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STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

 ORIGINAL

January 30, 2013 - 10:07 a.m.
Concord, New Hampshire

NHPUC FEB05'13 PM 1:26

**RE: DW 12-359
PENNICHUCK WATER WORKS, INC.
WATER INFRASTRUCTURE AND CONSERVATION
ADJUSTMENT - PROPOSED PROJECTS 2013-2015
(Prehearing Conference)**

PRESENT:

Commissioner Michael Harrington (Presiding)
Commissioner Robert Scott

Sandy Deno - Clerk

APPEARANCES:

Rptg. Pennichuck Water Works, Inc.:
Frederick J. Coolbroth, Esq. (Devine...)

Rptg. Residential Ratepayers:
Rorie E. P. Hollenberg, Esq.
Donna McFarland, Finance Director
Office of Consumer Advocate

Rptg. PUC Staff:
Marcia Brown, Esq.
Mark Naylor
Robyn Descoteau
Jayson LaFlamme

Also Present:
Fred S. Teeboom, Petitioner
Geoff Daly, Petitioner

COURT REPORTER: Susan J. Robidas, N.H. LCR No. 44

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1 P R O C E E D I N G S

2 CMSR. HARRINGTON: Good
3 morning. Please be seated. Everyone managed
4 to find their way here all right in the fog
5 and ice.

6 Okay. We're going to open the
7 prehearing conference on DW 12-359,
8 Pennichuck Water Works, Water Infrastructure
9 and Conservation Adjustment.

10 On December 19, 2012,
11 Pennichuck Water Works, Inc. filed a petition
12 for approval of its Water Infrastructure and
13 Conservation Adjustment capital projects for
14 2013 and for preliminary approval of its
15 proposed projects for 2014. Pennichuck's
16 petition also provides a list of proposed
17 2015 projects for informational purposes.
18 The Commission has authorized the
19 implementation of WICA as a pilot program in
20 Pennichuck's last general rate case, Order
21 No. 25,230.

22 Pennichuck proposes \$2,251,357
23 in WICA capital improvements in 2013,
24 including \$1,755,007 in main replacements,

1 \$57,598 in service line replacements, and
2 \$438,752 in contingency costs. Pennichuck
3 proposes \$1,918,848 in 2014 WICA projects.
4 These proposed 2013 projects would result in
5 a bill impact for a customer consuming
6 7,880 cubic feet or about 59,000 gallons of
7 water annually, of approximately 39 cents
8 monthly, beginning in April 2014.

9 So, having said that, why
10 don't we take appearances, please.

11 MR. COOLBROTH: Good morning,
12 Commissioners. On behalf of Pennichuck Water
13 Works, Inc., my name is Frederick Coolbroth,
14 from the firm of Devine, Millimet & Branch.
15 And with me today from the Company are John
16 Patenaude, the Company's CEO; Don Ware, the
17 Company's COO; Larry Goodhue, the Company's
18 CFO, and Charlie Hoeppe, the Company's
19 director of regulatory affairs.

20 CMSR. HARRINGTON: Thank you.
21 OCA.

22 MS. HOLLENBERG: Oh, I'm
23 sorry. I'm not sure if there's --

24 CMSR. HARRINGTON: Go ahead.

1 Excuse me.

2 MR. TEEBOOM: Good morning.

3 My name is Fred Teeboom. I have a petition
4 on file for intervention. And my petition is
5 dated 22 December and --

6 CMSR. HARRINGTON: That
7 petition is in our possession.

8 MR. TEEBOOM: The rationale is
9 presented. I'm a ratepayer, and my rationale
10 is presented --

11 (Court Reporter interjects.)

12 MR. TEEBOOM: If you desire me
13 to reiterate what I base my intervention
14 petition on, I will be able to summarize
15 that.

16 CMSR. HARRINGTON: Sir.

17 MR. DALY: Good morning. My
18 name is Geoff Daly. I am also a ratepayer
19 from Nashua. I've submitted a petition,
20 dated it January 22nd. And again, as Mr.
21 Teeboom said, I am willing to give you the
22 reasons for my petition.

23 CMSR. HARRINGTON: And we also
24 have that petition in our possession. Thank

1 you.

2 MR. DALY: That is correct.

3 MS. HOLLENBERG: Good morning,
4 Commissioner Scott and Commissioner
5 Harrington. Rorie Hollenberg and Donna
6 McFarland here for the Office of Consumer
7 Advocate. Thank you.

8 MS. BROWN: Good morning.
9 Marcia Brown on behalf of Staff. With me
10 today is Mark Naylor, Jayson LaFlamme and
11 Robyn Descoteau.

12 CMSR. HARRINGTON: Okay. And
13 I guess the first order of business we'll
14 take up are the petitions. Both Mr. Teeboom
15 and Mr. Daly have filed petitions in a timely
16 manner. And we want to know, first of all,
17 are there any objections to them being
18 granted intervenor status?

19 MR. COOLBROTH: Yes,
20 Commissioner, we would like to raise an
21 objection.

22 CMSR. HARRINGTON: Okay.
23 Could you give us the reasons.

24

1 MR. COOLBROTH: Under -- well,
2 the petitions that they have filed are
3 virtually identical. And under 541-A:32,
4 they're supposed to provide in their petition
5 facts demonstrating that the petitioner's
6 rights, duties, privileges, immunities or
7 substantial interests may be affected by the
8 proceeding. And the Commission must also
9 find that the orderly and prompt conduct of
10 the proceedings would not be impaired by
11 allowing the intervention.

12 The WICA mechanism was
13 approved by the Commission in Pennichuck's
14 last rate case, Docket No. DW 10-091, and
15 specifically in Order 25,230, dated June 9,
16 2011. This mechanism is part of the
17 traditional utility ratemaking to which
18 Pennichuck remains subject following the
19 acquisition by the City of Nashua. So what
20 is before the Commission in this docket is
21 the conformity of its filing in this case
22 with Order 25,230.

23 The two petitions to intervene
24 go far beyond this narrow scope of the

1 proceeding. They question the acquisition of
2 Pennichuck Corporation by the City of Nashua;
3 they question the terms of that acquisition,
4 and the resulting capitalization of the
5 Company. Those issues have been fully
6 resolved and are not before the Commission
7 now. Mr. Teeboom, in fact, signed the
8 settlement agreement recommending that the
9 Commission approve that transaction. That
10 case is over. The Commission issued its
11 order approving the transaction. That order
12 was not appealed, and the transaction has
13 closed. So those issues cannot be re-
14 litigated in this proceeding.

15 The other principal issue
16 raised in the petition to intervene is the
17 adequacy of communication between the Company
18 and the City of Nashua's Board of Aldermen.
19 This is an issue for the City and for the
20 Company to address. It is not something that
21 would be determined by the Commission.

22 So, looking at the petitions
23 to intervene which are, by law, supposed to
24 spell out the purposes of intervention, they

1 do not show substantial interests that will
2 be affected by this proceeding. Moreover,
3 attempt to interject those issues into this
4 proceeding would unduly disrupt and delay the
5 proceeding. Therefore, based on what they
6 have submitted in their petitions to
7 intervene, we do not believe that they're
8 entitled to intervention and would object.

9 CMSR. HARRINGTON: Okay.
10 Thank you. We'll allow the other parties to
11 speak, and then we'll have the two potential
12 intervenors speak last. OCA.

13 MS. HOLLENBERG: Thank you. I
14 have no objection to the petitions to
15 intervene.

16 MS. BROWN: Staff has no
17 objection to the intervention request, but we
18 do agree with the Company that the
19 intervenors have raised issues that are
20 either moot because they've been resolved in
21 the Docket 11-026, or they are not ripe yet
22 for this particular proceeding. The
23 Commission has a history of allowing
24 customers who -- customers of utilities to

1 participate in proceedings, and because of
2 that past, I guess, practice, Staff is
3 willing to allow or not object to the
4 intervention requests. However, Staff would
5 like a Commission reminder to the intervenors
6 that the issues at play in this proceeding
7 are the WICA issues and nothing else. The
8 intervenors have raised rate issues. That
9 will be reserved for the Phase 2 of the WICA
10 proceeding which will be filed by the Company
11 next year. Thank you.

12 CMSR. HARRINGTON: And Mr.
13 Teeboom and Mr. Daly. Mr. Teeboom, you can
14 start, I guess, as you spoke first last time.
15 But could you please address the specific
16 concerns, especially those raised by the
17 Company, that your petition seems not to deal
18 with the WICA; in fact, it mostly deals with
19 Docket DW 11-026, which is, as was stated, a
20 closed, settled docket.

21 MR. TEEBOOM: Commissioner,
22 I'm fully aware of the settlement agreement,
23 fully aware of the PUC Order 25-292, because
24 I was a signer of the settlement agreement.

1 We are not raising those issues. What we're
2 raising is the fact that the settlement
3 agreement never discussed the WICA filing or
4 any such filing, even though the order by the
5 PUC on WICA, dated 9 June, 2011, 25,292, the
6 settlement agreement is dated 30 June --

7 CMSR. HARRINGTON: Excuse me.
8 Could you speak into the microphone so the
9 stenographer can have a chance of hearing
10 you? You don't have to stand up, sir.
11 Sitting is fine. Just speak close into the
12 microphone, please.

13 MR. TEEBOOM: Maybe I should
14 sit down?

15 CMSR. HARRINGTON: Yes,
16 please.

17 MR. TEEBOOM: The settlement
18 agreement and the order are much later than
19 the WICA order. At no time during the
20 settlement discussions and anywhere in the
21 order is the WICA filing mentioned. The
22 settlement agreement and the order by PUC --
23 this is the 25,292 order -- mentions there
24 was adequate financing for this Company to be

1 able to conduct its business. And it
2 mentions in particular, there will be a
3 regular rate filing on or before 30 June of
4 2013. On or before this year, 30 June, there
5 will be a regular rate filing. Nowhere is
6 the WICA filing as a separate filing
7 mentioned. The WICA filing, in fact, will
8 result in a rate increase if you allow the
9 petition on the WICA filing to capital
10 improvements.

11 There was in the original
12 settlement, the 25,292 order, mention made
13 about a \$5 million rate stabilization fund.
14 That was to cover any unforeseen financial
15 implication and this new corporation
16 operating, certainly carrying into the filing
17 on or before the -- the regular rate filing
18 on or before 30 June of this year.

19 So, I think that the reason
20 for our filing is, I think the WICA filing is
21 over and beyond anything in the previous PUC
22 order. It is inappropriate because any
23 finances had already been covered under that
24 order and the settlement agreement. The \$5

1 million rate stabilization funds would cover
2 any expense. And there were also in that
3 order and the settlement agreement
4 discussion -- and that is fully disclosed in
5 the financial analysis by Downer -- about the
6 \$8 million capital improvements fund and
7 finances outside this WICA. This is all part
8 of the settlement agreement and all within
9 the order of the first settlement agreement,
10 Order 25,292.

11 So, the WICA thing is
12 something new. They brought up an old order.
13 The old order would be superseded by the new
14 order. It was never mentioned in the
15 settlement agreement; therefore, it is
16 totally undisclosed. That's why we
17 intervened. We are concerned about an
18 additional rate increase, and that's going to
19 be a rate increase in addition to any rate
20 increase that would be allowed under the
21 regular filing on or before 30 June, this
22 year.

23 CMSR. HARRINGTON: Thank you.

24 Mr. Daly.

1 MR. DALY: Thank you, sir.

2 CMSR. HARRINGTON: And if you
3 would, if your arguments are going to be just
4 exactly the same as Mr. Teeboom, if you could
5 just state that, rather than --

6 MR. DALY: They are,
7 basically. I would like to add, though, I've
8 gone through a lot of the documentation
9 within the Pennichuck Corporation, and there
10 is some testimony from Mr. Ware, where he
11 states they withheld during the merger
12 agreement any mention of WICA. So, again, no
13 public disclosure. And I think this also
14 goes to the heart of what Mr. Teeboom has
15 said. You allowed within your original order
16 this rate stabilization with that money if
17 any unforeseen capital needs are required.
18 So, that nearly \$8 million already exists; so
19 why do we have to go back to the trough? To
20 be honest with you, the C.W. Downer financial
21 data analysis is totally indecipherable and
22 undecipherable for anybody, even several
23 accountants who have looked at it and said
24 they can't make head nor tail. I would like

1 the Commission maybe to have somebody try and
2 decipher it.

3 Otherwise, I am in the
4 agreement with what Mr. Teeboom says. We are
5 looking at a definite rate increase across
6 the board for all the ratepayers of the
7 Pennichuck Corporation's water billing
8 department.

9 CMSR. HARRINGTON: Thank you.
10 Just one second.

11 (Off-the-record discussion
12 between Commissioners Harrington and Scott.)

13 CMSR. HARRINGTON: Thank you
14 for bearing with us for a second.

15 It seems as if some of what
16 the petitioners are trying to do is really to
17 adjust some of the scope of this proceeding
18 as it was stated in the order of notice. And
19 to tell you the truth, I think we want to
20 take that under advisement and check with
21 counsel on that before we look at that, for
22 the legalities of it. This may or may not be
23 the correct venue to be discussing the issues
24 that they've brought up. Having said that,

1 we'll take their petitions under advisement
2 at this time. And, as I believe there's a
3 technical session scheduled after this, we'll
4 allow the participation of Mr. Teeboom and
5 Mr. Daly in the technical session, with the
6 guidance that, for right now, that should --
7 we should stick with the scope of the
8 proceeding as described in the order of
9 notice, and these other issues about how or
10 how not the WICA should have been involved
11 and getting back to the issues raise in their
12 petition should be put in abeyance right now.
13 And like I said, we'll get back on that.
14 So --

15 MR. COOLBROTH: Commissioner
16 Harrington, just briefly, I just want to
17 mention that we do object to the
18 characterization of Mr. Ware's testimony and
19 just ask that the Commission take Mr. Ware's
20 testimony as it's written and not as it was
21 characterized.

22 CMSR. HARRINGTON: Sure.
23 Certainly. Thank you. Okay. All right.
24 It's getting a little more involved than I

1 thought it was today.

2 Okay. Next, I guess we'll
3 just have the position with the parties,
4 starting with the Company, on the issues
5 raised in the order of notice, please.

6 MR. COOLBROTH: Thank you.

7 The Company believes that its filing conforms
8 with the WICA mechanism that was spelled out
9 in Order 25,230, in Docket DW 10-091. The
10 2013 projects for which approval is sought
11 result in a very modest surcharge in 2014 of
12 approximately 39 cents a month, on average.
13 Preliminary approval is sought for 2014
14 construction projects, and 2015 projects are
15 presented for informational purposes.

16 The Company has also
17 demonstrated in its testimony that the
18 requested surcharge is below what would have
19 resulted from the capital structure of the
20 Company prior to the City of Nashua
21 acquisition. And again, we want to point out
22 that the surcharge we're discussing would not
23 take effect until April 1, 2014.

24 Therefore, we are asking the

1 Commission for review and approval of the
2 2013 and 2014 projects in accordance with the
3 WICA mechanism. Thank you.

4 CMSR. HARRINGTON: Thank you.

5 (Off-the-record discussion
6 between Commissioners Harrington and Scott.)

7 CMSR. HARRINGTON: Mr. Daly,
8 Mr. Teeboom, do you have anything else to add
9 to what you've previously stated on the
10 issues -- and again, you don't have to stand,
11 and could you please use the microphone -- as
12 it relates to what's in the order of notice?

13 MR. TEEBOOM: No. We feel
14 this WICA is -- transcends the Pennichuck
15 order of 29 -- 25,292 and should be rejected
16 altogether. I should emphasize that there's
17 \$8 million roughly allowed on the 25,292 --

18 CMSR. HARRINGTON: Again, sir,
19 we're trying to -- if you have anything to
20 add on the issues that are in the order of
21 notice. Those other issues you've brought up
22 have been noted, and the Commission will be
23 ruling on those separately.

24 MR. TEEBOOM: I think the

1 order of notice just allows -- if I
2 understand your notice, it just allows this
3 hearing to take place, yes.

4 CMSR. HARRINGTON: All right.
5 Thank you. Mr. Daly.

6 MR. DALY: Not really, other
7 than I disagree with counsel, as I have
8 quoted directly from their own testimony. I
9 can give you page and number, line number, if
10 needed.

11 CMSR. HARRINGTON: Okay.
12 Thank you.

13 Ms. Hollenberg.

14 MS. HOLLENBERG: Thank you.
15 As the Commission may recall in Docket DW
16 10-091, which was PWW's last rate case, the
17 OCA opposed the WICA pilot program.
18 Specifically, we opposed extending that form
19 of rate mechanism to Pennichuck on the basis
20 that there was an existing pilot program
21 being conducted by Aquarion Water Company,
22 and that that pilot program, Aquarion's, had
23 not yet been reviewed, which was contemplated
24 in the order approving the Aquarion WICA.

1 The OCA took the position at that time that
2 we would be informed through the review of
3 the Aquarion WICA before we would extend the
4 WICA pilot to another utility. The review
5 that is now pending in DW 12-085 is the
6 review -- includes the review of the Aquarion
7 WICA. And the OCA has filed testimony in
8 that proceeding, as well as a statement of
9 position in the 2012 Aquarion WICA
10 proceeding, which is DW 12-325. In that
11 testimony, and generally in the statement we
12 filed in the annual WICA Aquarion case, we
13 raised concerns about Aquarion's use of the
14 WICA for unplanned emergency repairs, for
15 upgrading meters, as well as what we
16 perceived as a lack of any filed information
17 that supported a systematic and continuous
18 review of infrastructure needs and the
19 prioritization of those infrastructure needs,
20 such as the Aquarion Company filed in its
21 initial WICA docket back in 2009.

22 At this time, we look forward
23 to working with the Company and Staff on the
24 concerns that we may have. A review of the

1 Company's filing, a brief review of that
2 filing, suggests to me, although I could be
3 wrong, that there are the same -- there may
4 not be the same issues present in this case
5 as there are in the Aquarion case.

6 Thank you for this opportunity
7 to provide our statement.

8 CMSR. HARRINGTON: Ms. Brown.

9 MS. BROWN: Good morning,
10 Commissioners. As I think was mentioned
11 earlier in Docket DW 10-091, in Order 25,230,
12 June 2011, the Commission approved the pilot
13 for Pennichuck Water Works. And this is
14 indeed the first filing of that three-year
15 cycle where they file projects for
16 contemplation for construction for 2013.

17 Staff will be conducting
18 discovery and will likely devise a brief
19 procedural schedule with the Company and the
20 parties -- or the intervenors, if so granted,
21 in the technical session. And we will file
22 that with the Commission, that proposed
23 procedural schedule with the Commission, at a
24 later date.

1 In our discussion of whether
2 the interventions were appropriate and the
3 scope of the proceeding, Staff just wants to
4 reaffirm or reiterate that there is no rate
5 implication for this particular proceeding.
6 There is no ratemaking structure that will be
7 changed. If there is a ratemaking type of
8 involvement, that's not going to come until
9 another year when a surcharge is requested.
10 And at that point, it will just be
11 Pennichuck's overall cost of capital that
12 will be applied to the then-completed WICA
13 projects. So, there being no surcharge
14 request being made at this juncture of the
15 three-year cycle, there is no rate issue to
16 discuss.

17 With that, that concludes our
18 prehearing statement. Thank you.

19 CMSR. HARRINGTON: Commissioner
20 Scott.

21 INTERROGATORIES BY CMSR. SCOTT:

22 CMSR. SCOTT: Good morning. I
23 have a quick question of the Company. My
24 understanding, if you can confirm for me, one

1 of the hopes of the WICA program is to
2 provide a venue for some efficiencies, and
3 hopefully cost savings in the long run
4 compared to traditional approaches. Is that
5 a fair statement?

6 MR. COOLBROTH: That's
7 correct, Commissioner.

8 CMSR. SCOTT: I was curious.
9 So as the Company moves forward, assuming
10 everything is approved as you wish, do you
11 have some intention of trying to quantify the
12 cost savings and the efficiencies that you
13 achieve?

14 (Off-the-record discussion among
15 counsel and Company representatives.)

16 MR. COOLBROTH: We will
17 attempt to do so, yes, Commission.

18 CMSR. SCOTT: I think that
19 would be helpful for the future of those
20 types of programs. Thank you.

21 CMSR. HARRINGTON: Are there
22 any other issues we need to discuss today?

23 (No verbal response)

24 CMSR. HARRINGTON: Seeing

1 none, then the technical session will go on
2 immediately following this. And again, I ask
3 the parties to keep it to the issues that are
4 listed in the order of notice. And for the
5 purpose of this technical discussion, we'll
6 allow Mr. Daly and Mr. Teeboom to
7 participate, pending our evaluation of their
8 request for full intervenor status. We'll
9 close the hearing, the prehearing conference.
10 Thank you.

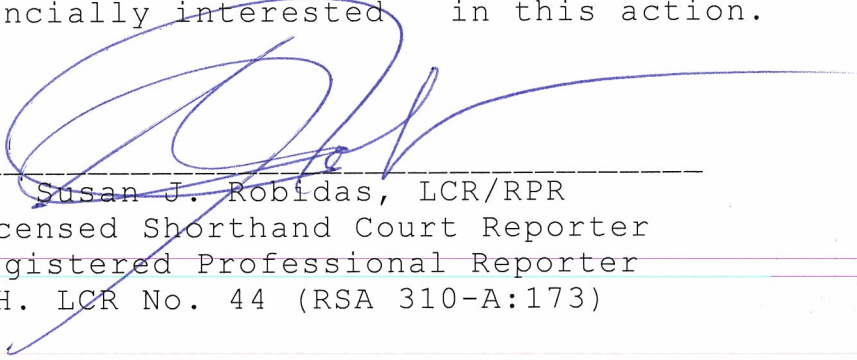
11 MR. COOLBROTH: Thank you.

12 (Whereupon the hearing was
13 adjourned at 10:30 a.m.)
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24**C E R T I F I C A T E**

I, Susan J. Robidas, a Licensed Shorthand Court Reporter and Notary Public of the State of New Hampshire, do hereby certify that the foregoing is a true and accurate transcript of my stenographic notes of these proceedings taken at the place and on the date hereinbefore set forth, to the best of my skill and ability under the conditions present at the time.

I further certify that I am neither attorney or counsel for, nor related to or employed by any of the parties to the action; and further, that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in this action.



Susan J. Robidas, LCR/RPR
Licensed Shorthand Court Reporter
Registered Professional Reporter
N.H. LCR No. 44 (RSA 310-A:173)