

BEFORE THE STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

In the matters of:

**Pittsfield Aqueduct Company
Petition for Permanent Rates**

)
)
) DW 08-052

**Pennichuck East Utilities and
Pittsfield Aqueduct Company, Inc.
Joint Petition for Approval of the Transfer of Assets
Franchise Rights and Long Term Indebtedness**

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)
)
) DW 09-051

**Direct Prefiled Testimony
of
Stephen R. Eckberg
Utility Analyst**

Dated: July 31, 2009

1 I. INTRODUCTION

2 **Q. Please state your name, business address and position.**

3 A. My name is Stephen R. Eckberg. I am a Utility Analyst for the Office of Consumer Advocate
4 (OCA). I include as Attachment 1 to my testimony a statement of my education and experience.

5
6 **Q. Mr. Eckberg, have you previously testified before the Commission?**

7
8 A. Yes.

9
10 II. ROLE OF THE OCA AND PURPOSE OF YOUR TESTIMONY

11 **Q. Please describe the role of the OCA in this proceeding.**

12 A. The OCA is statutorily authorized to advocate on behalf of residential customers of regulated
13 utilities. RSA 363:28, II. Pittsfield Aqueduct Company (PAC) serves residential customers in
14 four New Hampshire communities. Pennichuck East Utilities (PEU) serves residential customers
15 in fifteen municipalities in Southern and Central New Hampshire. The OCA is participating in
16 these dockets on behalf of all residential customers of these two utilities in these 19 communities.

17
18 **Q. Are the interests of the residential customers in these communities aligned?**

19 A. Yes and no. Because of the nature of the relief requested by PAC and PEU, as discussed further
20 below, the interests of the residential customers in the three "North Country" PAC communities
21 are not entirely aligned with the interests of the PEU residential customers. For example, an
22 existing PAC customer in Locke Lake, Birch Hill or Sunrise Lake Estates ("North Country"
23 customer) may have an interest in having their system transferred to PEU because their rate
24 increase will be lower than that which the Company originally proposed. But, a customer of PEU
25 may have an interest in remaining separate from the PAC "North Country" systems because the
26 transfer of these systems to PEU may result in higher rates in the future for existing PEU

1 customers. Also, the Pittsfield PAC customers have an interest in having the North Country
2 systems transferred to PEU, because doing so eliminates the possibility that the Pittsfield
3 customers' rates will remain consolidated with the North Country customers' rates. But, again,
4 this interest may not be entirely consistent with the interest of the PEU customers.

5
6 **Q. In the view of the OCA, how are these customers' interests aligned?**

7 A. The interests of these different customer groups are aligned in that they all require safe and
8 adequate service from PAC and PEU, at just and reasonable rates.¹ Consequently, the OCA
9 views its role in these proceedings as an advocate for safe and adequate service, at just and
10 reasonable rates, for all PAC and PEU residential customers, as a whole.

11
12 **III. ROLES OF THE OTHER PARTIES AND THE COMMISSION**

13 **Q. What are the roles of PAC and PEU in this proceeding?**

14 A. PAC and PEU are the petitioners. As the ones seeking a change to the status quo, *i.e.*, increased
15 rates, a different rate structure, and a transfer of utility assets, PAC and PEU bear the burden of
16 proving, by a preponderance of the evidence, that all of the requested relief is just and reasonable,
17 and that the increased rates provide a return for investments that are prudent, used and useful.²

18
19 **Q. Besides the OCA and the Companies, who else is participating in this docket?**

20 A. The Town of Pittsfield, as well as the three "North Country" systems, has actively participated in
21 this docket since its beginning. After PAC and PEU filed their joint petition, in March 2009, the

¹ See RSA 374:1 and 374:2.

² See RSA 378:7, RSA 378:8, and Puc 203.25; and RSA 378:28.

1 Town of Litchfield also sought and was granted permission to intervene. Lastly, representatives
2 of the Commission's Staff (Staff) are participating in the docket.

3
4 **Q. What are the roles of Staff and the Commission in this proceeding?**

5 A. Staff, and the Commission in making its determination on PAC's and PEU's requests, is charged
6 by statute to balance the interests of all customers and the utilities.³

7
8 IV. BACKGROUND INFORMATION ABOUT PEU

9 **Q. Please describe PEU.**

10 A. PEU is a regulated water utility which provides water service to approximately 5,486 customers
11 in 15 New Hampshire communities.⁴ Specifically, PEU presently serves customers in the
12 communities of Atkinson, Bow, Chester, Derry, Exeter, Hooksett, Lee, Litchfield, Londonderry,
13 Plaistow, Pelham, Raymond, Sandown, Weare and Windham.⁵

14
15 Pennichuck organized PEU in 1998 in order to acquire certain assets belonging previously to
16 Consumers New Hampshire Water Company.⁶ Since that time, PEU has divested and acquired
17 water systems.⁷ Also since that time, PEU has invested in significant capital improvements to its
18 systems.⁸

³ See RSA 363:17-a.

⁴ See Re Pennichuck East Utilities, Inc., DW 09-051, Verified Petition of Pennichuck East Utility, Inc. and Pittsfield Aqueduct Company, Inc. for Approval of the Transfer of Assets and Franchise Rights and Assumption of Long Term Indebtedness ("Verified Petition to Transfer"), p. 1, paragraph 1.

⁵ See Commission's List of Regulated Water Systems, <http://www.puc.nh.gov/Water-Sewer/Regulated%20Water%20Systems.pdf>.

⁶ See Re Consumers New Hampshire Water Company, Order No. 22,792 (November 21, 1997).

⁷ See, e.g., Re Pennichuck Corporation, 84 NH PUC 183 (March 23, 1999)(authorizing transfer of Souhegan Woods system from PEU to PWW); Re Pennichuck East Utilities, Inc., 89 NH PUC 689 (December 22, 2004) (order granting a franchise to serve "Thurston Woods" system in the Town of Lee); Re Pennichuck East Utilities, Inc., 89 NH PUC 533 (September 10, 2004), 89 NH PUC 13 (January 9, 2004), 91 NH PUC 88 (March 3, 2006), and 91 NH PUC 204 (April 28, 2006)(orders granting franchise

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2 V. BACKGROUND INFORMATION ABOUT PAC

3 **Q. Please describe PAC.**

4 A. PAC is a regulated water utility which serves customers in four New Hampshire communities:
5 Pittsfield, Barnstead (the Locke Lake system), North Conway (Birch Hill), and Middleton
6 (Sunrise Lake Estates).⁹ As of December 31, 2007, the end of the test year in this case, Locke
7 Lake had 824 customers; Birch Hill had 206 customers; Sunrise Lake Estates had 79 customers;
8 and Pittsfield had 646.¹⁰

9

authority to serve certain customers in the Town of Bow); Re Pennichuck East Utilities, Inc., 90 NH PUC 416 (September 22, 2005) and 90 NH PUC 627 (December 30, 2005)(orders authorizing PEU to acquire systems and serve limited areas within the Town of Chester); Re Pennichuck East Utilities, Inc., 91 NH PUC 270 (June 8, 2006)(order affirming a *nisi* decision to authorize transfer to PEU of Northern Shores Water Co. assets and franchise); Re Pennichuck East Utilities, Inc., 91 NH PUC 213 (May 12, 2006)(order authorizing franchise to serve Clearwater Estates in the Town of Raymond); Re Pennichuck East Utilities, Inc., 91 NH PUC 81 (March 3, 2006)(order granting franchise to serve certain customers in Exeter); Re Pennichuck East Utilities, Inc., 92 NH PUC 179 (May 31, 2007)(order authorizing PEU to take over system and customers of Daniels Lake Water Works).

⁸ See, e.g., Re Pennichuck East Utilities, Inc., 87 NH PUC 95 (February 22, 2002)(order authorizing financing for investments in Green Hills system); Re Pennichuck Water Works, Inc. and Pennichuck East Utilities, Inc., 89 NH PUC 634 (November 5, 2004)(order authorizing, in pertinent part, long-term debt related to construction of storage tank in Litchfield); Re Pennichuck East Utilities, Inc., 89 NH PUC 550 (November 30, 2004)(order authorizing long-term debt to finance improvements to Williamsburg/Stonegate system in Town of Pelham); Re Pennichuck East Utilities, Inc., Order No. 24,891 (August 29, 2008)(order approving step adjustment to rates to recover investment in Daniels Lake system); and Re Pennichuck East Utilities, Inc., Order No. 24,844 (April 4, 2008)(order approving financing for improvements to Maple Hills community water system).

⁹ See, e.g., Re Pennichuck East Utilities, Inc., 87 NH PUC 95 (February 22, 2002)(order authorizing financing for investments in Green Hills system); Re Pennichuck Water Works, Inc. and Pennichuck East Utilities, Inc., 89 NH PUC 634 (November 5, 2004)(order authorizing, in pertinent part, long-term debt related to construction of storage tank in Litchfield); Re Pennichuck East Utilities, Inc., 89 NH PUC 550 (November 30, 2004)(order authorizing long-term debt to finance improvements to Williamsburg/Stonegate system in Town of Pelham); Re Pennichuck East Utilities, Inc., Order No. 24,891 (August 29, 2008)(order approving step adjustment to rates to recover investment in Daniels Lake system); and Re Pennichuck East Utilities, Inc., Order No. 24,844 (April 4, 2008)(order approving financing for improvements to Maple Hills community water system).

¹⁰ See PAC responses to Staff 3-3 dated December 11, 2008. *But see* Verified Petition to Transfer, March 13, 2009 ("PAC provides water service to 648 customers in the Town of Pittsfield and 209 customers in North Conway (Birch Hill), 80 in Middleton (Sunrise Estates), and 836 in Center Barnstead (Locke Lake).

1 PAC is one of five wholly-owned subsidiaries of Pennichuck Corporation (Pennichuck).¹¹

2 Pennichuck's other subsidiaries include two other regulated water utilities: PEU and Pennichuck
3 Water Works, Inc. (PWW).¹²

4
5 Pennichuck acquired PAC in 1998.¹³ At that time, PAC only served customers in Pittsfield. In
6 2006, PAC acquired Birch Hill, Locke Lake and Sunrise Lake Estates.¹⁴ Two of these three
7 systems, those serving Locke Lake and Birch Hill, "had a history of compliance issues"
8 concerning water quality and system disrepair.¹⁵ The Commission approved PAC's acquisition of
9 the systems serving these three "North Country" communities in DW 05-132.¹⁶

10
11 **Q. What has happened since the Commission approved PAC's acquisition of the Locke Lake,**
12 **Birch Hill and Sunrise Lake Estates systems?**

13 A. PAC has invested in significant capital improvements to these three "North Country" systems.¹⁷
14 PAC contends that the improvements to the "North Country" systems have brought them "up to
15 the same standards as those systems in PEU."¹⁸

16

¹¹ Verified Petition to Transfer, March 13, 2009, p. 1, paragraph 1. *See also*
http://www.pennichuck.com/about_us.php#pac

¹² *See* Verified Petition to Transfer, March 13, 2009, p. 1, paragraph 1. PWW serves the City of Nashua,
New Hampshire and 10 surrounding New Hampshire municipalities located in southern New Hampshire.
See http://www.pennichuck.com/about_us.php#pac

¹³ *See* http://www.pennichuck.com/about_us.php#pac

¹⁴ *See* Direct Prefiled Testimony of Donald L. Ware, May 2, 2008, p. 3, lines 11-16.

¹⁵ *Re Pittsfield Aqueduct Company, Inc.*, 91 NH PUC 137, 141 (March 24, 2006).

¹⁶ *Re Pittsfield Aqueduct Company, Inc.*, 91 NH PUC 137 (March 24, 2006).

¹⁷ *See, e.g., Re Pennichuck East Utilities, Inc.*, Verified Petition of Pennichuck East Utility, Inc. and
Pittsfield Aqueduct Company, Inc. for Approval of the Transfer of Assets and Franchise Rights and
Assumption of Long Term Indebtedness, March 13, 2009, at p. 2.

¹⁸ Joint Prefiled Direct Testimony of Ware and Hartley, March 13, 2009, at p. 7, lines 17-19; and p. 9, lines
1-2.

1 To cover the costs of these investments, PAC sought and received approval from the Commission
2 to borrow money. In DW 07-010, the Commission approved PAC's request to borrow for capital
3 improvements to the Locke Lake and Birch Hill systems up to \$2.5 million of long-term debt
4 from the State Revolving Loan Fund administered by the NH Department of Environmental
5 Services (DES).¹⁹ In DW 07-120, among other things, the Commission approved PAC's request
6 to borrow up to \$2.5 million on a long-term basis to refinance short-term debt used to make
7 capital improvements to the Locke Lake and Birch Hill systems.²⁰ In both proceedings, the
8 Commission found that the terms, the use of the debt, and the effect of the debt on rates were
9 consistent with the public good.²¹

10
11 **Q. Did the OCA participate in either of these financing dockets?**

12 A. No. The OCA has a staff of five full-time employees and covers cases related to all regulated
13 utility industries. The PUC receives hundreds of filings each year, and the OCA is required to
14 allocate its limited resources among them. When the OCA chooses not to participate in the
15 docket, it does so relying upon the Commission and its Staff to balance the interests of ratepayers
16 and utilities, as required by statute.²²

17
18 **Q. Do the Commission's approvals of PAC's long-term debt in DW 07-010 and DW 07-120**
19 **limit the scope of its review of the rate relief in these proceedings?**

20 A. Yes, at least with regard to the rate relief related to the three "North Country" PAC systems. The
21 OCA construes the Commission's approvals of these long-term debt issuances to foreclose in this

¹⁹ *Re Pittsfield Aqueduct Company, Inc.*, 92 NH PUC 80 (April 13, 2007).

²⁰ *Re Pittsfield Aqueduct Company, Inc.*, Order No. 24,818 (January 11, 2008).

²¹ *Re Pittsfield Aqueduct Company, Inc.*, 92 NH PUC 81-82; and *Re Pittsfield Aqueduct Company, Inc.*, Order No. 24,818, at pp. 2-3.

²² *See* RSA 363:17-a.

1 docket a challenge to the terms and use of the financing. These investments, however, are still
2 subject to a review by the Commission on the basis of prudence.

3
4 VI. PAC'S AND PEU'S PENDING REQUESTS FOR RELIEF

5 **Q. Please summarize PAC's and PEU's pending request for relief.**

6 A. In its original filing, on May 2, 2008, PAC requested an overall increase in gross annual revenues
7 of \$957,641, as well as permission to change its consolidated, single-rate structure. Specifically,
8 PAC proposed to separate the rates for its Pittsfield customers from the rates for its "North
9 Country" customers. As originally proposed, PAC sought to collect the increased revenue
10 through a 44.01% increase for Pittsfield customers and a 239.52% increase to the "North
11 Country" customers. PAC also proposed a step increase in rates, applicable only to its North
12 Country customers, to recover the costs of capital improvements planned for completion by
13 November 2008. As originally proposed, the proposed step increase translated into an additional
14 72.39% increase, for a total proposed increase to "North Country" customers' rates of 311.91%.

15
16 On March 13, 2009, PAC filed a revised rate proposal²³ and, together with PEU, a joint petition to
17 transfer the PAC "North Country" assets, franchise rights and long-term debt to PEU.²⁴ PAC
18 contends that the transfer of the "North Country" systems to PEU is appropriate because of
19 PEU's larger customer base and similar water system profiles.²⁵ PAC and PEU contend that the

²³ See Re Pittsfield Aqueduct Co., DW 08-052, Motion to Modify Rate Case Filing, Motion to Consolidate, and Joint Pre filed Direct Testimony regarding Permanent Rates of Donald L. Ware and Bonalyn J. Hartley and Supporting Schedules ("Revised Rate Proposal"), March 13, 2009.

²⁴ See Verified Petition to Transfer, March 13, 2009.

²⁵ See Joint Prefiled Direct Testimony of Ware and Hartley, March 13, 2009, at pp. 6-7.

1 revised rate proposal “will result in lower rates for the North Country customers and will provide
2 longer term rate stability for them.”²⁶

3
4 **Q. Please summarize the Revised Rate Proposal for Pittsfield customers.**

5 A. PAC’s Revised Rate Proposal continues to recommend that Pittsfield customers “remain
6 independent”²⁷ as well as slightly modifies PAC’s original rate request for its Pittsfield
7 customers. These modifications, PAC contends, “reflect known corrections and adjustments as a
8 result of findings by both the Company and Commission Staff during the recent discovery
9 period.”²⁸ Also, the modifications include some adjustments to eliminate costs and equity
10 associated with the “North Country” systems.²⁹ The resulting proposed revenue increase for
11 Pittsfield customers is 39.79%.³⁰ This compares to the 44.01% increase originally proposed.³¹

12
13 **Q. Please summarize the Revised Rate Proposal for “North Country” customers.**

14 A. PAC’s Revised Rate Proposal for the “North Country” customers is a bit more complicated than
15 its revised proposal for Pittsfield. In addition to modifications made to “reflect known
16 corrections and adjustments as a result of findings by both the Company and Commission Staff
17 during the recent discovery period,”³² PAC proposes to establish a minimum usage rate of 4 ccf
18 per month which all “North Country” customers would be obligated to pay.³³ Also, PAC

²⁶ See Verified Petition to Transfer, at p. 3, paragraph 5. See also Joint Prefiled Direct Testimony of Ware and Hartley, March 13, 2009, at pp. 4 and 6.

²⁷ Joint Prefiled Direct Testimony of Ware and Hartley, March 13, 2009, at p. 11, line 22, through p. 12, line 8.

²⁸ See Joint Prefiled Direct Testimony of Ware and Hartley, March 13, 2009, at p. 16, lines 6-9.

²⁹ See Joint Prefiled Direct Testimony of Ware and Hartley, March 13, 2009, at p. 17, lines 5-14.

³⁰ See Joint Prefiled Direct Testimony of Ware and Hartley, March 13, 2009, at p. 16, lines 15-16.

³¹ See Joint Prefiled Direct Testimony of Ware and Hartley, March 13, 2009, at p. 5, lines 6-7.

³² See Joint Prefiled Direct Testimony of Ware and Hartley, March 13, 2009, at p. 17, line 23, through, p. 18, line 2.

³³ See Joint Prefiled Direct Testimony of Ware and Hartley, March 13, 2009, at p. 7, line 22, through p. 8, line 4.

1 proposes to establish a Capital Recovery Surcharge (“Capital Surcharge”) and a System Upgrade
2 Fee (“Upgrade Fee”) to recover the costs associated with the acquisition and improvements to the
3 “North Country” systems.³⁴ As a result of these changes, the proposed revenue increase for North
4 Country customers is 170.57% for Locke Lake, 291.48% for Birch Hill and 128.85% for Sunrise
5 Lake Estates.³⁵ This compares to the total 311.91% increase originally proposed for all North
6 Country customers.³⁶

7
8 **Q. Please summarize the proposed Capital Surcharge.**

9 A. The proposed Capital Surcharge would be a “North Country” system-specific, fixed tariff amount
10 based upon the actual rate base³⁷ for each of the three “North Country” systems.³⁸ The Company
11 proposes to collect the charge from existing customers, over a period of 30 years, and to charge
12 an interest rate of 4.68%.³⁹ The Company also proposes to forego its recovery of a return on the
13 equity associated with the “North Country” systems until the next PEU rate case.⁴⁰

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18 **Q. Please summarize the proposed Upgrade Fee.**

³⁴ See, e.g., Joint Prefiled Direct Testimony of Ware and Hartley, March 13, 2009, at p. 7, lines 8-17 (re proposed CRC); and p. 12, lines 16, through p. 13, line 8 (re proposed Upgrade Fee). See PAC response to OCA 1-3(a) on Modified Filing for costs included in Capital Surcharge and Upgrade Fee (**Attachment 2**).

³⁵ See Modified Filing at Tab 8, Exhibit 1 (**Attachment 3**).

³⁶ See Joint Prefiled Direct Testimony of Ware and Hartley, March 13, 2009, at p. 5, lines 8-11.

³⁷ The Company proposes to deduct from rate base certain expenses associated with the “North Country” systems including property taxes, depreciation and maintenance expenses. See Joint Prefiled Direct Testimony of Ware and Hartley, March 13, 2009, at p. 9, lines 16-19. These expenses will be recovered in the ordinary course, through future PEU base rate cases. Id.

³⁸ See, Joint Prefiled Direct Testimony of Ware and Hartley, March 13, 2009, at p. 7, lines 8-10, and lines 13-15.

³⁹ See Joint Prefiled Direct Testimony of Ware and Hartley, March 13, 2009, at p. 7, lines 11-12.

⁴⁰ See Joint Prefiled Direct Testimony of Ware and Hartley, March 13, 2009, at p. 10, lines 4-8.

1 A. PAC contends that there is a potential for growth in two of the three “North Country” systems,
2 Birch Hill and Locke Lake,⁴¹ and that any new customers to these systems will benefit from the
3 improved water systems.⁴² To recover the costs associated with the improvements made to the
4 Locke Lake and Birch Hill systems, PAC proposes to collect the Upgrade Fee from any new
5 customers to these systems.⁴³ The amount of the Upgrade Fee is equal to the total rate base for
6 Birch Hill or Locke Lake, divided by the number of customers.⁴⁴ PAC states, the Upgrade Fee
7 “will be a one time fee and the new customer paying the fee will not pay a capital surcharge
8 going forward.”⁴⁵

9
10 In discovery, PAC expressed a willingness to consider using the Capital Surcharge, rather than
11 the Upgrade Fee, to collect its costs from new customers.⁴⁶ The Company has not revised its
12 filing, however, to incorporate this new proposal.

13
14 **Q. Please summarize the impact to PEU customers if the Commission approves the transfer of**
15 **the PAC “North Country” systems.**

16 A. PAC and PEU contend that existing PEU customers will experience no rate impact at the time of
17 the transfer.⁴⁷ However, both acknowledge that existing PEU customers may experience a

⁴¹ See Joint Prefiled Direct Testimony of Ware and Hartley, March 13, 2009, at p. 12, lines 9-15.

⁴² See Joint Prefiled Direct Testimony of Ware and Hartley, March 13, 2009, at p. 12, lines 21-22.

⁴³ See Joint Prefiled Direct Testimony of Ware and Hartley, March 13, 2009, at p. 12, line 16, through p. 13, line 8.

⁴⁴ See Joint Prefiled Direct Testimony of Ware and Hartley, March 13, 2009, at p. 12, line 22, through p. 13, line 6.

⁴⁵ See Joint Prefiled Direct Testimony of Ware and Hartley, March 13, 2009, at p. 13, lines 7-8.

⁴⁶ See Company response to OCA 2-3 on the Modified Filing.

⁴⁷ See Joint Prefiled Direct Testimony of Ware and Hartley, March 13, 2009, at p. 7, lines 7-8; and p. 8, lines 20-21. See also Verified Petition to Transfer, at p. 3, paragraph 5.

1 minimal incremental rate impact at the time of the next PEU rate case.⁴⁸ PAC quantified that rate
2 impact on existing PEU customers as 5.26%.⁴⁹

3
4 PAC also contends that the transfer of the “North Country” systems to PEU will benefit existing
5 PEU customers. Specifically, PAC points to the fact that the costs of future capital improvements
6 to the “North Country” and existing PEU systems will be spread across the larger customer base
7 of all of these customers.⁵⁰ Also, PAC states that the equity infusion from PAC to PEU, as
8 proposed, will give PEU a better debt to equity ratio for the purpose of refinancing certain long-
9 term debt.⁵¹

10
11 VII. OCA’S POSITIONS

12 **Q. Generally speaking, what is the OCA’s opinion of PAC and PEU’s pending requests for**
13 **relief?**

14 **A.** The OCA considers PAC’s Revised Rate Proposals, as well as the request to transfer the “North
15 Country” systems, as an improvement to the original proposals in DW 08-052. That said, the
16 OCA finds regrettable having to consider triple-digit rate increases, particularly in light of the
17 troubled economy.

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19
20

⁴⁸ See Joint Prefiled Direct Testimony of Ware and Hartley, March 13, 2009, at p. 8. See also Verified Petition to Transfer, at p. 3, paragraph 5.

⁴⁹ See Joint Prefiled Direct Testimony of Ware and Hartley, March 13, 2009, at p. 8, lines 17-20.

⁵⁰ See Joint Prefiled Direct Testimony of Ware and Hartley, March 13, 2009, at p. 9, lines 2-11.

⁵¹ See Joint Prefiled Direct Testimony of Ware and Hartley, March 13, 2009, at p. 10, lines 8-12. See also Joint Prefiled Direct Testimony of Ware and Hartley, March 13, 2009, at p. 14, lines 16, through p. 15, line 2.

1 **Q: Please provide a brief summary of the issues considered by the OCA in formulating its**
2 **positions.**

3 A: The OCA perceives four primary issues in this docket. The first two issues are: 1) Whether or
4 not PAC's investments since the last rate case, for Pittsfield, or, for the "North Country" systems,
5 since PAC's acquisition of these systems, were prudent; and 2) Whether or not PAC and PEU's
6 request to transfer the "North Country" systems, franchise rights and debt to PEU is consistent
7 with the public good. The remaining two issues are: 3) If the proposed transfer of the "North
8 Country" systems is consistent with the public good, is PAC's Revised Rate Proposal for
9 Pittsfield just and reasonable; and
10 4) If the proposed transfer of the "North Country" systems is consistent with the public good, is
11 PAC's Revised Rate Proposal for the "North Country" customers just and reasonable?
12

13 **Q. What is the OCA's position on the first of these issues?**

14 A. With regard to issue 1, the prudence of PAC's investments, the OCA defers to Staff.
15

16 **Q: Why does the OCA defer to Staff on the issue of prudence?**

17 A. As stated earlier, the OCA is a very small agency, with limited resources. We do not have an
18 engineer at the OCA, and due to cost and other considerations, we did not hire an engineer to
19 consult with us for this rate case. Staff, on the other hand, does have an engineer in the Gas and
20 Water Division. Also, to the extent that the engineer on Staff is not available to work on a
21 prudence review, the Commission has the ability to engage consultants at the expense of the
22 utility to assist it with such a review. *See, e.g.,* RSA 365:37. Further, since the Commission and
23 its Staff are required by statute to balance the interests of the utility and the customers, see RSA
24 363:17-a, Staff is already, to some limited extent, looking out for the interests of residential
25 customers. For all of these reasons, the OCA defers to the Staff on the issue of prudence.

1 **Q. What is the OCA's position on the second issue, above?**

2 A. With regard to issue 2, the transfer of the "North Country" systems to PEU, the OCA essentially
3 defers to the Town of Pittsfield, and the communities of Locke Lake, Sunrise Lake Estates and
4 Birch Hill, as well as to the Commission, on the question of whether or not, in the view of their
5 own communities' interests and needs, the proposed transfer is consistent with the public good.

6
7 **Q. Why is the OCA taking this approach?**

8 A. When PAC filed its original rate request, the OCA took a very active role in the temporary rate
9 phase as well as throughout the initial period allotted for discovery. Before PAC filed its Revised
10 Rate Proposal, and along with PEU, requested the transfer of the "North Country" assets, the
11 OCA perceived the rate case as one which might turn on legal and policy issues. Because the
12 "North Country" customers were not actively represented by an attorney, and because of the
13 magnitude of the original "North Country" rate increase, the OCA viewed its role as taking the
14 lead on legal and policy issues for the "North Country." Because Pittsfield was represented by
15 able counsel, and the interests of the Town and its residents were closely aligned (*i.e.*, as low a
16 rate increase as possible), the OCA considered Pittsfield residential customers adequately
17 represented.

18
19 After the revised rate and transfer proposals were filed, the OCA changed its focus as a result of
20 what it perceived as a shift in the attitudes of the "North Country" communities. After the revised
21 filing, the "North Country" parties appeared to support the concepts of transferring their systems
22 to PEU, and charging the "North Country" customers rates that are more tailored to recover the
23 investments in each system. Since the revised filing, and because of this perceived shift in the
24 positions of the "North Country" customers, the OCA has tried to focus its efforts on getting
25 these "North Country" parties the best and most information so that they could make informed

1 decisions on the revised rate and transfer proposals. Therefore, in light of the circumstances of
2 this case, the OCA thinks it is both appropriate and respectful to allow the North Country and
3 Pittsfield customers to make up their own minds on the Company's proposals, at least to the
4 extent that these proposals impact these four communities.

5
6 That said, the OCA does have some concerns about the impact of the proposed transfer on the
7 "North Country" customers. For this reason, the OCA's deferral to the PAC customers is
8 somewhat qualified, as described further below.

9
10 **Q. What are the OCA's concerns?**

11 A. PEU's last rate case, DW 07-032, used a 2006 test year. It is, therefore, quite possible that PEU
12 may file another rate case in the near future. If the Commission approves the transfer of the
13 "North Country" systems to PEU, then future rate increases filed for by PEU, will apply to North
14 Country customers also. The OCA is concerned about such increases in rates especially for
15 customers in the Locke Lake and Birch Hill systems, who will likely experience possible
16 significant rate impacts resulting from this docket.

17
18 Further, the OCA is concerned about the impact of the recovery of rate case expenses
19 ("recovery") and the recoupment of the difference between temporary rates and permanent rates
20 in this case ("recoupment"). Recoupment, in particular, may be an onerous additional burden on
21 those customers in Locke Lake and Birch Hill who are likely to experience the most significant
22 permanent rate increases.

1 **Q. What does the OCA recommend to address these concerns?**

2 A. The OCA respectfully requests that the Commission be mindful of these issues, in ruling on
3 PAC's recovery and recoupment requests. Specifically, the OCA suggests that the Commission
4 consider a longer than usual period for recovery and recoupment, particularly in light of the near
5 certainty of an impending PEU rate case, and in light of the current, difficult economic times.
6 Also, the OCA suggests that the Commission require the Company to work with representatives
7 of the individual systems to come up with a reasonable proposal for the recovery and recoupment.

8
9 **Q. On the issue of the proposed transfer, does the OCA have a position from the perspective of**
10 **the existing residential customers of PEU?**

11 A. Yes. The OCA's position, on behalf of PEU customers, is to not oppose the proposed transfer.

12
13 **Q. Please explain why the OCA takes this position.**

14 A. In coming to the conclusion to not oppose the proposed transfer on behalf of the existing PEU
15 customers, the OCA considered the positive and negative impacts on PEU residential customers
16 of the proposed transfer. Although the PEU customers may experience a small rate increase as a
17 result of the equity infusion from PAC and the increased operating expenses associated with the
18 transferred "North Country" systems, these PEU customers will also enjoy the benefits of sharing
19 with the "North Country" customers the costs of future improvements to the existing PEU
20 systems. These future costs include \$3.1 million dollars of new plant in the next two years
21 alone.⁵² In comparison, only \$400,000 of investment is planned for the "North Country" systems
22 during this time.⁵³ Considering the circumstances, we view the benefits of the proposed transfer

⁵² Prefiled Direct Testimony of Ware and Hartley, March 13, 2009, at p. 14, lines 20-21.

⁵³ Prefiled Direct Testimony of Ware and Hartley, March 13, 2009, at p. 14, lines 20-22.

1 as mitigating the costs to the existing PEU customers. Consequently, we do not oppose the
2 proposal.

3
4 **Q. Why is the OCA taking a more affirmative position on the proposed transfer for PEU**
5 **customers?**

6 A. Unlike the four PAC communities, and the customers within them, not all of the residential
7 customers of PEU are represented in these proceedings. Only the Town of Litchfield sought and
8 received permission to intervene in the proceedings. Consequently, the OCA construes its
9 authority to require some consideration of the impacts on the existing PEU customers of the
10 proposed "North Country" transfer.

11
12 **Q. What is the OCA's position on the third issue: if the proposed transfer of the "North**
13 **Country" systems is consistent with the public good, whether PAC's Revised Rate Proposal**
14 **for Pittsfield just and reasonable?**

15 A. The OCA defers to the Town of Pittsfield and to Staff on this issue.

16
17 **Q. What is the OCA's position on the fourth issue: if the proposed transfer of the "North**
18 **Country" systems is consistent with the public good, whether PAC's Revised Rate Proposal**
19 **for the "North Country" customers just and reasonable?**

20 A. The OCA disagrees with PAC's conclusion that the revised rate proposal for the "North Country"
21 customers is just and reasonable. In particular, we disagree with the recovery of a Capital
22 Surcharge from Sunrise Lake Estates customers. We also dispute the calculation of the Capital
23 Surcharge and Upgrade Fee for Locke Lake and Birch Hill.

1 **Q. Please explain why the OCA takes the position that Sunrise Lake Estates customers should**
2 **not be charged the Capital Surcharge.**

3 A. As stated earlier, PAC's revised rate proposal for Sunrise Lake Estates customers (as well as the
4 other "North Country" customers) includes the use of the PEU base rate and volumetric charge,
5 with a modification for minimum usage, and the addition of a Capital Surcharge for existing
6 customers.⁵⁴ The Capital Surcharge for Sunrise Lake Estates (as well as the other "North
7 Country" systems) designed to collect nearly all of the costs of rate base, including the costs
8 associated with acquisition of the system, as well as the costs of capital improvements since
9 acquisition.

10

11 For Sunrise Lake Estates, the total rate base sought to be recovered through the proposed Capital
12 Surcharge is \$168,052. The average rate base per customer in Sunrise Lake Estates is \$2,127. A
13 look at PEU's average rate base per customer, which was used to derive the PEU base rate, shows
14 that the PEU base rate more than adequately compensates PEU for the Sunrise Lake Estates rate
15 base.

16

17 In Table 1, below, I compare the average rate base per customer in PEU with that in each of the
18 "North Country" Systems. As seen Table 1, the average rate base per customer in Sunrise Lake
19 Estates is less than in the average rate base per customer of PEU. Therefore, the current PEU
20 rates should be sufficient to cover the costs of providing service to the Sunrise Lake Estates
21 customers.

22

23 The OCA is certainly willing to consider any information the Company may provide to rebut this
24 conclusion. For instance, perhaps the Company can show that other expenses associated with

⁵⁴ PAC's revised rate proposal for the Locke Lake and Birch Hill systems also includes the recovery from new customers of an Upgrade Fee, instead of the Capital Surcharge.

Sunrise Lake Estates, which are normally included for ratemaking purposes, are significantly different than those for PEU. Absent such a showing, however, the OCA believes that the Sunrise Lake Estates system should not be subject to the Capital Surcharge. Because the Upgrade Fee is derived from the Capital Surcharge, and is intended to recover the same costs, the OCA takes the position that Sunrise Lake Estates customers should also not be charged this fee.

Table 1. Average Rate Base per Customer for PEU and North County Systems				
	Rate Base	Customers	Rate Base per Customer	Notes
PEU	\$12,537,337	5,313	\$2,360	Rate Base from Settlement in DW 07-032
Locke Lake	\$2,705,841	824	\$3,283	See Attachment SRE 3
Birch Hill	\$1,878,504	206	\$9,119	See Attachment SRE 3
Sunrise Lake Estates	\$168,052	79	\$2,127	See Attachment SRE 3

Q. Please explain why the OCA disputes the calculation of the Capital Surcharge and Upgrade Fee for Locke Lake and Birch Hill.

A. The comparison and conclusion above regarding PEU rates and their being adequate to support an average amount of rate base per customer in Sunrise Lake Estates can also be extended to the Locke Lake and Birch Hill systems. That is, if the PEU rates are sufficient to support an average of \$2,360 of rate base per customer in PEU and provide the Company with its revenue requirement, then those same PEU rates should also provide an adequate revenue requirement for a comparable amount of rate base in both Locke Lake and Birch Hill. Therefore, the OCA takes the position that the Company should recalculate both its proposed Capital Surcharge and Upgrade Fees for these two systems to reflect the “removal” of \$2,360 rate base per customer.

1 For Locke Lake, the PEU rates would support \$2,360 of rate base, leaving only (\$3,283-\$2,360
2 =) \$923 of rate base per customer to be addressed by the Company's proposed Capital Surcharge
3 and Upgrade Fees. Similarly, for Birch Hill, only (\$9,119-\$2,360 =) \$6,759 of rate base would
4 be addressed by the Capital Surcharge and Upgrade Fees.

5
6 **Q. Do you have any further comments before concluding your testimony?**

7 A. Yes. The OCA regrets not having the resources or the foresight to intervene in the two financing
8 dockets, DW 07-010 and DW 07-120, which set in motion PAC's spending of more than \$4
9 million dollars for improvements to systems serving only 1,125 customers.⁵⁵ The OCA took on
10 faith PAC's representations, during the acquisition docket (DW 05-132), that the costs incurred to
11 improve the "North Country" systems would be borne by all PAC customers, including those in
12 Pittsfield.⁵⁶ The OCA also took on faith that the Company's estimates of the costs to repair these
13 systems was in the hundreds of thousands, not the millions of dollars.

14
15 In hindsight, it appears that the rate impact of these investments deserved more attention in the
16 financing dockets. That was the time and the venue to ascertain the magnitude of the burden such
17 debt would impose on each PAC "North Country" customer. That was also the place to delve
18 into the Company's plans for repayment, including whether the Company planned to de-
19 consolidate the PAC rates. The OCA regrets that it was not able to call these issues to the
20 Commission's attention at that time.

21
22

⁵⁵ See Verified Petition to Transfer, p. 2.

⁵⁶ See, e.g., Testimony of Stephen Densberger, Executive Vice President of Pennichuck, Transcript of North Conway public statement hearing in DW 05-132, at p. 11 (emphasis added) ("I can't say that your rates will never go up ... You're going to be part of a larger rate group ... whatever we do gets *shared by that entire group*.").

1 VIII. CONCLUSION

2 **Q. Please summarize the OCA's positions.**

3 A. On the issue of the prudence of PAC's investments in Pittsfield and the "North Country" systems
4 since the last rate case or the acquisition of these systems, respectively, the OCA defers to Staff.

5

6 On the issue of whether the proposed transfer of the "North Country" assets, franchise rights and
7 debt to PEU is consistent with the public good, the OCA does not oppose the transfer on behalf of
8 the customers of PEU, and defers to the Town of Pittsfield and the "North Country" systems with
9 some qualification. Specifically, the OCA urges the Commission to be mindful of the impact on
10 the North Country customers of the recovery by PAC of rate case expenses and the recoupment of
11 the difference between temporary and permanent rates, and require PAC to work with these
12 customers to develop a schedule for this recovery and recoupment.

13

14 On the issue of whether the proposed rates for Pittsfield are just and reasonable, the OCA defers
15 to the Town of Pittsfield.

16

17 Lastly, on the issue of whether the proposed rates for the "North Country" systems are just and
18 reasonable, the OCA recommends an alternate method of calculating these rates. For the Sunrise
19 Lake Estates customers, the OCA proposes that these rates not include the proposed Capital
20 Surcharge. For the Locke Lake and Birch Hill customers, the OCA proposes that the Capital
21 Surcharge and the Upgrade Fee be adjusted to account for the amount of rate base recovered by
22 the PEU base rates.

23

24 **Q. Does this complete your testimony?**

25 A. Yes.

Qualifications of Stephen R. Eckberg

My name is Stephen R. Eckberg. I am employed as a Utility Analyst with the Office of Consumer Advocate (OCA), where I have worked since 2007. My business address is 21 S. Fruit Street, Suite 18, Concord, New Hampshire 03301.

I earned a B.S. in Meteorology from the State University of New York at Oswego in 1978, and an M.S. in Statistics from the University of Southern Maine in 1994.

After receiving my M.S. I was employed as an analyst in the Boston office of Hagler Bailly, Inc, a consulting firm working with regulated utilities to perform evaluations of energy efficiency and demand side management programs.

From 2000 - 2003 I was employed at the NH Governor's Office of Energy and Community Services (now the Office of Energy and Planning) as the Director of the Weatherization Assistance Program. Most recently, I was employed at Belknap-Merrimack Community Action as the Program Administrator of the NH Electric Assistance Program (EAP). In that capacity, I presented testimony before this Commission in dockets related to the design, implementation and management of the EAP. I have also testified before Committees of the New Hampshire Legislature on issues related to energy efficiency and low income electric assistance.

I am a member of the American Statistical Association. I have attended regulatory training at New Mexico State University's Center for Public Utilities and I participate in committees of the National Association of Consumer Advocates (NASUCA) on behalf of the OCA.

PITTSFIELD AQUEDUCT COMPANY, INC.

DW 08-052

Petition for Temporary and Permanent Rates

OCA Data Requests – Set 1 on Revised Filing

Date Request Received: April 27, 2009
Request No. OCA 1-3

Date of Response: May 8, 2009
Witness: Donald L. Ware

REQUEST: The Company proposes to charge "North Country" customers of PAC a Capital Recovery Surcharge. See Joint Testimony, p. 7, lines 8-15.

- a. Please specify the beginning and end dates of the period during which rate base used to calculate the surcharge is measured.
- b. Please explain why the Company would also include in a future PEU rate case the depreciation expense associated with the North Country rate base when it is recovering the costs of this rate base through the Capital Recovery Surcharge. See Joint Testimony, p. 9, lines 16-20.
- c. Has the rate base included in the calculation of the Capital Recovery Charge been adjusted for the value of the plant in service at the time of acquisition of the three North Country systems?
- d. Please calculate the net present value of the amount that a customer in each of the North Country systems will pay if the customer pays the Capital Recovery Surcharge monthly for thirty years.
- e. Please explain how subsequent owners of existing North Country customers' property will be obligated and notified of the proposed obligation to pay the Capital Recovery Surcharge.
- f. Please explain how the Company intends to enforce the obligation to pay the Capital Recovery Surcharge of existing North Country customers and of subsequent owners of existing North Country customers' property. Please include in your response any consequences that the Company envisions for non-payment of the Capital Recovery Surcharge.

RESPONSE:

- a. The Capital Surcharge "rate base" for each North Country system includes the adjusted cost of acquisition by system in addition to the plant asset additions that became used and useful in each of the three "North Country" systems between the date of acquisition and the end of 2007. Additionally, the surcharge rate base includes the step increase for the NCWP Interconnection and onsite improvements for Birch Hill that were completed and used and useful by November 2008.
- b. The Company, upon further reflection, and based on the fact that it will be collecting both debt service and retirement in the Capital Surcharge fee,

- concur that no depreciation expense should be collected on the plant assets associated with the Capital Surcharge rate base from the PEU rates.
- c. Yes, the rate base value in the Capital surcharge includes the adjusted value for the plant in service at the time of the acquisition for each of the North Country systems.
 - d. The net present value for the North Country customer who pays their surcharge for the entire 30 years equals the rate base for the system capital surcharge divided by the number of customers who are connected to the system at the time the final rate order is issued. By way of illustration the net present value for each North Country system is as follows:

Birch Hill – \$3,283.79 based on \$2,705,841 of rate base and 824 customers

Locke Lake – \$9,118.95 based on \$1,878,504 of rate base and 206 customers

Sunrise Estates – \$2,127.24 based on \$168,052 of rate base and 79 customers.

- e. The Capital Recovery Surcharge will be a tariffed charge just like the fixed and volumetric charges and will be detailed on the tariff sheets given to subsequent customers upon the initiation of service as part of the customer packet sent to all customers who take service from Pennichuck.
- f. The Capital Recovery Surcharge is a tariffed charge. Failure to pay a tariffed charge will result in the initiation of disconnection activities following the prescribed customer noticing procedures required by the NHPUC for the disconnection of water service for non payment.

PITTSFIELD AQUEDUCT COMPANY, INC.
North Country Customers at PEU rates
For the Period Ending December 31, 2007

Exhibit 1
Modified Filing

	Locke Lake	Birch Hill	Sunrise Estates	Total
Customers	824	206	79	1,109
NC Customers at PEU rates:				
5/8 inch Meter (Fixed) Charge (3)	\$ 16.49	\$ 16.49	\$ 16.49	
Total Monthly Charge	\$ 13,589	\$ 3,397	\$ 1,303	
Total Annual Charge	\$ 163,069	\$ 40,767	\$ 15,634	
Unmetered & Unaccounted Customers (7)	37	44	14	
Unmetered & Unaccounted Customers at Min Usage	1,776	2,112	672	
Minimum Avg Monthly Usage 4 CCF (5)	23,444	4,368	1,832	
Usage above 4 CCF (4)	27,661	6,835	2,960	
Total Annual Usage	52,881	13,315	5,464	
PEU Volumetric Charge	\$ 5.61	\$ 5.61	\$ 5.61	
Annual Usage Charge	\$ 296,619	\$ 74,686	\$ 30,649	
Revenues at PEU rates with min volume	\$ 459,688	\$ 115,453	\$ 46,283	\$ 621,424
Annual Charge Per Customer	\$ 557.87	\$ 560.45	\$ 585.86	
Capital Recovery Surcharge:				
Capital Recovery Period (months)	360	360	360	
Capital Recovery Items (2)	2,705,841	1,878,504	168,052	4,752,397
Cost of Capital (1)	4.68%	4.68%	4.68%	
Monthly Capital Recovery (6)	\$14,008	\$9,725	\$870	
Monthly Charge Per Customer	\$17.00	\$47.21	\$11.01	
Annual Capital Recovery	\$ 168,100	\$ 116,702	\$ 10,440	\$ 295,242
Annual Charge Per Customer	\$ 204.00	\$ 566.51	\$ 132.15	
Total Proposed Revenues	\$ 627,788	\$ 232,155	\$ 56,723	\$ 916,666
Current Water Revenues	\$ 232,021	\$ 59,302	\$ 24,787	\$ 316,109
Proposed Revenue Inc	\$ 395,766	\$ 172,854	\$ 31,936	\$ 600,556
Revenue Increase %	170.57%	291.48%	128.85%	189.98%
Min Annual Revenue per Customer	48 CCF \$ 671.14	\$ 1,033.65	\$ 599.29	
Min Monthly Revenue per Customer	4 CCF \$ 55.93	\$ 86.14	\$ 49.94	
Annual Revenue per Customer	84 CCF \$ 873.07	\$ 1,235.58	\$ 801.22	
Monthly Revenue per Customer	7 CCF \$ 72.76	\$ 102.97	\$ 66.77	

Notes:

(1) Cost of Capital based on the North Country weighted average cost of debt per rate of return, Schedule 1 and 5.

(2) Capital Recovery items in Schedule 3 by system as follows:

	Locke Lake	Birch Hill	Sunrise Estates
Plant in Service	\$ 2,776,141	\$ 1,862,192	\$ 171,099
Accum Deprec	74,022	16,639	3,856
Accum Deprec: Loss/COR	7,890	130,175	809
CIAC	4,337		
Amort of CIAC	168		
NCWP Buy in Fee (Net)		114,557	
Deferred Gain on SRF Loan (Net)		211,781	
Total Capital Recovery items	\$ 2,705,841	\$ 1,878,504	\$ 168,052

(3) Per PEU Tariff page 38 for Metered General Service

(4) Based on 2007 actual customer usage for customers with greater than 4 CCF monthly usage.

(5) Reflects using 4 CCF monthly usage for customers with 4 CCF monthly usage or less in 2007.

The % of customers with 4 CCF or less monthly usage was 62%, 56% and 58% for Locke Lake, Birch Hill and Sunrise Estates, respectively.

(6) Monthly Capital Recovery is based on the recovery of the capital items over a 30 year period at the wgt'd avg cost of debt.

(7) The number of customers not represented in the metered usage data for 2007 due to unmetered customers, seasonal customers and customer changes during the year.