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P R O C E E D I N G

1
2 CMSR. CHATTOPADHYAY: Good afternoon,
3 everyone. I'm Commissioner Chattopadhyay. And I
4 will be conducting today's proceeding, as
5 Chairman Goldner is not available. I'm joined
6 today by Commissioner Simpson.

7 We are here this afternoon in Docket
8 DW 22-029 for a hearing regarding a Petition by
9 Pennichuck Water Works to Approve a Special
10 Contract with Town of Hudson. Following an order
11 on June 1st, 2022, the Commission commences this
12 adjudicative proceeding and holds this prehearing
13 conference in this docket.

14 The filing raises issues like whether
15 the special contract, as requested, in lieu of
16 the current special contract, is just and
17 reasonable; whether the cost of service study
18 properly informs the requested special contract;
19 and whether retroactive implementation of the
20 requested special contract to the beginning of
21 July 2021 is reasonable.

22 Without further adieu, let's take
23 appearances. So, let's start with the
24 petitioning company.

1 MS. BROWN: Good afternoon,
2 Commissioners Chattopadhyay and Simpson. My name
3 is Marcia Brown, I'm with NH Brown Law, and
4 representing Pennichuck Water Works. And with me
5 today is Don Ware, and he is Pennichuck's Chief
6 Operating Officer.

7 Thank you.

8 CMSR. CHATTOPADHYAY: Anyone from the
9 Town of Hudson?

10 *[No verbal response.]*

11 CMSR. CHATTOPADHYAY: I don't see them.
12 So, OCA, please.

13 MR. KREIS: Thank you, Commissioner
14 Chattopadhyay, Commissioner Simpson. Good
15 afternoon, everybody. I'm Donald Kreis, the
16 Consumer Advocate. Our job, as you know, is to
17 represent residential customers, of which the
18 Town of Hudson is not an example. And with me
19 today is our Director of Finance and Economics,
20 Josie Gage.

21 CMSR. CHATTOPADHYAY: Thank you. DOE,
22 please.

23 MS. AMIDON: Yes. My name is Suzanne
24 Amidon. I am here for the Department of Energy

1 Regulatory Division, the Water Group, in
2 particular. And to my left is Jayson Laflamme,
3 who is the Director of the Water Group, and to
4 his left is David Goyette, who is an Analyst in
5 that group.

6 CMSR. CHATTOPADHYAY: Thank you. Just
7 want to make sure, are there any preliminary
8 matters that we need to worry about?

9 *[No verbal response.]*

10 CMSR. CHATTOPADHYAY: No? Okay. So,
11 let's go to the preliminary positions then.
12 Let's start with the Company.

13 MS. BROWN: Thank you, Commissioners.

14 As the Commission noted in its Order of
15 Notice for this proceeding, it concerns
16 Pennichuck Water Works' request to continue to
17 serve the Town of Hudson via a special contract,
18 and deviate from the general rates on file with
19 the Commission.

20 Pennichuck has served Hudson presently
21 under the 2005 special contract. However, as
22 also in the Order of Notice noted, that, in
23 June/July of 2021, Hudson was dealt a major blow
24 when two of its three water supply wells had to

1 be taken out of service. That was due to high
2 levels of PFAS that exceeded the newly
3 established state standards for PFAS
4 contaminants.

5 The shuttering of the wells, just to
6 put this in perspective, resulted in Hudson's
7 available water supply dropping from 1.89 million
8 gallons a day, to 1.1 million gallons a day.
9 That's a significant loss of supply. But
10 Pennichuck was able to quickly step up and
11 provide that source of supply. It has a existing
12 seasonal connection with the Town of Hudson.

13 I would like to also discuss that the
14 Commission has seen a spate of special contract
15 filings from the Company. This change-in-use of
16 Hudson going from a seasonal to full-time usage
17 has had sort of a ripple effect on some of the
18 special contracts.

19 Just to review, the Company has a
20 special contract with Anheuser-Busch, and that
21 docket just had a order approving that special
22 contract issued July 1. That docket is DW
23 21-115.

24 There is another special contract

1 involving Pennichuck East Utility that was
2 recently filed. That is Docket DW 22-040.

3 And there's a Town of Hudson docket,
4 which is this one, and the Town of Milford.

5 And then, there is another special
6 contract with the Town of Tyngsboro. And the
7 Commission is not going to see a filing regarding
8 the Town of Tyngsboro, because there are other
9 reasons, which I'll get into. The ripple effect
10 from Hudson does not extend there.

11 So, if I can back up to Anheuser-Busch,
12 and how that's effecting this present docket.
13 There was a cost of service study that was done,
14 and I probably should also back up and say that
15 Anheuser-Busch was filed because that fourth
16 special contract was up for renewal. And, so,
17 the Commission extended temporarily the fourth
18 special contract to allow the analysis of the
19 fifth special contract. That contract had a cost
20 of service study that was done, and then Hudson
21 happened, the change-of-use.

22 So, as the Commission knows,
23 Anheuser-Busch had a number of updates to it, and
24 that was to filter -- flow through any change in

1 use and resulting costs from Hudson that might
2 spill over into Anheuser-Busch.

3 Now, Pennichuck East has also been
4 filed, because, again, the Company and its
5 special contract customers have determined that
6 the cost of a proceeding is worth filing and
7 revising the terms of the existing special
8 contracts to capitalize on any savings that there
9 are.

10 Now, Pennichuck East was filed, and
11 that's Docket 22-040, that is also based on its
12 own cost of service study. And when I -- I just
13 want to clarify, in the cost of service studies,
14 there's no one cost of service study that applies
15 to all of them. There are individual cost of
16 service studies that deal with each special
17 customer to determine what the cost to provide
18 the service to the customer is. And it's the
19 specific cost of service study that drives what
20 the rates are, and then, what those rates are
21 then get folded into the special contract that's
22 proposed for review.

23 And, again, these special contracts do
24 not normally come up for review. You know,

1 they're normally 20 years or more. And, you
2 know, it was just that this change in Hudson's
3 use was so significant that it warranted
4 revisiting. Otherwise, the Company would not be
5 proposing revising as many special contracts as
6 it is recently.

7 And, if I can also state, with respect
8 to the Town of Hudson special contract, there is
9 a cost of service study. The Company feels very
10 confident, now that, you know, any tweaks to the
11 Anheuser-Busch cost of service study have been
12 made known, we've done the cost of service study
13 for Pennichuck East, one's been done for Milford.
14 With all of that review, the Company is pretty
15 satisfied that the Hudson cost of service study
16 is accurate. And, so, the rates that that study
17 has produced it feels are accurate in the
18 proposed special contract.

19 With respect to Hudson, the Department
20 of Energy has already conducted one round of
21 discovery. The OCA has not yet propounded
22 discovery. I know that the Commission, in its
23 Order of Notice, asked for a proposed procedural
24 schedule, we don't have that one developed yet.

1 We will do that at the technical session. But
2 the Company does not foresee any problems in
3 developing a procedural schedule to accommodate
4 additional discovery by the Department and OCA.

5 Just an update with the Town of
6 Milford, because that also was coming up for
7 renewal in April of 2023. Like PEU and Hudson,
8 the Company believes that the Milford cost of
9 service study is pretty fine-tuned, such that the
10 rates that that study has produced are accurate,
11 and an accurate reflection of Milford's use and
12 share of the costs.

13 And, as I said, with respect to
14 Tyngsboro, you're not going to see a special
15 contract, a ripple effect from this Hudson use.
16 With respect to Tyngsboro, Tyngsboro's contract
17 is effective through April of 2025 at present,
18 and there's no reopening, such as with some of
19 the other contracts, to review the rates charged
20 Tyngsboro until 2025. There's no reopening in
21 the contracts.

22 Also, Tyngsboro has a different
23 structure, as to supply, that makes it also
24 unique, you know, physically, from the other

1 supply contracts.

2 I would like to touch upon the fact
3 that Pennichuck Water Works has filed a general
4 rate case. It does not believe that these
5 special contracts are tied at the hip to the rate
6 case. This is because -- well, actually, let me
7 just state, I'm presuming in my comments that the
8 Commission is going to suspend the taking effect
9 of Pennichuck Water Works' rates, which it has
10 filed tariffs for effective August 1st. Under
11 that scenario, there is going to be a 12-month
12 review and investigation of the rates. And the
13 Company does not feel that the review of the
14 special contract has to be held up necessarily
15 because of the 12-month review of the general
16 rate case. These are different analyses that are
17 performed.

18 You know, the special contracts related
19 to the special customers are based on models of
20 what it costs to provide that service. Whereas,
21 the general tariff rates are based on the cost to
22 provide those general tariff customers. There is
23 a little bit of an overlap, in that the
24 volumetric charge, traditionally, in the special

1 contracts, is trued up at each rate case. But,
2 otherwise, they are separate. And, so, the
3 Company just would like to reaffirm that it
4 believes that the Commission can go forward with
5 a review of these special contracts independent
6 of the rate case, and, indeed, they do need to be
7 resolved before the rate case is finalized,
8 because the revenues need to be taken account of
9 in setting the general rates for the
10 General-Metered customers and unmetered
11 customers.

12 Okay. I appreciate your patience with
13 my lengthy comments. Mr. Ware is here, if the
14 Commission has any questions. We look forward to
15 developing a proposed procedural schedule in the
16 technical session following this.

17 And we thank you for your time today.

18 CMSR. CHATTOPADHYAY: Thank you. OCA,
19 please.

20 MR. KREIS: Thank you, Commissioner
21 Chattopadhyay. My comments will be brief.

22 I respectfully disagree with the
23 Company. In fact, I think these special
24 contracts should be connected at the hip to the

1 rate case. I believe that the Commission should
2 dismiss this Petition, close this docket, and
3 advise the Company that any rate agreement that
4 it wants to conclude with respect to the Town of
5 Hudson, and really any of the other parties that
6 Ms. Brown just mentioned, should be resolved in
7 the rate case. That's how this thing works.

8 The Commission opens up a docket, looks
9 at a company's overall revenue requirement, and
10 then apportions that revenue requirement
11 equitably among all of the Company's customers,
12 be they wholesale or retail, according to
13 established rate design principles. That's how
14 this thing should work.

15 The only justification that the Company
16 has offered for deviating from that practice here
17 is the desire to, I think, get an immediate
18 answer about the rate to be paid by the Town of
19 Hudson. But there are provisions in the law
20 governing rate cases that provide for temporary
21 rates. That's the way to address that problem,
22 given the extended period for which the rate --
23 during which the rate case might be pending.

24 Beyond that, I would also note that the

1 OCA is deeply committed to opposing retroactive
2 ratemaking. And here we have a situation in
3 which a utility is before you asking to give a
4 big important customer a huge retroactive rate
5 discount. That is worrisome from the perspective
6 of residential utility customers, both of this
7 utility and any utility, because, again, that's
8 not the way this is supposed to work. And the
9 New Hampshire Constitution is actually the
10 authority for not allowing retroactive
11 ratemaking. So, it's a big deal.

12 That said, I come to every prehearing
13 conference with an open mind and heart, and I'm
14 willing to sit down during the technical session
15 and talk about whether there's some better
16 approach to this than the one I just articulated.

17 I'm interested to hear what the
18 Department of Energy has to say, and I'm also
19 interested in what the Commissioners have to say.
20 And, so, we look forward to moving forward on
21 that basis.

22 CMSR. CHATTOPADHYAY: Thank you. DOE,
23 please.

24 MS. AMIDON: Thank you.

1 The Department's Regulatory Services
2 Division isn't prepared at this point to speak to
3 some of the issues raised by PWW and by the
4 Consumer Advocate, regarding the merits of
5 including this contract in the rate case.

6 My colleague in the Legal Division is
7 in charge of that rate case, and I wouldn't
8 presume to speak on his behalf regarding that
9 particular issue.

10 I will say, I know that we have a
11 second set of data requests, which we're prepared
12 to direct to the Company at the technical session
13 today, and they address a variety of issues,
14 which I think touch on some of the concerns that
15 were raised by the Consumer Advocate, but maybe
16 in a slightly different way.

17 So, having said that, we're still in
18 the process of looking at the contract. One of
19 the things, however, that kind of concerns me is,
20 and I'm new to this Company, but there was a
21 proceeding back in 2019, in Docket 19-091,
22 regarding the special contract with Hudson, and
23 whether or not the contract could be subject to
24 arbitration by the NH PUC, and, in fact, that was

1 the arbitration docket.

2 And the other provision had to do with
3 volumetric charges. As you know, the QCPAC,
4 which I can't remember what it stands for, except
5 it's the annual capital qualified for recovery
6 through a surcharge. One of the arguments raised
7 by the Company in that arbitration -- I mean, by
8 the -- strike that -- by the Town of Hudson in
9 that arbitration, was that the contract states a
10 reference to "volumetric charge", not to a
11 "surcharge". And, if you read the definition in
12 the contract of "volumetric charge", which is at
13 Attachment DLW-2, Bates 004, it doesn't mention
14 the QCPAC at all.

15 In the 19-091 docket, the Commission
16 did decide that Hudson was responsible for paying
17 the QCPAC surcharge. And, as you know,
18 Commissioner Simpson, what a contract is supposed
19 to do is just try to state in the clearest terms
20 how those provisions will be enacted. And, given
21 that the Commission already ruled on this, I
22 suggest you read that prior docket, and determine
23 whether there should be some change to this
24 definition of "volumetric charges" that includes

1 that cost, since it was previously settled in
2 that docket.

3 While, you know, while this is a
4 contract issue, I still have concern about it,
5 being a lawyer, I'm used to being able to
6 reference things within the contract or
7 attachments to the contract. And I understand
8 that, in the QPFAC -- QCPAC proceeding, there may
9 have been some language about this. There should
10 be something in this contract that tells the
11 reader and the regulator, you know, what these
12 charges entail. So, that's just another -- it's
13 a legal observation I'm making outside of the
14 merits of the contract going forward.

15 But, as I said, the Department is still
16 looking into it, and we do have additional
17 questions for the Company today.

18 Thank you.

19 CMSR. CHATTOPADHYAY: Thank you. I
20 would go to the Commissioners' questions.
21 Commissioner Simpson.

22 CMSR. SIMPSON: Thank you. I
23 definitely have some questions that pertain to
24 some of the comments provided by the parties.

1 It appears that -- looks like the
2 Company's top five customers, if this petition
3 were approved, would be on special contracts.
4 And I'm curious to hear from the Company, with
5 respect to the appropriateness of that, and
6 whether there are circumstances that the Company
7 encounters that would suggest a general
8 tariff-based rate for these types of customers
9 could be developed, and would be more
10 appropriate?

11 So, I don't know if, Mr. Ware, you
12 might speak to that for us?

13 MR. WARE: Yes, Commissioner Simpson.
14 I would be happy to do that.

15 So, why a special contract? Each one
16 of these customers who are subject to a special
17 contract meet a set of criteria that says they
18 are different. And what those are, so, first of
19 all, each one of these customers has other
20 sources of supply. So, we are not their only
21 source of supply. They have options to go and
22 expand their supply, which is what Hudson is
23 looking at right now, treat their supply. But
24 they have options, that's number one.

1 Number two, they all have their own
2 sources of storage. Which means, when you look
3 at their impact on facilities, pipe sizes, pump
4 sizes, they are not an entity that, when they
5 want water in an instant, they get water in an
6 instant. It's taken at a fixed rate.

7 You know, you, as a residential
8 customer, or larger industrial customers, they
9 take water as they want it, when they want it,
10 with no restrictions or limitations on the timing
11 and the amount that they can take.

12 Thirdly, they all guarantee a minimum
13 annual amount of usage. So, again, if they use
14 nothing, they're going to pay for a certain
15 amount of usage. They are paying to reserve a
16 part of the plan to ensure that we can deliver
17 water, in a fixed charge, which is well above
18 what would normally be paid through a meter
19 charge.

20 So, those are the basic criteria that,
21 when you look at, you know, could somebody be a
22 special customer? You know, do they have another
23 source of supply? Do they have their own
24 storage, so that they don't create higher peak

1 hourly and peak daily rates? You know, do they
2 have the ability -- you know, are they going to
3 guarantee a certain amount of usage?

4 And, you know, so, those would be the
5 primary criteria, and that applies to each one of
6 these entities that are there.

7 CMSR. SIMPSON: So, if the customers,
8 five or so biggest customers that the Company
9 serves, if they all align with those principles
10 you just described to us, why wouldn't the
11 Company develop a general rate for those types of
12 customers?

13 MR. WARE: Because this is based on
14 what's called the "cost to serve". So, each
15 customer has a unique basis of service. What
16 facilities are they using? How much of those
17 facilities are they using? How much are they
18 guaranteeing that they're going to buy?

19 So, when you look at the AWWA
20 methodology --

21 CMSR. SIMPSON: Uh-huh.

22 MR. WARE: -- for developing a cost of
23 service study, those are the criteria that are
24 used to distribute both operational costs, direct

1 and general, and what -- typically, they'd set up
2 a rate base, but, in our case, associated with
3 debt. So, that, you know, dependent upon where
4 they are in the system, and how they use water in
5 the system, and how much they use, each is
6 unique.

7 Now, that being said, the underlying
8 starting point is identical for every customer,
9 which, in this case, to Mr. Kreis's comments, is
10 our last full, completed rate case, 19-084. And,
11 in fact, you know, that's the basis of the
12 revenues and expenses, and the capital at the
13 time.

14 Once a rate's established, then it gets
15 adjusted at each rate case. And, in fact, in the
16 current rate case, we have incorporated the
17 impact of the expected changes from these
18 contracts. Why is it timely that we get them as
19 soon as practical? Because, currently, when you
20 look at how the rates are structured, they're not
21 structured to match the actual costs. And, so,
22 we would like to get that rectified, whether
23 they're retroactive or not retroactive, that's, I
24 guess, an issue for the various parties to

1 discuss.

2 You know, but, again, as long as we
3 continue under the current basis, the rates
4 aren't structured on the current usages and
5 demands. And, so, that's why we're seeking to do
6 this.

7 But, again, it's not independent of the
8 rate case. Whatever the base of the decision is,
9 which is currently on the same platform, 19-084's
10 revenue requirement, will now be applied against
11 22-032.

12 And that's the way it is typically,
13 cost of service studies, special contracts are
14 not tied, and I can look at every one of our
15 special contracts, with the exception of the last
16 one with Anheuser-Busch, were totally independent
17 of rate cases. They are tied to the last rate
18 case. And that's what's being done here.

19 We had a confluence of a series of
20 special contracts, two that were coming due and
21 needed to be redone, Anheuser-Busch and Milford,
22 and then we had this unique environmental event
23 that changed the overall structure of the usage
24 patterns and the sharing of those costs that were

1 created by the loss of the wells, which impacted
2 both Pennichuck East and the Town of Hudson.

3 But, again, they're not independent of
4 the rate case. Ultimately, they get folded into
5 the rate case.

6 But, again, I would make the point that
7 the Tyngsboro contract, the previous Hudson
8 contract, the original Anheuser-Busch contracts,
9 up through the third contract, none of those were
10 done as part of a rate case proceeding. The
11 results very clearly are part of a rate case
12 proceeding. The generated revenues are accounted
13 for. And whatever happens here, we will
14 incorporate, if these contracts are done before
15 the rate case, we will incorporate the impact to
16 those into the pro formas associated with the
17 revenue requirement.

18 CMSR. SIMPSON: Okay. Thank you. With
19 respect to your comments pertaining to cost of
20 service, every customer has a unique cost of
21 service. But, particularly with, you know, your
22 residential classes, you have one cost of service
23 study to look at those customers. Is that fair
24 to say?

1 MR. WARE: Yes.

2 CMSR. SIMPSON: So, I'm just concerned
3 that a large portion of your customer base, which
4 maybe you could quantify for us, looking at these
5 customers that you have that have special
6 contracts, all of them having unique rate
7 arrangements with the Company. And I can
8 appreciate tying the special contract to the cost
9 of service study in your rate case. But will you
10 then tie the results of that rate case and the
11 cost of service study that you do there to the
12 special contracts that are outstanding?

13 MR. WARE: So, the five special
14 contracts, --

15 CMSR. SIMPSON: Uh-huh.

16 MR. WARE: -- one of those is still
17 there, it's not due up for renewal until 2025.
18 So, you know, its revenues that it's created is
19 part of the revenue stream associated with the
20 current filing. The revenue streams that would
21 be developed and the guaranteed flows and
22 requirements that we're seeking as part of these
23 cost of service studies and these special
24 contracts would be folded into that next rate

1 case, because that would be done, if it's twelve
2 months down the road, hopefully, that's going to,
3 you know, these will be done, the Anheuser-Busch
4 is complete, Pennichuck East has been filed,
5 Hudson has been filed, Milford is about ready to
6 be filed, those would all be folded in to the
7 overall contracts overall.

8 CMSR. SIMPSON: So, could you quantify
9 those five special contracts, in terms of the
10 load that the Company serves?

11 MR. WARE: Yes. Yes. So,
12 General-Metered customers, everybody else but
13 those, again, and it depends upon what you're
14 looking at. But, generally, they account for
15 about 78 percent of the average daily demand.
16 And the remaining portion of that demand is
17 picked up by those five customers. So, roughly
18 25 percent, or, you know, it depends upon whether
19 you're looking at average day, peak day, or peak
20 hour.

21 CMSR. SIMPSON: Okay.

22 MR. WARE: Cost of service study looks
23 at separate buckets, because your assets are
24 designed to meet different needs. And, so, the

1 cost of service study methodology, again, it is a
2 methodology that's been utilized by the AWWA,
3 literally, for decades, and when you read the
4 underlying premise, specifically for this
5 purpose.

6 As just one example, Tyngsboro came to
7 us. They were buying their water from Lowell,
8 and they had their own source of supply. And,
9 basically, they came to us in the 2014-2015
10 timeframe, said "What can you sell us water for?"
11 If they had to buy it at retail rate, they would
12 not be buying it from us. And the portion of the
13 general administrative load portion of the plant
14 that they paid for would be picked up by other
15 customers.

16 So, this is where a special contract is
17 really where there's a competitive profile or
18 market in a unique customer, in that they don't
19 create peak loads like all of the other
20 customers' peak demand loads.

21 CMSR. SIMPSON: So, your -- the
22 Company's perspective is that these types of
23 special contracts don't result in cost-shifting,
24 that they reflect accurately what it costs the

1 Company to serve these individual customers, and
2 don't subsequently harm your customers on
3 tariffs?

4 MR. WARE: Yes. That is -- that is
5 correct. That's why the cost of service studies
6 are set up. You want to attract these customers,
7 because they're beneficial. Without a special
8 rate, Anheuser-Busch would go back to their
9 wells. They could treat their water and produce
10 water less than what they buy it from us from.
11 You know, so, you look at each one. But, when
12 you look at it, it is truly based on the cost of
13 service. What share of the assets they're using?
14 What are their variable costs? You know, what is
15 their appropriate share of the administrative
16 costs?

17 So that they are not only paying their
18 share, but, like you said, generally, when you
19 look, rates are all the same for everybody. you
20 know, the volumetric rate is the same for
21 everybody but the special contract customer. The
22 metered rates are based on meter size. You know,
23 that is one differentiation. Why do you pay more
24 for a six-inch meter than a five-eighths-inch

1 meter per month? Because you know you're going
2 to -- that meter requires a higher flow rate
3 through it, so it requires larger facilities,
4 larger pumps, larger pipes, more storage.

5 MS. BROWN: I can also add, in 19-084,
6 there was a settlement, because it was the time
7 for Pennichuck to come up with another cost of
8 service. It was time. And, so, there were some
9 adjustments among some of the customer classes.
10 And that was litigated, there was a settlement,
11 and there's a phase-in of the adjustments of that
12 cost of service recommendation for fire
13 protection, General-Metered, going up and down
14 every November, until the next Pennichuck rate
15 case from now, there will be another cost of
16 service to make sure that there's no subsidies
17 going back and forth.

18 So, I just wanted to bring that to your
19 attention, that rate design was thoroughly looked
20 at in the last rate case.

21 Thank you.

22 CMSR. SIMPSON: So, with this, and I
23 want to say I commend the Company for stepping up
24 to provide the Town of Hudson water service,

1 given the circumstances and the contamination
2 that was identified by the New Hampshire
3 Department of Environmental Services.

4 Given that this would be or is a very
5 large customer, and I believe the largest
6 customer, and please correct me if I'm wrong, for
7 PWW, does the Company have infrastructure issues
8 that result from serving this customer, and then
9 associated impacts to your backbone systems?

10 MR. WARE: So, there is no impact up to
11 a certain level. So, the level they have asked
12 for, there's no impact. If they were to increase
13 that, they would have to pay for 100 percent of
14 those costs.

15 As an example, when they interconnected
16 seasonally with us back in 1996, they built the
17 pipeline across the river, they built the pumping
18 station. This past year, when they needed to
19 start taking water from us, they put a third pump
20 in that pumping station, and they then set up the
21 ability to run enough water over the river, under
22 the bridge, so that the line wouldn't freeze
23 during the winter months, a hundred percent of
24 those costs.

1 And that is, you know, typically, you
2 know, it's the way these get set up that they
3 have to pay 100 percent of any costs that are
4 unique to them. If a pipeline had to be
5 increased in size, which there are none, but, if
6 they did, and it was exclusively because of them,
7 they would pay for the cost of the pipeline. If
8 there's a shared pipeline, which is what a cost
9 of service study looks like, where there are
10 beneficiaries on both sides, that's when you
11 start to parse out "what part of that water main
12 was necessary to provide service above and beyond
13 the customers that were already there?"

14 CMSR. SIMPSON: And you note that, in
15 the Petition, that the municipality is evaluating
16 options, and that this contract is proposed for a
17 limited term, with some renewal milestones in
18 there that are provided to the municipality.

19 Do you have any insight into how that
20 process is going for Hudson, and the likelihood
21 of them seeking long-term alternatives?

22 MR. WARE: So, the Town has hired an
23 engineer, I believe Weston & Sampson, to do a
24 life cycle study. And the alternatives they're

1 looking at are treating the existing wells, and
2 then going back to utilizing us as a seasonal
3 supply; possibly a surface -- abandoning the
4 wells in total and developing a surface water
5 supply, taking water from the Merrimack River,
6 so, that would require a complete treatment plant
7 and an intake; or, buying 100 percent of their
8 water from us; or, buying -- keeping their one
9 active well, as long as that doesn't become
10 contaminated, on line, and then buying the
11 residual water from us.

12 So, there are four options on the
13 table. Where they are in that process, I do not
14 know.

15 CMSR. SIMPSON: Uh-huh.

16 MR. WARE: As an FYI, the DES paid for
17 the cost of service study associated with this
18 special contract that's been drawn up.

19 CMSR. SIMPSON: And the Department of
20 Environmental Services, from the Company's
21 perspective, is supportive of the special
22 contract?

23 MR. WARE: We have not asked them about
24 the special contract. Basically, they had grant

1 money available that they gave to Hudson. Hudson
2 knew that they needed a supply.

3 CMSR. SIMPSON: Uh-huh.

4 MR. WARE: And, so, when they went to
5 the DES, the DES gave them the grant money. But,
6 you know, I think, you know, the DES likes the
7 fact when there's multiple connections. So, they
8 like the fact that, you know, that there is that
9 connection that's there.

10 If they were to look to us as a
11 full-time supply, the DES would probably look for
12 an additional secondary line besides the primary
13 line. So, if that line went down, the Town,
14 after it ran out of its own storage, which would
15 be in a couple days, wouldn't be out of water.

16 CMSR. SIMPSON: So, is it safe to say
17 that the Town of Hudson is supportive of the
18 proposed special contract?

19 MR. WARE: Yes. We have a signed
20 version of it, subject to approval by the
21 Commission. So, as part of the filing, we had
22 developed the contract that was included in the
23 filing as, I believe, an exhibit. And, so, yes,
24 they are supportive of it.

1 CMSR. SIMPSON: And I'd note, for me,
2 as a general matter, when considering special
3 contracts with an individual customer, when we
4 have testimony or participation from that
5 customer, it's very informative, and it helps us
6 make a decision.

7 So, in your work with this customer, if
8 they're able to participate in this proceeding,
9 and any other customer that you have special
10 contracts with, that helps the Commission
11 understand the issues.

12 MR. WARE: So, there is a letter of
13 support that was submitted as well.

14 CMSR. SIMPSON: Uh-huh. I saw that.
15 Thank you.

16 MS. BROWN: But note taken to have them
17 physically present for like today's prehearing,
18 we understand that would be helpful to the
19 Commission. Thank you.

20 CMSR. SIMPSON: I think I -- and, then,
21 with respect to the "retroactive ratemaking", can
22 the Company comment on why they feel that's
23 appropriate?

24 MR. WARE: So, I think there are two

1 reasons. Marcia was going to mention one, which
2 I'll mention is, is that, based on the current
3 profile, they were being charged substantially
4 more than they should be. Based on their old
5 profile, the rate was right. The cost of service
6 study established it. They only took water
7 during the summer. They only took their, you
8 know, no guarantee, no participation in the
9 overall facility.

10 When that changed, which it changed
11 last July 1st, everything changed. So, you know,
12 in one respect, we will have collected, if you
13 look at the current cost of service study, and
14 this were to go till the fall, probably \$600,000
15 more than we should have.

16 Now, that being said, those, because of
17 how we're structured, if there was no
18 retroactivity, those are going to go into the
19 Rate Stabilization Funds and help offset rates.

20 But, when you look at a "fairness"
21 issue here, we don't want any customer group to
22 subsidize another. So, you have the
23 General-Metered, you have the Private Fire, you
24 have Municipal Fire, and then you have the

1 special contracts. And the rates are set up so
2 that everybody carries their share.

3 In this case, this is going to result
4 in, if we don't have the retroactive rates, that
5 subsidization from the Town of Hudson, based on
6 the results of the cost of service study, back to
7 all the General-Metered customers for that
8 duration of time.

9 CMSR. SIMPSON: And moving forward, the
10 Company would not advocate for moving this issue
11 into their general rate case?

12 MS. BROWN: No. We want to keep the
13 docket open here, and deal with it. And, if OCA
14 is going to file a motion to dismiss, then, you
15 know, we will respond appropriately.

16 And this is, you know, notwithstanding
17 OCA's comments, these special contracts are
18 usually dealt with in a separate docket. If they
19 do coincide in a certain year, I think there was
20 one that you mentioned, it was Anheuser-Busch, --

21 CMSR. SIMPSON: Uh-huh.

22 MS. BROWN: -- there was a joined order
23 that cited both dockets, when it approved the
24 special contract and it approved the rate case.

1 MR. WARE: But they were in two
2 separate dockets. There was an approval of the
3 Anheuser-Busch rate, that then got incorporated
4 into the -- into the rate case that was ongoing.

5 That's essentially what we see here.
6 Cost of service studies, due to, you know, the
7 timing of the old contract expiring and/or the
8 environmental conditions changing, move forward
9 with those. When you see the rate case filing,
10 which has come in, we've actually made pro formas
11 reflecting the changes that we anticipate may
12 come out of this. Now, until these are
13 finalized, you can't do the final numbers.

14 But it will be incorporated into the
15 results. It's not like we're going to have
16 these, and they're not going to be part of that
17 rate case. But they really stand on their own
18 merits. And you have to base them on the known
19 and measurable at the time, which was the last
20 filed rate case.

21 CMSR. SIMPSON: Okay. Thank you,
22 Mr. Ware.

23 And then, I would just ask the
24 Department, the Consumer Advocate, it sounds as

1 if there's a technical session scheduled to work
2 with the Company on this issue, is that correct?

3 MS. AMIDON: Yes. I believe it was
4 scheduled in the Order of Notice, the procedural
5 order.

6 CMSR. SIMPSON: Uh-huh.

7 MS. AMIDON: And, so, I know that the
8 Department has questions that they plan to
9 address today.

10 CMSR. SIMPSON: Okay.

11 MS. AMIDON: And I'm assuming that the
12 Consumer Advocate is also prepared.

13 CMSR. SIMPSON: Okay. All right.
14 Thank you. I'm all set, Commissioner
15 Chattopadhyay.

16 CMSR. CHATTOPADHYAY: Thank you. I
17 have some conceptual questions here.

18 So, I think you've talked about the
19 alternatives that the Town of Hudson has. Let's
20 assume that it chooses to just continue with the
21 wells that they had, and just make sure they're,
22 you know, that they comply with the environmental
23 needs. So, whatever effort they're going to put
24 there, that happens.

1 Would -- in that situation, should we
2 assume that Town of Hudson will again use you as
3 a peaking resource for summer?

4 MR. WARE: So, the term "peaking" would
5 be, if you think about a normal customer, their
6 peak is instantaneous. Water is not
7 compressible, okay? So, it happens when it
8 happens.

9 Hudson has about 6 million gallons of
10 storage. So that we pump to that at a set rate.
11 So, the pump's on or it's off, and it runs at a
12 set rate. The instantaneous demands within that
13 community, which can be as high as four to five
14 times what that rate is, are coming out of the
15 storage tank. So that, you know, they're not --
16 right now, they don't use any water during the
17 winter, and they only use water, like I say,
18 right now, prior to last July 1st, they only took
19 water when the wells could not keep up with their
20 demand. It wasn't a daily winter, you know, all
21 365 days a year demand.

22 So, their peaking -- they will still
23 use more water in the summer, but the rate that
24 they're using at is limited to the rate of the

1 pumps, it's not limited to the instantaneous
2 demand of all their customers at any one moment
3 in time.

4 CMSR. CHATTOPADHYAY: But what I said
5 was, under that alternative, it would be -- it's
6 I guess my assumption would be that the Town of
7 Hudson would have to rely on PWW, at least
8 sometimes during the summer months?

9 MR. WARE: They would be 100 percent,
10 in the scenario you pointed out, they would be
11 100 percent reliant on us for 100 percent of
12 their water, and their usage during the summer
13 months will be higher than during the winter
14 months.

15 MS. BROWN: Can I also add --

16 CMSR. CHATTOPADHYAY: I think I'm
17 asking a slightly different question. Okay, what
18 I'm saying is, and maybe I misunderstood what you
19 had described, I'm saying, let's go back to
20 pre-July 2021, okay? And the wells that the --
21 that Town of Hudson had, they were relying on
22 them most of the times, and they were using PWW
23 just as a, within quotes, as a "peaking
24 resource", correct?

1 MR. WARE: Yes.

2 CMSR. CHATTOPADHYAY: Yes. So, I'm
3 saying, if they correct all the issues with those
4 wells, and that is the alternative that they
5 choose, then they would -- then they would be
6 seasonal customers of PWW?

7 MR. WARE: That, if they went back to
8 the wells, yes.

9 CMSR. CHATTOPADHYAY: That's what I was
10 trying to --

11 MR. WARE: Yes.

12 CMSR. SIMPSON: And can I ask a
13 follow-up on that?

14 CMSR. CHATTOPADHYAY: Sure.

15 MS. BROWN: Can I respond to that
16 question?

17 CMSR. CHATTOPADHYAY: Absolutely, yes.

18 MS. BROWN: Because I believe is
19 your -- part of the question turning to, if there
20 is such a reduction in the rate now warranting,
21 and if they go back to being a peaking, are they
22 covering their costs? Was that part of your
23 question? Because that's why the contracts are
24 so short. You know, it expires June 2023. And

1 there --

2 CMSR. CHATTOPADHYAY: Yes. It's part
3 of that question. But I'm also thinking in terms
4 of, in the future, if they choose some other
5 alternative, and the one that I described is the
6 one they go for, then what happens? Like, you
7 know, that's really where I'm going.

8 MS. BROWN: Well, then, there's another
9 cost of service study after the -- or, near the
10 conclusion of this one, and another time to
11 revisit the rate to make sure that it's just and
12 reasonable.

13 MR. WARE: That, as Ms. Brown
14 indicated, that's why this contract, as opposed
15 to being five or ten years, is only three years,
16 because their -- if their pattern changes, so
17 their rates would have to change as well.

18 CMSR. CHATTOPADHYAY: I think you had a
19 question. I'll let you follow up.

20 CMSR. SIMPSON: If the Company -- well,
21 excuse me, if the municipality were to revert to
22 their own supply in between one of those contract
23 periods, would the Company come back to the
24 Commission and inform us of that change in

1 service, to revert back to a different rate
2 structure?

3 MR. WARE: So, there are a couple
4 things. Remember, one thing in here is they're
5 guaranteeing that they're going to buy a million
6 gallons of water a day. So, if they get all
7 those wells back on line, and they want to
8 utilize those, and pay us for a million gallons a
9 day, there's no reason to change the rate. In
10 fact, that's even more beneficial to our
11 customers. We're not producing anything, and
12 they're paying to produce their own water. But,
13 as soon as the contract expires, you would come
14 back.

15 If something unique changed, like here,
16 that there was a dramatic change in the shift,
17 then we would come back. But, right now, this
18 contract is set to protect the existing
19 customers, by saying, and it's the same with
20 Anheuser-Busch and others, that they're going to
21 continue to pay whether they're using water or
22 not. So that you have an opportunity to adjust
23 the rates, and not cause a problem or harm to the
24 other customers.

1 CMSR. SIMPSON: Thanks.

2 CMSR. CHATTOPADHYAY: Just can you give
3 me a sense of what is the revenue requirement of
4 PWW? And you can use a number from 22-032, or
5 just give me a sense.

6 MR. WARE: Yes. The overall revenue
7 requirement is just a little over \$40 million,
8 all-in, and then you have to back out certain
9 things, but roughly 40 million.

10 CMSR. CHATTOPADHYAY: Okay. And, as
11 far as the retroactive piece is concerned, with
12 respect to the special contract here, you're
13 talking about \$350,000, roughly, that, you know,
14 you intend to allow the Town of Hudson to benefit
15 from. You know, right now, they're paying it,
16 but it would allow them to get it back, correct?

17 MR. WARE: Well, so, the idea would be
18 to set the rates at what they would have been had
19 this contract been in place as of July 1st.
20 Every month that changes. But, yes, that would
21 be a return of that money over time, just like in
22 a rate case, back to --

23 CMSR. CHATTOPADHYAY: In twelve months?

24 MR. WARE: Yes.

1 CMSR. CHATTOPADHYAY: That's your
2 proposal?

3 MR. WARE: Yes.

4 CMSR. CHATTOPADHYAY: Can you -- you
5 talked about five, you know, other consumers that
6 are on special contract, right?

7 MR. WARE: There are five total,
8 including Hudson.

9 CMSR. CHATTOPADHYAY: Five. Are some
10 of them -- are they seasonal or, you know, what
11 kind of contracts do you have with them?

12 MR. WARE: So, each of one of the
13 contracts as they are -- so, let's take them one
14 at a time.

15 The one that's not being revisited, and
16 is not subject to renewal until 2025, and that is
17 the terminus of that contract, which means it
18 will be a cost of service study, is the Town of
19 Tyngsboro. And Tyngsboro guarantees a minimum
20 amount of usage, whether they buy it or not.
21 They follow the same platform. They limit their
22 peak draw on us.

23 And I guess what was the -- help me
24 make sure I answer your question.

1 CMSR. CHATTOPADHYAY: So, I'm curious
2 what the situation is with the other special
3 contract customers. And, so, my question is, are
4 all of them seasonal or --

5 MR. WARE: Well, I mean, none of them
6 fall into that "seasonal" category.

7 CMSR. CHATTOPADHYAY: Okay.

8 MR. WARE: And what makes them
9 "special" is not whether they're seasonal or not,
10 it's the fact that they have other alternatives,
11 that they can purchase water, that they have
12 storage of a significant nature, so that they can
13 go a day, two days, upwards of a week at times,
14 without utilizing water from the core system, the
15 fact that they're willing to guarantee a certain
16 amount of purchase, whether they purchase it or
17 not.

18 You know, so, that's what makes a
19 special customer unique.

20 CMSR. CHATTOPADHYAY: The cost of
21 service study that Town of Hudson relied on, and
22 you said it was funded by DES?

23 MR. WARE: Correct.

24 CMSR. CHATTOPADHYAY: Have you taken a

1 closer look at it? Do you -- did you make any
2 suggestions tweaking it, or you sort of took it
3 just as it is?

4 MR. WARE: No. We were corporately
5 with the consultant who did this, and it was the
6 same consultant who did the cost of service
7 studies for the Town of Milford, for
8 Anheuser-Busch, and for Pennichuck East
9 Utility's. And the basis of the expenses that
10 were being disbursed amongst those five special
11 customers and the General-Metered customer was
12 the DW 19-084.

13 CMSR. CHATTOPADHYAY: So, you don't
14 have any concerns as far as how it relied upon
15 the numbers from 19-084?

16 MR. WARE: No, I do not.

17 CMSR. CHATTOPADHYAY: Do you think
18 things would have changed, and so maybe the
19 numbers should have been different, over the last
20 three years?

21 MR. WARE: Not in terms of -- so, if
22 you look at the way they're structured, they're
23 looking at, say, expenses. So, chemical
24 expenses. Have chemical expenses gone up? Yes.

1 Will that increase in chemical expenses be
2 reflected in the current rate -- in the proposed
3 rate case? Yes.

4 But their rates that they're paying go
5 up by the same percentage as the General-Metered
6 class. And, so, you know, that any changes in
7 operational expenses flow through to those
8 contracts, changes in administrative contracts
9 and administrative expenses flow through to their
10 contracts, any changes in infrastructure to serve
11 them, again, flow through to their contracts.

12 CMSR. CHATTOPADHYAY: So, thank you.
13 Does anybody have any other comments, based on
14 our questions?

15 CMSR. SIMPSON: I have one question,
16 before we jump over.

17 CMSR. CHATTOPADHYAY: Go ahead.

18 CMSR. SIMPSON: With respect to the
19 QCPAC, I was somewhat confused as to whether or
20 not those charges are being sought in the
21 retroactive amount that would be refunded? Can
22 you comment on that?

23 MR. WARE: So, what we're looking at
24 is, is if you took this rate back, started with

1 the new rate, you would apply the QCPAC surcharge
2 to that new rate. So, when you looked at what
3 happened over the last year, what would your bill
4 have been under these rates taking effect July
5 1st, with any changes to rates, which would
6 include any QCPAC adjustments, and what were
7 they, what did you actually pay?

8 CMSR. SIMPSON: Okay. Thank you.

9 CMSR. CHATTOPADHYAY: Yes. Sorry. My
10 question stays again, like, is there anything
11 else you want to share, based on the questions we
12 had?

13 *[No verbal response.]*

14 CMSR. CHATTOPADHYAY: No?

15 MR. KREIS: If I might? I think it was
16 Ms. Brown who alluded to the possibility of the
17 OCA "filing a motion to dismiss". I guess that
18 prompts me to ask the Commission what it would
19 like, by way of addressing the issues that I
20 mentioned in my preliminary statement of
21 position.

22 As far as I'm concerned, the Commission
23 is perfectly welcome, on its own, in some
24 prehearing conference order, or otherwise, to say

1 "You know what? I think, really, this should be
2 folded into the rate case."

3 And, you know, I don't think it's
4 imperative or necessary for me to make some kind
5 of filing and asking you to do that necessarily.
6 On the other hand, if you would prefer that I did
7 that, I, of course, am always willing to do what
8 the Commission would like me to do.

9 *[Commissioner Chattopadhyay and*
10 *Commissioner Simpson conferring.]*

11 CMSR. CHATTOPADHYAY: So, the
12 Commission is saying, we don't want to advise,
13 you know, the parties to do whatever, you know,
14 that we think it's -- feel free to assume
15 otherwise right now.

16 MR. KREIS: And that -- I'm fine with
17 that, of course.

18 CMSR. CHATTOPADHYAY: Yes.

19 MR. KREIS: All I'm really trying to
20 say to the Commission is, merely because the
21 Company suggested that I might do that, doesn't
22 mean that I will do that or that I'm waiving that
23 argument by not doing it.

24 CMSR. SIMPSON: Duly noted.

1 CMSR. CHATTOPADHYAY: Yes. And I
2 assumed that.

3 CMSR. SIMPSON: May I ask, does the
4 Consumer Advocate and your staff intend to
5 participate in the technical discussions?

6 MR. KREIS: Yes.

7 CMSR. SIMPSON: Okay. Thank you.

8 CMSR. CHATTOPADHYAY: So, thank you.
9 Whoops. Thank you.

10 The Commission would prod the parties
11 to thoroughly address all the issues raised in
12 this docket.

13 Speaking on my behalf, I know that the
14 Water Division with DOE does a great job in
15 probing issues. And I'm confident things will be
16 no different even in this docket. So, I'm
17 looking forward to that.

18 On that note, we will let the parties
19 proceed to the technical session. Thank you.
20 The prehearing conference is adjourned.

21 **(Whereupon the prehearing conference**
22 **was adjourned at 2:30 p.m., and a**
23 **technical session was held thereafter.)**

24