

STATE OF NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION
DW 22-040 PENNICHUCK WATER WORKS, INC.

Petition for Approval of Amendment to Special Contract with Pennichuck East Utility, Inc.
COMMENCEMENT OF ADJUDICATIVE PROCEEDING AND NOTICE OF PREHEARING CONFERENCE

On June 28, 2022, Pennichuck Water Works, Inc. (PWW) filed a petition requesting that the Commission approve an amendment to its existing special contract with Pennichuck East Utility, Inc. (PEU) pursuant to RSA 378:18. In support of its petition, PWW filed the direct testimony of Donald L. Ware, PWW's Chief Operating Officer, related attachments, a statement of special circumstances, a copy of the existing contract, and a copy of the proposed amendments. The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are available on the Commission's website at www.puc.nh.gov/regulatory/Docketbk/2022/22-040.html.

I. BACKGROUND AND PROCEDURAL HISTORY

The Commission approved the existing special contract for wholesale water service between PWW and PEU in Docket No. DW 17-071. See Order No. 26,049 (August 23, 2017). Pursuant to this contract, PWW supplies PEU with water that PEU uses to provide retail water service to its customers in the Town of Litchfield (Litchfield) and to some of its customers in the Towns of Londonderry, Pelham, and Windham. *Id.* at 2. The Commission stated that the contract's twenty-year term would begin when, among other things, the necessary service interconnection with PWW was completed. *Id.* at 5. PWW stated that the interconnection was completed on October 10, 2018. Petition (Pet.), ¶ 3.

Mr. Ware testified that, pursuant to its contract with the Town of Hudson (Hudson), PEU obtained 15 percent of the water produced by two of Hudson's three wells (the Twin Wells), which PEU used for its customers in Litchfield. Direct Testimony of Donald L. Ware, June 29, 2022 (Ware Testimony), at 5-6. PEU's need for water from PWW increased when Hudson was required to shut down the Twin Wells on June 29, 2021, due to perfluorooctanoic acid contamination. *Id.* On July 1, 2021, PEU began buying additional water from PWW at the rates under the current contract. *Id.* at 17-18. According to Mr. Ware's testimony, PEU will be purchasing an additional 40,150,000 gallons of water from PWW per year, an increase of about 33 percent. *Id.* at 5, 9.

In the fall of 2021, PEU notified PWW that it wished to change the terms of the present contract in response to PEU's need for additional water, and PWW commissioned a Cost of Service Study (COSS) to determine what charges would be appropriate based on PEU's changed water needs. *Id.* at 5, 10-11. The COSS indicated that, if PEU buys a guaranteed minimum of 195,187 hundred cubic feet (CCF) of water per year, then the monthly meter charge, monthly fixed charge, monthly volumetric charge, and annual demand charge would change. *Id.* at 10-12, 14-17. The volumetric charge, for example, would decrease from \$1.3920 to \$0.8240 per CCF, but would be subject to any approved Qualified Capital Project Adjustment Charges. *Id.* at 11-12, 19-20.

PWW's proposed amendments to its current contract with PEU would require PEU to guarantee a minimum annual purchase of 195,187 CCF of water per year and would charge PEU the rates contained in the COSS. *Id.* at 10, 15, 17, 20. The twenty-year term of the contract would remain the same. *Id.* at 17. Amending the contract, as proposed by PWW, would result in annual savings to PEU of approximately \$40,000. *Id.* at 20. Mr. Ware testified that the proposed amended rates better reflect PWW's actual cost of supplying PEU with water under the existing circumstances. *Id.* at 19. PEU has agreed to the terms of the proposed amendment. *Id.* at 5.

PWW has proposed that the amendments be retroactive to July 1, 2021, when PEU's water needs changed. Pet., ¶ 12. Mr. Ware testified that, if the amended rates were applied retroactively from July 1, 2021 to October 31, 2022, PEU would be entitled to a credit of approximately \$51,000, which PWW would return over a twelve-month period. Ware Testimony at 18.

In its petition, PWW requested the Commission to approve the proposed amendments to its current contract with PEU and to retroactively waive New Hampshire Code of Administrative Rules, Puc 1606.02(a)(1), which requires a utility proposing a special contract to file the terms of the contract "at least 30 days before its proposed effective date." PWW maintained that it would be just and reasonable for the proposed amendments to be made effective as of July 1, 2021, in order to represent the actual cost of PWW supplying water to PEU under the changed circumstances. Further, PWW asserted that a waiver of Puc 1606.02(a)(1) would not disrupt the orderly and efficient resolution of this proceeding.

On July 18, 2022, the New Hampshire Department of Energy filed an appearance in this docket. The Office of Consumer Advocate filed a letter of participation on August 1, 2022.

II. ISSUES PRESENTED

The filing presents, inter alia, the following issue: whether special circumstances exist so that the Commission's approval of the proposed amendments to the special contract between PWW and PEU providing for rates different from the general schedules would be just and consistent with the public interest under RSA 378:18. Accordingly, an adjudicative proceeding will be convened to address this issue.

The Commission will be conducting the prehearing conference and any hearings scheduled in this matter in person. The Commission will consider requests to conduct hearings using a hybrid format to permit remote participation by a specific individual only if the Commission has determined that a sufficient reason has been provided for why that individual would be unable to attend in person. Any party requesting that a specific individual be permitted to participate remotely should file a written request with the Commission's Clerk's Office no later than fifteen (15) days prior to the prehearing conference or hearing date. If the Commission determines that one or more individuals will be permitted to appear remotely, then individuals in the Commission's hearing room, including the Commissioners, will be broadcast on a web-enabled platform.

Based upon the foregoing, it is hereby

ORDERED, that PWW's request to waive the requirements of Puc 1606.02(a)(1) is **GRANTED** pursuant to Puc 201.05; and it is

FURTHER ORDERED, that an adjudicative proceeding be commenced for the purpose of reviewing and resolving the foregoing issue pursuant to RSA chapter 541-A, RSA 378:18, and the Commission's procedural rules; and it is

FURTHER ORDERED, that the Commission will hold a prehearing conference, pursuant to N.H. Admin. R., Puc 203.15, at its offices located at 21 S. Fruit St., Suite 10, Concord, New Hampshire, on September 28, 2022, at 9:00 a.m., at which each party should be prepared to address any of the issues set forth in N.H. Admin. R., Puc 203.15; and it is

FURTHER ORDERED, that during the prehearing conference, the Commission will consider the matters listed in Puc 203.15(c) and (d), including the establishment of a procedural schedule governing the remainder of the proceeding. Parties and potential parties are encouraged to facilitate the development of a procedural schedule by conferring prior to the prehearing conference, so that the presiding officer can address any matters on which there is disagreement during the prehearing conference. Any procedural schedule, however, will not be approved until after the prehearing conference and after consulting the Commission's calendar; and it is

FURTHER ORDERED, that, immediately following the prehearing conference, PWW shall make appropriate personnel available for the parties to hold a technical session to review the filing; and it is

FURTHER ORDERED, that any entity or individual may petition to intervene and seek to be admitted as a party in this proceeding. Each party has the right to have an attorney represent the party at the party's own expense; and it is

FURTHER ORDERED, that, consistent with N.H. Admin. R., Puc 203.17 and Puc 203.02, any entity or individual seeking to intervene in the proceeding shall file with the Commission a petition to intervene with copies sent to PWW and any other parties on the service list, on or before September 13, 2022. The petition shall state the facts demonstrating how the petitioner's rights, duties, privileges, immunities, or other substantial interests may be affected by the proceeding, consistent with N.H. Admin. R., Puc 203.17; and it is

FURTHER ORDERED, that any party objecting to a petition to intervene make said objection on or before September 23, 2022; and it is

FURTHER ORDERED, that parties shall file any proposed exhibits, written testimony, motions, or other documents intended to become part of the record in this proceeding with the Commission. Pursuant to the secretarial letter issued on March 17, 2020, which is posted on the Commission's website at <https://www.puc.nh.gov/Regulatory/Secretarial%20Letters/20200317-SecLtr-Temp-Changes-in-Filing-Requirements.pdf>, all Commission rules requiring the filing of paper copies are suspended until further notice. Parties may elect to submit any filing in electronic form unless otherwise ordered by the Commission. Filings will be considered filed as of the time the electronic copy is received by the Commission; and it is

FURTHER ORDERED, that routine procedural inquiries may be made by contacting the Commission's Clerk's Office at (603) 271-2431 or ClerksOffice@puc.nh.gov. All requests to the Commission should be made in a written pleading filed with the Commission. Unless otherwise authorized by law, ex parte communications are prohibited; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. R., Puc 203.12, PWW shall notify all entities and individuals desiring to be heard at this hearing by publishing a copy of this order of notice no later than September 7, 2022, in a newspaper with general circulation in those portions of the state in which operations are conducted, such publication to be documented by affidavit filed with the Commission on or before September 16, 2022. In addition, the Clerk shall publish this order of notice on the Commission's website no later than two business days after the date of issue; and it is

FURTHER ORDERED, that any hearings in this matter shall be conducted in accordance with the attached hearing guidelines.

So ordered, this seventeenth day of August, 2022.

*Daniel C. Goldner, Chairman
Pradip K. Chattopadhyay, Commissioner
Carleton B. Simpson, Commissioner*

Individuals needing assistance or auxiliary communication aids due to sensory impairment or other disability should contact the NHPUC, 21 S. Fruit St., Suite 10, Concord, New Hampshire 03301-2429; 603-271-2431; TDD Access: Relay N.H. 1-800-735-2964. Notification of the need for assistance should be made one week prior to the scheduled event.

NASCAR PLAYOFFS: CUP SERIES DRIVERS AT A GLANCE

The NASCAR Cup Series playoffs open this weekend at Darlington Raceway in South Carolina. A look at the 16 drivers who reached the post-season, from the top seed to No. 16:

No. 9 Chevrolet, Hendrick Motorsports
 DRIVER: Chase Elliott
 BORN: Nov. 28, 1995
 HOMETOWN: Dawsonville, Georgia
 CREW CHIEF: Alan Gustafson
 TWITTER: @ChaseElliott
 NOTEWORTHY: NASCAR's most popular driver and the 2020 Cup champion leads the Cup Series this year with four victories and is the regular season champion. He's the top seed in the playoffs and opens the first round with a 15-point advantage.

No. 22 Ford, Team Penske
 DRIVER: Joey Logano
 BORN: May 24, 1990
 HOMETOWN: Middletown, Connecticut
 CREW CHIEF: Paul Wolfe
 TWITTER: @joeylogano
 NOTEWORTHY: Logano has wins at Darlington and Gateway this season. He also won the first race in the Next Gen car in The Clash, a preseason exhibition race at Los Angeles Memorial Coliseum. Signed a long-term extension with Team Penske in August.

No. 1 Chevrolet, TrackHouse Racing
 DRIVER: Ross Chastain
 BORN: Dec. 4, 1992
 CREW CHIEF: Phil Surgen
 TWITTER: @rosschastain
 NOTEWORTHY: The eighth-generation watermelon farmer is a journeyman driver who finally got his big break this season when he was held over in Chip Ganassi Racing's sale to TrackHouse Racing. His two wins this season were on the road course at Circuit of the Americas and Talladega Superspeedway. Has angered many top Cup drivers with his aggressive driving style and the verb "Chastained" has developed for when Chastain crashes into another car.

No. 5 Chevrolet, Hendrick Motorsports
 DRIVER: Kyle Larson
 BORN: July 31, 1992
 HOMETOWN: Elk Grove, California
 CREW CHIEF: Cliff Daniels
 TWITTER: @KyleLarsonRacin
 NOTEWORTHY: A year after a record-breaking season in which he won 10 races and the Cup title, Larson has just two victories and angered teammate Chase Elliott at Watkins Glen by racing him off the track on the final restart. Larson limps into the playoffs coming off a DNF in the regular season finale.

No. 24 Chevrolet, Hendrick Motorsports
 DRIVER: William Byron
 BORN: Nov. 29, 1996
 HOMETOWN: Charlotte, North Carolina
 CREW CHIEF: Rudy Fugle
 TWITTER: @williambyron
 NOTEWORTHY: Byron needed a win in last year's regular season finale to make the playoffs but locked down his spot quickly this season with a win at Atlanta in the fifth race. He also won at Martinsville, site of the penultimate race

in the playoffs.
 No. 11 Toyota, Joe Gibbs Racing
 DRIVER: Denny Hamlin
 BORN: Nov. 18, 1980
 HOMETOWN: Chesterfield, Virginia
 CREW CHIEF: Chris Gabehart
 TWITTER: @dennyhamlin
 NOTEWORTHY: Has successfully juggled his driving career and his second season as owner of 23XI Racing while taking a leadership role in NASCAR. Has won this year at Richmond and the Coca-Cola 600. As an owner, guided 23XI driver Kurt Busch into the playoffs until Busch withdrew his spot because of concussion symptoms.

No. 12 Ford, Team Penske
 DRIVER: Ryan Blaney
 BORN: Dec. 31, 1993
 HOMETOWN: High Point, North Carolina
 CREW CHIEF: Todd Gordon
 TWITTER: @Blaney
 NOTEWORTHY: Blaney barely made the playoffs and edged Martin Truex Jr. for the final spot in the field on points. The two were locked into a points fight over the final month of the regular season as both were winless, but also high-ranking teams. Blaney's only win came in the non-points All-Star race, but his consistency ranked him in the top five in the regular-season standings all year. Signed a long-term contract extension with Team Penske in August.

No. 8 Chevrolet, Richard Childress Racing
 DRIVER: Tyler Reddick
 BORN: Jan. 11, 1996
 HOMETOWN: Corning, California
 CREW CHIEF: Randall Burnett
 TWITTER: @TylerReddick
 NOTEWORTHY: The two-time Xfinity Series champion earned his first career Cup victory with a win at Road America and then informed RCR he was leaving at the end of the 2023 season for 23XI Racing. He then added a second victory at Indianapolis Motor Speedway.

No. 4 Ford, Stewart-Haas Racing
 DRIVER: Kevin Harvick
 BORN: Dec. 8, 1975
 HOMETOWN: Bakersfield, California
 CREW CHIEF: Rodney Childers
 TWITTER: @KevinHarvick
 NOTEWORTHY: Snapped a 65-race losing streak dating to 2020 with back-to-back wins at Michigan and Richmond in August that gave the 2014 champion momentum headed into the playoffs.

No. 20 Toyota, Joe Gibbs Racing
 DRIVER: Christopher Bell
 BORN: Dec. 16, 1994
 HOMETOWN: Norman, Oklahoma
 CREW CHIEF: Adam Stevens
 TWITTER: @CBellRacing
 NOTEWORTHY: Returns to the playoffs for the second consecutive year. Earned his berth with a win at New Hampshire with seven races remaining in the regular season.

No. 18 Toyota, Joe Gibbs Racing
 DRIVER: Kyle Busch
 BORN: May 2, 1985
 HOMETOWN: Las Vegas

CREW CHIEF: Ben Beshore
 TWITTER: @KyleBusch
 NOTEWORTHY: His only win of the season came on the dirt at Bristol Motor Speedway and Busch is statistically having an off year. He's also in the final year of his contract with Joe Gibbs Racing and his lack of plans for 2023 has been a major distraction to Busch.

No. 14 Ford, Stewart-Haas Racing
 DRIVER: Chase Briscoe
 BORN: Dec. 15, 1994
 HOMETOWN: Mitchell, Indiana
 CREW CHIEF: Johnny Klausmeier
 TWITTER: @chasebriscoe_14
 NOTEWORTHY: Earned his first playoff berth very early in the season when he won at Phoenix in the fourth race of the year. He joined former Xfinity Series rival Austin Cindric as first-time Cup race winners – a group that has since ex-

panded to include Ross Chastain, Daniel Suarez and Tyler Reddick.

No. 99 Chevrolet, TrackHouse Racing
 DRIVER: Daniel Suarez
 BORN: Jan. 7, 1992
 HOMETOWN: Monterrey, Mexico
 CREW CHIEF: Travis Mack
 TWITTER: @daniel_suarezg
 NOTEWORTHY: Is having the best season of his six-year Cup career. He scored his first career victory on the road course at Sonoma and is the only foreign-born driver in the playoff field.

No. 2 Ford, Team Penske
 DRIVER: Austin Cindric
 BORN: Sept. 2, 1998
 HOMETOWN: Mooresville, North Carolina
 CREW CHIEF: Jeremy Bullins
 TWITTER: @austincindric

Adopt A Duck

NASHUA DUCK DERBY

Presented by the
Rotary Club of Nashua West

Help Rotary Make a difference in our Community!

October 15, 2022

11 a.m. at Main Street Bridge, Nashua
www.nashuaduckderby.com

**Adopt a Duck Today – One for \$5; Six Quack for \$25
 Quackers Dozen for \$50 • Flock (25) for \$100**

BRADY SULLIVAN PROPERTIES **CHANNEL** **southern new hampshire health** **LIVE UNITED** **White Mountain IT SERVICES**

Broad Street Planning **Enterprise Bank** **Barry & Honorow, P.L.L.C.** **J.P. Morgan Chase**

Chick-fil-A **Focused Eye Care** **LAW FAMILY COMPANIES** **Millard Bank** **Jeanne D'Arc**

PHOENIX & SANDERSON, P.A. **St. Mary's Bank** **CPTe** **CENTER FOR PHYSICAL THERAPY EXERCISE** **RIPANO** **Triangle Credit Union**

MOORE COMMERCIAL **PND COMMUNICATIONS** **BREATHE LIFE** **GUARDIAN** **OFSB Franklin Savings Bank**

Edward Jones **FOX PEST CONTROL** **The Telegraph**

• Lavoie Wealth Management
• The Pain Relief Center
• Nashua Area Kayak Exploration Destinations

FREE ADMISSION

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I. BACKGROUND AND PROCEDURAL HISTORY
 The Commission approved the existing special contract for wholesale water service between PWW and PEU in Docket No. DW 17-071. See Order No. 26,049 (August 23, 2017). Pursuant to this contract, PWW supplies PEU with water that PEU uses to provide retail water service to its customers in the Town of Litchfield (Litchfield) and to some of its customers in the Towns of Londonderry, Pelham, and Windham. *Id.* at 2. The Commission stated that the contract's twenty-year term would begin when, among other things, the necessary service interconnection with PWW was completed. *Id.* at 5. PWW stated that the interconnection was completed on October 10, 2018. Petition (Pet.), ¶ 3.

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PWW, would result in annual savings to PEU of approximately \$40,000. *Id.* at 20. Mr. Ware testified that the proposed amended rates better reflect PWW's actual cost of supplying PEU with water under the existing circumstances. *Id.* at 19. PEU has agreed to the terms of the proposed amendment. *Id.* at 5.

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II. ISSUES PRESENTED
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Based upon the foregoing, it is hereby ORDERED, that PWW's request to waive the requirements of Puc 1606.02(a)(1) is GRANTED pursuant to Puc 201.05; and it is

FURTHER ORDERED, that an adjudicative proceeding be commenced for the purpose of reviewing and resolving the foregoing issue pursuant to RSA chapter 541-A, RSA 378:18, and the Commission's procedural rules; and it is

FURTHER ORDERED, that the Commission will hold a prehearing conference, pursuant to N.H. Admin. R., Puc 203.15, at its offices located at 21 S. Fruit St., Suite 10, Concord, New Hampshire, on September 28, 2022, at 9:00 a.m., at which each party should be prepared to address any of the issues set forth in N.H. Admin. R., Puc 203.15; and it is

FURTHER ORDERED, that during the prehearing conference, the Commission will consider the matters listed in Puc 203.15(c) and (d), including the establishment of a procedural schedule governing the remainder of the proceeding. Parties and potential parties are

encouraged to facilitate the development of a procedural schedule by conferring prior to the prehearing conference, so that the presiding officer can address any matters on which there is disagreement during the prehearing conference. Any procedural schedule, however, will not be approved until after the prehearing conference and after consulting the Commission's calendar; and it is

FURTHER ORDERED, that, immediately following the prehearing conference, PWW shall make appropriate personnel available for the parties to hold a technical session to review the filing; and it is

FURTHER ORDERED, that any entity or individual may petition to intervene and seek to be admitted as a party in this proceeding. Each party has the right to have an attorney represent the party at the party's own expense; and it is

FURTHER ORDERED, that, consistent with N.H. Admin. R., Puc 203.17 and Puc 203.02, any entity or individual seeking to intervene in the proceeding shall file with the Commission a petition to intervene with copies sent to PWW and any other parties on the service list, on or before September 13, 2022. The petition shall state the facts demonstrating how the petitioner's rights, duties, privileges, immunities, or other substantial interests may be affected by the proceeding, consistent with N.H. Admin. R., Puc 203.17; and it is

FURTHER ORDERED, that any party objecting to a petition to intervene make said objection on or before September 23, 2022; and it is

FURTHER ORDERED, that parties shall file any proposed exhibits, written testimony, motions, or other documents intended to become part of the record in this proceeding with the Commission. Pursuant to the secretarial letter issued on March 17, 2020, which is posted on the Commission's website at <https://www.puc.nh.gov/Regulatory/Secretarial%20Letters/20200317-SecLtr-Temp-Changes-in-Filing-Requirements.pdf>, all Commission rules requiring the filing of paper copies are suspended until further notice. Parties may elect to submit any filing in electronic form unless otherwise ordered by the Commission. Filings will be considered filed as of the time the electronic copy is received by the Commission; and it is

FURTHER ORDERED, that routine procedural inquiries may be made by contacting the Commission's Clerk's Office at (603) 271-2431 or ClerksOffice@puc.nh.gov. All requests to the Commission should be made in a written pleading filed with the Commission. Unless otherwise authorized by law, *ex parte* communications are prohibited; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. R., Puc 203.12, PWW shall notify all entities and individuals desiring to be heard at this hearing by publishing a copy of this order of notice no later than September 7, 2022, in a newspaper with general circulation in those portions of the state in which operations are conducted, such publication to be documented by affidavit filed with the Commission on or before September 16, 2022. In addition, the Clerk shall publish this order of notice on the Commission's website no later than two business days after the date of issue; and it is

FURTHER ORDERED, that any hearings in this matter shall be conducted in accordance with the attached hearing guidelines. So ordered, this seventeenth day of August, 2022.

Daniel C. Goldner, Chairman
 Pradip K. Chattopadhyay, Commissioner
 Carleton B. Simpson, Commissioner

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In this order, the Commission approves a petition of Pennichuck Water Works, Inc. (PWW, or the Company), to borrow from the New Hampshire Drinking Water State Revolving Fund (DWSRF) principal loan amounts totaling \$540,000 for the Sweet Hill Community Water System Project (Sweet Hill Project) and the Twin Ridge Community Water System Project (Twin Ridge Project) in Plaistow. The projects will provide infrastructure upgrades and interconnections for the Sweet Hill and Twin Ridge community water systems.

The Petition and subsequent docket filings, other than information for which confidential treatment is requested of or granted by the Commission, are posted to the Commission's website at puc.nh.gov/Regulatory/Docketbk/2022/22-033.html

[See Order Here](#)

[Petition for Approval of Amendment to Special Contract with Pennichuck East Utility, Inc.](#)

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[See petition here.](#)

[See hearing guidelines here.](#)