

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 22-040

PENNICHUCK WATER WORKS, INC.

**Petition for Approval of Amendments to Special Contract
with Pennichuck East Utility, Inc.**

ORDER *NISI* APPROVING SPECIAL CONTRACT AMENDMENTS

ORDER NO. 26,782

March 9, 2023

In this order, the Commission approves retroactive amendments to a special contract for wholesale water supply between Pennichuck Water Works, Inc. (PWW, or the Company) and Pennichuck East Utility, Inc. (PEU).

On June 28, 2022, PWW filed a petition (Petition) for approval to amend its existing wholesale supply contract with PEU, with amended rates retroactive to July 1, 2021, based on PEU's increased requirements. The New Hampshire Department of Energy (DOE) filed an appearance on July 18, 2022. The Office of the Consumer Advocate filed a letter of participation on August 1, 2022. No petitions to intervene were filed. A prehearing conference was held on September 28, 2022. On December 14, 2022, PWW filed a settlement agreement (Settlement) among and between PWW, PEU, and DOE. No objections were filed to the Settlement.

All 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. PETITION

In its Petition, PWW requested approval pursuant to RSA 378:18 to amend its special contract with PEU for wholesale water supply. In support of its Petition, PWW

filed the direct testimony of Chief Operating Officer Donald L. Ware with supporting attachments, including a statement of special circumstances (DLW-4); financial information in support of the contract, including a cost-of-service study (COSS) prepared by PWW's consultant, Raftelis Financial Consultants (Raftelis) (DLW-1), and copies of the existing contract and the proposed amended contract.

PWW's existing contract with PEU was approved on August 23, 2017, in Docket No. DW 17-071, by Order No. 26,049, for an initial term of twenty years (from October 10, 2018, to October 9, 2038), with automatic renewals for two successive five-year terms. At that time, PEU had a contract with the Town of Hudson (Hudson, or the Town) for the right to 15 percent of the water produced from the Dame and Ducharme wells (Twin Wells) in Hudson, or approximately 118,000 gallons per day (GPD).

Testimony of Donald L. Ware at 5-6.

PWW now seeks approval of retroactive amendments to the contract based on PEU's increased water requirements, due to the contamination of the Twin Wells and the resulting higher cost to obtain water from Hudson. Petition at 3; Testimony of Donald L. Ware at 6-7. The proposed amendments would continue PWW's agreement to supply water to PEU under amended terms. Petition at 2-3. The increased supply from PWW will permit PEU to continue to serve its customers in Litchfield Londonderry, Pelham, and Windham customers at reasonable rates.¹ *See, e.g.,* Settlement, Attachment A at 2.

¹ PEU provides water service to approximately 8,251 customers throughout New Hampshire, including the towns of Atkinson, Barnstead, Bow, Chester, Conway, Derry, Exeter, Hooksett, Lee, Litchfield, Londonderry, Middleton, Pelham, Plaistow, Raymond, Sandown, Tilton, Weare, and Windham. Petition at 2.

II. SETTLEMENT AGREEMENT

The Settlement notes the changed circumstances precipitating PEU's stated need for increased water requirements from PWW, and the consequent change in PWW's costs to provide that supply. *See* Settlement at 3-4. The revised contract, as presented by the Settlement at Attachment A, includes amendments to volumetric rates to be provided by PWW to PEU, and corresponding changes in the rates to be charged by PWW for that supply to PEU. PWW agreed to reconcile the current contract rates and the amended rates for the term of July 1, 2021, to the date of Commission approval of the proposed amendments, and that reconciliation will be reviewed by DOE, with any over-collection credited back to PEU. Settlement, Section D.1, at 8. PWW, PEU, and DOE reached agreement that the proposed amendments will have no detrimental effect on other ratepayers. Settlement, Section D.1 at 8. PWW, PEU, and DOE further agreed that the proposed amendments to the current contract are necessary to provide appropriately priced water service to PEU under the terms of the amendments, and that the amendments do not shift costs to ratepayers or affect PWW's current tariff rates. Settlement, Section D.6 at 10.

III. COMMISSION ANALYSIS

Pursuant to RSA 378:18, the Commission may, by order, permit a utility to charge rates that depart from a utility's standard tariff when special circumstances exist "which render such departure from the general schedules just and consistent with the public interest". *See, e.g.,* Pennichuck Water Works, Inc., Order No. 26,756 (January 6, 2023) (approval of special contract for bulk water supply to the Town of Hudson to remedy lack of adequate supply and to account for costs to provide increased supply).

The statement of special circumstances (Statement) provided in support of the amended contract makes note of a 33 percent increase in the volume of water drawn, rendering PEU as PWW's third largest user. The Statement further notes that the new, proposed contract rates are based on an updated cost of service study for PWW's costs to provide service to PEU, and that PEU has its own storage and therefore does not create a high peaking factor on its usage.² In addition, the revised contract includes: a guaranteed annual purchase of at least 195,187 hundred cubic feet (CCF) equivalent to an average daily flow of 0.40 million GPD; an amended base monthly fixed fee of \$16,081.55, which is approximately 59% greater than PWW's current monthly fixed fee of \$10,101.00; an amended monthly volumetric charge of \$0.9161, which is approximately 27.5% lower than the current monthly volumetric charge of \$1.2635; an amended monthly fixed meter charge of \$78.33 per month, which is 102 percent greater than the current charge; an amended limit on daily maximum usage of 650,000 GPD and a minimum annual purchase volume of 400,000 GPD, with an obligation to pay the difference if the minimum falls below that amount. See Settlement, Attachment A.

Based on the record before us, we find that the special contract proposed in this proceeding by PWW and PEU, as supported by the testimony of Mr. Ware and amended by the Settlement reached between PWW, PEU, and DOE, meets the applicable statutory standards for approval. We therefore approve the new contract for retroactive effect from July 1, 2021, until October 9, 2028, with two automatic extensions of five-year terms unless written notice is delivered by PEU to PWW no later than six months prior to the conclusion of the then-existing term. In approving this

² While accounting for costs specifically attributable to the special contract customer, PWW relied on the same COSS model and scenario to recalculate and amend terms in its special contract with the Town of Hudson in Docket No. DW 22-029. See Settlement at Attachment B, Part 1 at page 5.

contract, we expect both PWW and PEU to seek and consider any further steps that may be warranted to lower costs and to avoid the potential shifting of fixed costs to other PEU customers.

Because we find that the contract meets applicable statutory requirements, we issue this decision by order *nisi*, effective April 10, 2023b.

Based upon the foregoing, it is hereby

ORDERED NISI, that, subject to the effective date of this order, the new special contract between PWW and PEU, as presented and supported by the Settlement filed on December 14, 2023, is hereby **APPROVED** to take effect beginning July 1, 2021, as set forth herein above; and it is

FURTHER ORDERED, that the request of PWW to terminate its existing special contract with PEU, upon implementation of the new contract approved herein, is **GRANTED**; and it is

FURTHER ORDERED, that PWW shall file a fully signed version of the approved new contract within 30 days of the effective date of this Order *Nisi*; and it is

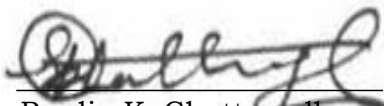
FURTHER ORDERED, that PWW shall cause a copy of this Order *Nisi* to be published on its company website no later than March 14, 2023, and once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to be no later than March 20, 2023, and to be documented by affidavit filed with the Clerk's Office on or before April 5, 2023; and it is

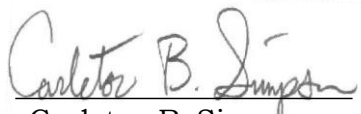
FURTHER ORDERED, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than March 27, 2023, for the Commission's consideration; and it is

FURTHER ORDERED, that that any party interested in responding to such comments or request for hearing shall do so no later than noon on April 3, 2023; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective on April 10, 2023, unless the Petitioner fails to satisfy the publication obligations set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date, in which case the existing contract shall extend until all requirements and actions noted herein are effectuated.

By order of the Public Utilities Commission of New Hampshire this ninth day of March, 2023.


Pradip K. Chattopadhyay
Commissioner


Carleton B. Simpson
Commissioner

Service List - Docket Related

Docket#: 22-040

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