

**STATE OF NEW HAMPSHIRE**  
**BEFORE THE**  
**PUBLIC UTILITIES COMMISSION**

Docket No. DW 12-109

PENNICHUCK WATER WORKS, INC.

**VERIFIED MOTION TO MODIFY FRANCHISE ORDER *NISI* NO. 25,393**

Pennichuck Water Works, Inc. (PWW) requests the Public Utilities Commission (Commission), pursuant to RSA 374:22 and 26 and RSA 365:28, to modify Order No. 25,393 to include one more residential home within PWW's franchise in the Town of Plaistow. In support of the request, PWW states:

1. PWW is a regulated utility providing water service to approximately 28,772 customers in Amherst, Bedford, Derry, Epping, Hollis, Merrimack, Milford, Nashua, Newmarket, Plaistow, and Salem. Within this service territory, on July 18, 2012, the Commission issued Order No. 25,393 (at Tab 7 in this docket) approving PWW's expansion of its franchise for its Twin Ridge community water system in the Town of Plaistow (Town). The expansion was necessitated by the need for public water service for residences affected by the chemical plume emanating from the Beede Waste Oil Superfund (Superfund) site. As noted in Staff's letter of recommendation dated May 12, 2012 (at Tab 3 in this docket), the residences affected by the Superfund site, and which were the subject of the original franchise expansion request, are in the vicinity of Kelley Road, Shady Lane, and Walton Road in Plaistow. See Staff Recommendation franchise expansion map outlined in purple at Tab 3, page 15.

2. The request in this instant motion is to add one more lot. The additional lot, #28 Walton Road, is identified as a black square on Attachment A and is adjacent to the purple franchise

boundary seen in Staff's Recommendation attachment (Tab 3, page 15). See Attachment A, 2012 map, updated only to denote location of #28 Walton Road. PWW is filing its request in the original docket because the record in this docket is highly relevant to the instant request.

3. In Order No. 25,393, the Commission found that PWW possessed the requisite managerial, technical, and financial expertise to provide water service. Tab 7, Order at 4. The Commission found the franchise expansion was for the public good. *Id.* The Commission found charging PWW's tariffed rates in this expanded franchise area to be just and reasonable. *Id.* PWW's managerial, technical, financial, and legal expertise to provide water service has not changed since the Commission's finding in 2012. The Commission is aware of PWW's managerial, technical, and financial qualifications from PWW's numerous regulatory filings which include its general rate case (DW 19-084), financing requests (DW 20-055), Qualified Capital Project Adjustment Charge (DW 19-029), tariff amendments (DW 18-076), and annual reports. These filings evidence that PWW continues to appropriately manage the company and water service in its franchise and appropriately plan for the future. As far as legal expertise, PWW will continue to follow its tariff, technical specifications, and Commission and NH Department of Environmental Services (NHDES) rules regarding the placement of curb stops within highways and municipal rights of ways so as to secure continued access to them with respect to this franchise expansion. PWW requests the Commission make the findings it made in Order No. 25,393 again for service to #28 Walton Road.

4. As noted on page 3 of Mr. Donald Ware's testimony filed at Tab 1 of this docket, the Beede Site Group (Beede) is an unincorporated association. By and through 11 Kelley and 42 Old County Road Properties, LLC, it owns and manages the Beede Waste Oil Superfund site. See Ware testimony attachment DLW-1 at page 1. Beede has requested that PWW be prepared

to provide water service to #28 Walton Road in the event the chemical plume adversely affects this landowner's private water well. This request is being made proactively ahead of any potential adverse effect so that Beede and PWW may respond quickly and avoid the need for emergency approval from the Commission and avoid delays in connecting the landowner. In order to serve #28 Walton Road, the main would need to be extended, the project would have to be sent out to bid, designs would need to be prepared, and the work would need to be inspected by PWW. This cannot occur overnight in the event the well at #28 Walton Road is compromised and the residence seeks to be connected to public water.

5. When the instant franchise was expanded, capital improvements were necessary. See PWW's filing at Tab 1 and Staff's recommendation at Tab 3. Beede committed to paying for those improvements. See Tab 1, Attachment DLW-1, Agreement for Design, Construction and Operation of Water Main and Service Connections, Section 2. For service to #28 Walton Road, Beede and PWW will continue to follow the agreement and Beede will pay for capital improvements involved in the instant expansion. Pursuant to Section 2.4, Beede will pay for the customer's meter and installation of the service line. After the installation, PWW's terms, conditions, and rates in its filed tariff will apply.

6. RSA 374:22, III requires any expansion to meet the suitability and availability requirements of NHDES. PWW filed that documentation on April 27, 2012 at Tab 1 of Docket No. DW 12-109. NHDES approved construction of a new well to serve the Twin Ridge system. Water quality testing was part of the NHDES approval and PWW has been conducting all water quality testing so as to provide suitable, safe, and adequate water service within the service territory in compliance with State and Federal requirements. As for availability, the new well was predicated on the number of existing and potential customers in the Twin Ridge system

being 209. See Tab 1, Ware Testimony, Attachment F at electronic page 14. Presently, PWW serves only 135 customers. Therefore, PWW is still well within the availability quotient approved by NHDES.

7. RSA 374:26 authorizes the Commission to grant a franchise expansion request without hearing when all interested parties are in agreement. To that end, the Town of Plaistow filed a letter of support on June 28, 2012. An updated letter of support to cover #28 Walton Road is attached as Attachment B. The Town is in agreement with Beede that this franchise request is reasonable and appropriate under the circumstances and that it will provide the Town's resident with timely options in the event of contamination of the resident's private water well. Beede's letter of support is attached as Attachment C.

8. RSA 365:28 authorizes the Commission to alter orders after notice and hearing but that the hearing requirement shall not be required when any prior order made by the Commission was made under a provision of law that did not require a hearing and a hearing was, in fact, not held. In this case, RSA 378:26 does not require a hearing when all parties are in agreement. The NHDES, which represents the State's trustee interest in the State's groundwater under RSA 481:1, supports this expansion up to 209 service connections and the expansion is under this total. The Town, Beede, and PWW are in agreement. Further, a hearing was not originally held. PWW believes that because this expansion request concerns only one parcel, the request is prospective, and that the Town still supports the request, an argument exists that a hearing is still not necessary. PWW, however, is agnostic concerning a hearing but stands ready to publish a summary order *nisi*, as was done in 2012, should the Commission feel the need to approve PWW's instant request by order *nisi*.

WHEREFORE, PWW respectfully requests the Commission:

- A. Grant PWW's request to modify Order No. 25,393 to include one additional lot abutting PWW's Twin Ridge service territory in Plaistow;
- B. Grant such other and further relief as may be just and reasonable.

Respectfully submitted,

PENNICHUCK WATER WORKS, INC.

By its Attorney,

NH BROWN LAW, PLLC

Date: October 29, 2020

By: Marcia A. Brown  
Marcia A. Brown, Esq.  
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VERIFICATION OF FACTS

I, John J. Boisvert, Chief Engineer of Pennichuck Water Works, Inc., being first duly sworn, hereby depose and say that I have read the foregoing motion and attachments and the facts alleged therein regarding Pennichuck Water Works, Inc. are true to the best of my knowledge and belief.

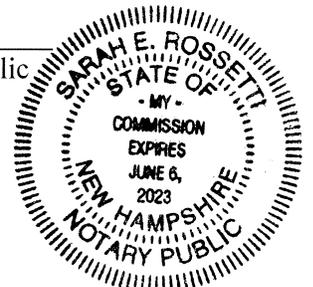
Dated: October 29, 2020

John J. Boisvert  
John J. Boisvert

STATE OF NEW HAMPSHIRE  
COUNTY OF HILLSBOROUGH

Sworn to and subscribed before me this 29 day of October, 2020.

Sarah E. Rossetti  
Justice of the Peace/Notary Public  
My Commission Expires:



I, Michael Skinner, of Michael J. Skinner Consulting, LLC, being first duly sworn, hereby depose and say that I have read the foregoing motion and attachments and the facts alleged therein regarding Beede Site Group are true to the best of my knowledge and belief.

Dated: October 19, 2020

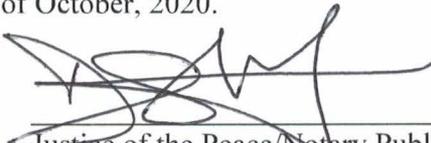
  
Michael Skinner

STATE OF NEW JERSEY  
COUNTY OF CAMDEN

Sworn to and subscribed before me this 19<sup>th</sup> day of October, 2020.



DANIEL C. EASTWICK  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires July 3, 2024  
My ID# is 2315928

  
Justice of the Peace/Notary Public  
My Commission Expires: July 3, 2024

Certificate of Service

I hereby certify that a copy of the foregoing motion has been emailed this day to the Docket-Related electronic service list, pursuant to the Commission's temporary filing requirements.

Dated: October 29, 2020

  
Marcia A. Brown, Esq.