 8 inch or larger connection. The rates for
10 municipal fire protection the monthly charge per hydrant will increase to f \$90.47 and the
11 “inch foot” rate will increase to \$0.13249.

12
13 **Q. Does Pennichuck currently have temporary rates in effect?**

14 **A.** Yes, on October 8, 2010 by Commission Order 25,153 Pennichuck was granted a 10.80
15 percent increase over the Petitioner’s last authorized annual revenue. Pennichuck
16 originally filed for a 10.80 percent increase and the parties in a stipulation agreement on
17 temporary rates recommended a 10.80 percent increase. The recommended increase was
18 approved by the Commission and applied to all rates effect on service rendered on or
19 after June 16, 2010. The temporary revenue increase translated into a 5/8 in residential
20 monthly customer charge of \$20.14 and a volumetric charge of \$3.21 per hundred cubic
21 feet.

22 **Q. What are the factors resulting in the increases proposed by Pennichuck?**

23 **A.** According to Pennichuck, the current request for permanent rate relief is primarily a

1 result of its failure to achieve returns at or near its most recently allowed rate of return.
2 The rate of return as of its test year ending on December 31 ,2009 was 5.65 percent, or
3 173 basis points below its last allowed rate of return of 7.38 percent in Order No. 25,006
4 issued on August 13, 2009. The decline in earnings results from significant increases in
5 property tax increases for the years 2008 and 2009 totaling \$1,161,306 including the pro
6 forma increase of \$226,756 for 2008 and 2009. According to Pennichuck, taxes are one
7 of the major drivers that are causing the Company to seek rate relief in this case. The
8 Petitioner also has been completing reconstruction of its water treatment plant to insure
9 compliance with all State and Federal Drinking Water Regulations, replacing aging mains
10 and services as well as completing water supply and quality improvement projects for its
11 community systems and completing installation of radio meter readers in its core water
12 system. In all, the Company has spent a total of \$10.6 million on capital improvements
13 during 2008 and 2009 which were not included in its revenue increase authorized in its
14 last rate case in DW 08-073. In addition to cost increases, since 2007 Pennichuck has
15 experienced an overall reduction in usage of approximately 766 million gallons or a
16 decline of 17 percent.

17
18 **Q. Did the Petitioner submit a Cost of Service Study (COSS) in this proceeding?**

19 **A.** Yes, on behalf of Pennichuck, AUS Consultants Inc. submitted a Cost of Service Study
20 dated April, 2010, which was revised in October 2010 and again in February 2011. The
21 Petitioner recommended it collect the revenues from each customer class as detailed on
22 Schedule 16 of the February 2011 revision to its COSS. The results of the revised study
23 indicated the Company would collect 85.17 percent of its revenues from water service

1 revenues (both general water service and contract water service), 3.73 percent from
2 Private Fire Revenue and 11.10 percent from Municipal Fire Revenues.

3
4
5 **Q. Do you have any objection to the allocation of the revenue amounts among the**
6 **customer classes?**

7 I have no objection as to the revenue levels allocated among customer classes. However
8 I do have a concern with the manner in which the Petitioner is proposing to recover costs
9 allocate to the metered class in particular the residential customers.

10
11 **Q. For the purpose implementing the combined permanent and step increase, how is**
12 **Pennichuck proposing to adjust the customer and volumetric rates?**

13 **A.** According to the February 2011 revised COSS, Pennichuck's monthly customer charge
14 will increase from \$18.18 to \$26.23 or a 44 percent increase whereas the volumetric rate
15 is proposed to increase from \$2.90 per hundred cubic feet to \$3.155 per hundred cubic
16 feet or a or an 8.8 percent increase. The proposed combined permanent and step revenue
17 increase for the Company is 19.67 percent.

18 **Q. How has the Petitioner addressed this substantial increase to the customer charge in**
19 **its testimony presented in this case?**

20 **A.** The Petitioner addresses the increase in the customer charge by referring to its April 2010
21 COSS which developed of the proposed customer charges. Of note on page 14 of
22 Pennichuck's April submission of its COSS is the following quote that, "One issue that
23 is always of concern is revenue instability problems". In order to address this "concern",

1 the study states, “One method of alleviating such revenue instability problems would be
2 to increase the level of the customer charges so that they recover more than functional
3 customer costs”. The study continues on bottom of page 14 to quote a 1993 National
4 Regulatory Institute Study 93-13 in which page 69 states that “common (overhead) costs
5 include those costs (for example, administrative and general) that are generally
6 independent of the number of customers, maximum demand, average demand, and
7 volume usage. Common costs can be recovered via periodic service charge.” In order to
8 enhance revenue stability on page 15 of the April 2010 study refers to page 3 of Schedule
9 10 in which “75% of the non-customer, non-hydrant administrative and general costs
10 were included in the customer charge development as recognition of other costs.” In
11 addition, “...on Page 3 of Schedule 10, 40% of the transmission and distribution
12 expenses were included in the customer charge development” and “a portion of the fixed
13 costs related to depreciation, amortization, and property taxes has also been included in
14 the customer charge development”. Finally, “As shown on page 3 of Schedule 10, 75%
15 of the base costs of depreciation, amortization, and property taxes (net of amounts
16 applicable to Anheuser Bush carrying charge which is discussed below) were included in
17 recognition of the fact that these costs are incurred irrespective of water production and
18 use.” As has been stated many times by Company representatives, the costs associated
19 provision of water unlike electric and gas utility service is highly non-usage sensitive.
20 However, I do not recommend all non variable costs be shifted into the customer costs.
21 Regarding the quote from the NRRI report, the critical word in the quote is “can” be
22 recovered through a service charge. Shifting costs to the customer charge is an option
23 which will enhance revenue stability but will do so by adding to customer confusion, by

1 adding to the instability of rates themselves, by introducing unexpected rate changes, and
2 by deviating from establishing rates to add to revenue stability for the utility as well as
3 reduce risk.

4
5 **Q. Do you agree with the proposal to shift a significant portion of other fixed costs to**
6 **the customer charge?**

7
8 **A.** No, I do agree that shifting these costs from the volume rate to the customer charge will
9 enhance the Petitioner's revenue and financial stability but it will do so at a significant
10 burden being placed upon the customer and it is this significant burden that I consider
11 unreasonable.

12
13 **Q. Please elaborate on why believe the significant burden being shifted to the**
14 **customers is unreasonable.**

15 **A.** In its testimony, the Petitioner lists a number of factors contributing to its continuing
16 decline in its overall return. In addition cost increase resulting from higher taxes, capital
17 improvements, the Company has experienced a significant decline in water usage of 17%
18 since 2008. Pennichuck states it is experiencing this decline due to "Today's plumbing
19 fixture standards, the cost of water and the cost of disposing of waste water have created
20 an economic based drive to conservation at both residential and commercial levels."
21 The Company continues on to state winter time consumption has dropped 9.3 percent
22 between 2006 and 2009 multifamily residential winter time consumption has dropped 11
23 percent over the same time, and Commercial winter time consumption has dropped 7

1 percent. Industrial winter time consumption over the same time frame has dropped over
2 34 percent according to the Company, due to more efficient operations but “primarily”
3 due to a loss of industrial customers as manufacturing has moved out of the State and
4 Country. It is clear that conservation policies have had an impact upon Pennichuck’s
5 sales and as a result the Company is experiencing a revenue decline across all customer
6 classes. For the residential as well all metered customers, part of the Petitioner’s remedy
7 is to secure more revenue by shifting costs to the customer charge. In doing so the
8 portion of the customer bill under which the customer has no control, that is the customer
9 charge, is proposed to increase substantially above the overall revenue increase being
10 sought by the Company in this proceeding. The shift would result in a customer using
11 the company average of 94.56 hundred cubic feet per year experiencing the fixed porting
12 of his bill increasing from 44 percent of the bill to 51 percent as stated in the Company’s
13 testimony. However, a customer using 75 percent of the company average would see a
14 bill that has a fixed component of 58.5 percent of the total bill over the current structure.
15 This greatly decreases the customer’s ability to manage his expenditures. The proposed
16 shift in costs to the customer charge will result in lower end users seeing a greater overall
17 increase in his bill than that of a customer using the average amount. The proposed
18 increase for a customer using the Company average residential amount to a customer’s
19 annual bill would be approximately 24%. For a customer using 75 percent of the average
20 residential 94.56 hundred cubic feet per year, for any number of reasons, would see an
21 increase of approximately 27%. The proposed increase in the instant proceeding comes
22 in the heels of permanent increase of approximately 19 percent in Docket 08-073
23 approved in Commission Order No. 25,006 dated August 13, 2009.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

Q. What is your recommendation as to the level of increase applied to the customer charge?

A. I would recommend against shifting 75% of the administrative and general expenses, 40% of the transmission and distribution expenses and 75% of the base fixed costs of depreciation, amortization to the customer charge and limit the customer charge increase to no more than that of the overall revenue, increase. The Petitioner cites a decline in water usage as contributing to the necessity of raising rates. I would suggest that increases in rates contribute to a reduction in consumption and further erosion in revenue.

Q. What would you recommend as to how the customer charge should reflect the current increase this proceeding?

A. I would recommend at a maximum that the customer charge increase not exceed that of the overall percentage increase in revenue sought by Pennichuck in this proceeding. I am not recommending that the customer charge be increased by the overall percentage increase, however, that the increase not exceed that of the combined revenue increase of 19.92% as originally proposed in the April 2010 COSS and adjusted by the February 2011 revision. I look forward to working with the Petitioner in reaching agreement on recommended changes to the metered rates. I also agree with the statement in Pennichuck’s April 2010 Cost of Service Study on page 18 that “Cost of service allocations are the products of analyses based in part on judgment and experience and their results provide a substantial aid in the design of rates. However, actual tariff design, in addition to relying on the results of cost of service analyses, should also

1 include consideration of policy matters, impacts of rate changes, future planning, special
2 customer characteristics, and judicial, regulatory contract requirements”.

3
4 **Q. Do you have any objection to allocation of the costs to the municipal and private fire
5 protection charges?**

6 **A.** No.

7
8 **Q. What are the proposed changes to the three special contracts under which
9 Pennichuck provides water service to towns of Hudson, Milford and to its largest
10 industrial Customer Anheuser-Busch?**

11 **A.** The original filing as well as the accompanying April 2010 COSS recommended no
12 increase to the annual fixed charges for the Hudson and Milford contracts. As a result of
13 a response to OCA data request 3-6 dated January 11, 2011 the Company responded, “In
14 the case of Hudson, PWW just completed the expansion of the Taylor falls Booster
15 Station to accommodate a second pump. The station expansion was completed in
16 November 2010 at a cost of approximately \$135,000. The impact of this capital
17 investment and the associated expense is reflected in AUS’s October update to the cost of
18 Service Study”. The results that capital improvement increased Hudson’s contract
19 charges from \$32,800 as originally proposed to 64,129. No changes were recommended
20 to Milford’s contract charges. The original filing recommended a 63% increase in
21 revenue from the Anheuser Bush’s (AB) special contract. The increase was due in part to
22 a reduction in AB’s water usage as well as well as Pennichuck’s increasing costs to
23 supply A-B. As a result of negotiations between AB and the Company, a fourth special

1 contract was negotiated, signed and submitted the commission for approval. The fourth
2 special contract significantly reduces AB's demand upon the system down from a 2
3 million gallon per day (mgd) average daily flow, a 3 mgd maximum daily flow, and a 4
4 mgd maximum hourly flow down to 1.0 mgd, 1.5 mgd, and 2 mgd with a take or pay for
5 381,425 hundred cubic feet of water annually. The revenue from AB under the proposed
6 fourth contract will include an annual carrying charge of \$371,469 and a volumetric rate
7 of \$0.917 per hundred cubic feet as proposed in the February revision to the COSS. The
8 proposed fourth contract and COSS reduces AB's annual total contract revenues from the
9 originally proposed \$1,411,322 to \$912,313.

10
11 **Q. What is staff's position with respect to the proposed fourth contract with AB?**

12 **A.** Staff has no objection to it. While AB will contribute less revenue to Pennichuck than
13 under the provisions of the previous contract, that revenue level is appropriate given the
14 substantial reduction in demand AB will place upon the system. In addition, Pennichuck
15 will retain AB as a customer going forward as the fourth contract has a term of ten years.

16 **Q. Does this conclude your testimony?**

17 **A. Yes.**