

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 22-029

PENNICHUCK WATER WORKS, INC.

Petition for Approval of Special Contract with Town of Hudson

**COMMENCEMENT OF ADJUDICATIVE PROCEEDING
AND NOTICE OF PREHEARING CONFERENCE**

On April 27, 2022, Pennichuck Water Works, Inc. (PWW) filed a petition requesting the Commission to authorize the termination of its existing special contract with the Town of Hudson (Hudson) and to approve a new wholesale water supply contract with Hudson pursuant to RSA 378:18. In support of its petition, PWW filed the direct testimony of Donald L. Ware, PWW's Chief Operating Officer, and related attachments, a statement of special circumstances, and a copy of the proposed contract. 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/2022/22-029.html.

I. BACKGROUND AND PROCEDURAL HISTORY

The Commission approved the existing special contract for wholesale water supply between PWW and Hudson in Docket No. DW 05-143. See Order No. 24,611 (March 31, 2006). This 20-year contract, which replaced a prior contract, was for seasonal wholesale water supply. PWW Petition (Pet.), ¶2. Section 10 of the contract requires three years' notice prior to termination, "except as may be determined by order of the [Commission] . . ." According to Mr. Ware's testimony, Hudson currently

pays a volumetric charge of \$2.5610 per one hundred cubic feet (CCF)¹. Direct Testimony of Donald L. Ware, April 27, 2022, (Ware Testimony) at 10.

On June 29, 2021, Hudson was required to shut down two out of three of its wells due to perfluorooctanoic acid (PFOA) contamination, which was about to exceed the New Hampshire Department of Environmental Services' PFOA standard. Ware Testimony at 5, 15-16. Hudson needed additional water supply on a full-time basis, which it began taking from PWW on June 30, 2021 at the current rates under the existing contract. *Id.* at 15.

Hudson hired a consultant to conduct a Cost of Service Study (COSS) to determine the appropriate rates to be charged by PWW based on Hudson's changed water needs. *Id.* The COSS indicated that, if Hudson purchased a guaranteed minimum of 487,968 CCF per year (approximately one million gallons of water per day), PWW could charge Hudson a fixed annual demand charge of \$457,083 and a reduced volumetric charge of \$1.0012 per CCF. *Id.* at 9. Based on this level of usage, Hudson would become PWW's largest customer. *Id.* at 16. After the COSS was completed in early November 2021, PWW and Hudson negotiated the terms of the new proposed Wholesale Water Supply Contract (Contract) containing rates based on the COSS. *Id.* at 9, 15.

The proposed Contract would terminate the existing special contract and have an effective date of July 1, 2021, reflecting when PWW began to provide Hudson with water on a full-time basis. Pet., ¶ 4. Under the Contract, Hudson would guarantee a

¹ Mr. Ware stated that the current volumetric charge of \$2.5610 per ccf was approved in Docket No. DW 19-084, but did not refer to a specific Commission order or determination in that docket. The existing special contract, which was submitted as an attachment to Mr. Ware's testimony, provides for a volumetric charge of \$1.116 per ccf. See paragraph 7(b).

minimum annual purchase of 487,968 CCF, and PWW would bill Hudson monthly for the following charges: the monthly portion of the \$457,083 annual demand charge; a meter charge of \$78.33; and the volumetric charge of \$1.0012 per CCF. Ware Testimony at 12-14. The volumetric charge in the Contract would be subject to any approved Qualified Capital Project Adjustment Charges. *Id.* at 14. The Contract would provide for three 2-year renewal terms intended to give Hudson time to develop a plan for a new source of water supply. *Id.* at 15; Pet., ¶ 4.

In its petition, PWW requested the Commission 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 stated that a rule waiver to allow the Contract take effect retroactively would save Hudson approximately \$349,000, based on the lower volumetric charge. It maintained that a waiver would serve the public interest and would not disrupt the orderly and efficient resolution of this proceeding.

PWW requested the Commission to authorize termination of the existing contract, grant a waiver of Puc 1606.02(a)(1), and retroactively approve the proposed special Contract, effective July 1, 2021. On May 3, 2022, Hudson filed a letter of support requesting the Commission to approve the Contract.

II. ISSUES PRESENTED

The filing presents, *inter alia*, the following issue: whether special circumstances exist so that the Commission’s approval of a new special contract between PWW and Hudson 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 these issues.

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, 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 issues 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 July 6, 2022, at 1:30 p.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 June 17, 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 June 27, 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, PWV shall notify all entities and individuals desiring to be heard at this hearing by publishing a copy of this order of notice on its website no later than two business days after the date of issue, such publication to be documented by affidavit filed with the Commission on or before June 13, 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 first day of June, 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.

Service List - Docket Related

Docket# : 22-029

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