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**P R O C E E D I N G**

CMSR. CHATTOPADHYAY: Good morning,  
everyone.

MR. GOODHUE: Good morning.

CMSR. CHATTOPADHYAY: Folks can hear  
me? This is more about the folks on the screens?

MS. RUSSO: Good morning.

CMSR. CHATTOPADHYAY: I am Commissioner  
Chattopadhyay. And I will be conducting today's  
proceeding, as Chairman Goldner is not available.  
I'm joined today by Commissioner Simpson.

We are here this morning in Docket  
DE [DW?] 22-002 for a prehearing conference  
regarding a Petition for Approval of  
Miscellaneous Utility Service Fees by Pennichuck  
Water Works, Pennichuck East Utility, and  
Pittsfield Aqueduct Company. Following Order  
26,585, which suspended proposed tariff rates,  
convened an adjudicative proceeding, and provided  
notice for this prehearing conference. Following  
the prehearing conference, we understand that the  
parties will hold a technical session to consider  
pertinent matters, including proposing a  
procedural schedule.

1           So, I will go ahead with taking  
2           appearances. From the Company, please?

3           MS. BROWN: Good morning, Commissioners  
4           Chattopadhyay and Simpson. It is good to be here  
5           in person. And my name is Marcia Brown. I am  
6           with N.H. Brown Law. And I am representing  
7           Pennichuck Water Works, Pennichuck East Utility,  
8           Pittsfield Aqueduct Company. And present for the  
9           Companies is Larry Goodhue, to my immediate  
10          right, who is the Chief Executive Officer and  
11          Chief Financial Officer of all three Companies;  
12          and to his right is George Torres, and George is  
13          the Controller, he also wears multiple hats,  
14          Corporate Controller, Treasurer, and Chief  
15          Accounting Officer.

16          Thank you.

17          CMSR. CHATTOPADHYAY: Thank you. OCA,  
18          please?

19          MS. BROWN: Oh. I'm sorry, I had  
20          forgotten my virtual attendee.

21          CMSR. CHATTOPADHYAY: Okay.

22          MS. BROWN: Donald Ware is also joining  
23          us. Sorry about that, Don. And Don is Chief  
24          Operating Officer for all three Companies.

1 Thank you.

2 CMSR. CHATTOPADHYAY: Thank you. OCA,  
3 please.

4 MS. DESMET: Yes. Good morning,  
5 Commissioners. Julianne Desmet, on behalf of the  
6 OCA. And with me is Ms. Josie Gage, who is the  
7 Director of Economics and Finance.

8 CMSR. CHATTOPADHYAY: Thank you.  
9 Department of Energy?

10 MR. TUOMALA: Good morning,  
11 Commissioners. Christopher Tuomala, attorney  
12 from the Department of Energy. With me I have  
13 Jayson Laflamme, Assistant Director of the  
14 Regulatory Division at the Department of Energy;  
15 and also with me is David Goyette, an analyst in  
16 the Regulatory Division.

17 CMSR. CHATTOPADHYAY: Thank you. So,  
18 we will move on to preliminary matters, if there  
19 are any?

20 *[No verbal response.]*

21 CMSR. CHATTOPADHYAY: The Commission  
22 has not received, to our knowledge, any petitions  
23 to intervene regarding this matter. And, as I  
24 don't see any would-be intervenors here today,

1 but just want to make sure. I think that is the  
2 case, right?

3 MS. BROWN: Yes. The Company is not  
4 aware of any intervenors, has not been served or  
5 received any emails or filings regarding any  
6 intervenors. So, I think it is accurate that  
7 there are no other parties, other than Department  
8 of Energy, OCA, and the Companies.

9 CMSR. CHATTOPADHYAY: Thank you. Are  
10 there any motions this morning?

11 MS. DESMET: Yes. If it would please  
12 the Commission, the OCA would like to make a  
13 motion or a request that the -- excuse me -- this  
14 Petition be dismissed and not moved forward. And  
15 I do have argument, if the Commission would  
16 entertain that?

17 *[Commissioner Chattopadhyay and*  
18 *Commissioner Simpson conferring.]*

19 CMSR. CHATTOPADHYAY: So, we would like  
20 you to put that in the initial statement portion.  
21 Okay?

22 MS. DESMET: Okay. Thank you.

23 CMSR. CHATTOPADHYAY: Yes. Is there  
24 anything else, as far as preliminary matters

1 goes?

2 [No verbal response.]

3 CMSR. CHATTOPADHYAY: No. So, let's  
4 proceed with the initial position statements.  
5 Attorney Brown.

6 MS. BROWN: Thank you, Commissioners.  
7 I'd also just like to, for completeness, note  
8 that the affidavit of publication was filed by  
9 the Companies on February 18th, thereby, you  
10 know, effectuating due notice of this prehearing  
11 today.

12 With respect to the filing, there are  
13 two components of the relief that is requested.  
14 Under RSA 378:3, if a utility needs to increase  
15 rates, they merely file tariffs. And, for the  
16 bulk of the miscellaneous utility fees, their  
17 service fees, that was the manner with which the  
18 Company attempted to effectuate the rate  
19 increase.

20 But there was also a petition that was  
21 filed, because there is express Commission  
22 authority that is needed to look at  
23 Attachment A's to the testimony, the various  
24 petitions. With respect to "initiation of

1 service", the Company proposes to break that out  
2 into two sub charges: One for the new service  
3 and one for transfer of service. Because, over  
4 the years, it has collected enough granular data  
5 to know that it costs more to initiate a  
6 brand-new service than it does to pick up the  
7 phone and ask that a service -- an account be  
8 transferred if someone moves. And, so, that's  
9 why you see a request for initiation of service  
10 to be broken up into two charges, rather than  
11 one. And, so, for that, that indeed needed a  
12 petition for express authority for the Commission  
13 to do that.

14 But, as we know, the Commission has  
15 suspended the taking of the effect of the tariff  
16 rates. And, so, it all comes out in the wash,  
17 that we're under 378:7 and, you know, just and  
18 reasonableness of the rates.

19 With respect to the just and  
20 reasonableness of the rates, as past dockets  
21 confirmed, these are cost-based rates. These are  
22 not rates that the Company earns a return and,  
23 indeed, at each rate case for these respective  
24 Companies. These specific rates are backed out



1 of the revenue requirement.

2 Now, the public policy behind that is  
3 that these charges are customer-specific. And it  
4 makes sense for the customer causing that charge  
5 to pay that charge, and no more. And, so, that  
6 is why these miscellaneous utility service fees  
7 are treated differently than any other revenues  
8 that the Company receives and is, you know,  
9 authorized under the revenue requirement.

10 And the cost-based nature of these is  
11 also explained in the testimony of Mr. Ware. And  
12 the cost analysis is depicted on Attachment D.  
13 And, in the past, this is more of a auditing  
14 review, to make sure that these cost-based  
15 numbers are accurate, and the Company is  
16 calculating these charges correctly.

17 Now, the last time these rates -- these  
18 service fees were updated was in 2009. So, it's  
19 been a while. So, it is about time that these  
20 fees be increased. And the Company looks forward  
21 to the Department of Energy's review. I  
22 understand that the Office of Consumer Advocate  
23 has a potential motion to dismiss, but we would  
24 welcome their review. Because it's always good

1 to have a separate eyes, separate audit on these  
2 calculations. The Company does not -- is not  
3 aware that there are any errors or corrections  
4 that need to be made to these calculations. It  
5 believes that they are sound. But it's always  
6 good to have that extra review.

7 And, so, with that, the Company looks  
8 forward to working with the other parties to this  
9 docket, hopefully, in a procedural schedule.  
10 But, if there is a motion to dismiss, then the  
11 Companies will respond in writing to that.

12 Thank you.

13 CMSR. CHATTOPADHYAY: Thank you. Ms.  
14 Desmet.

15 MS. DESMET: Yes. Thank you again.

16 As previously stated, the OCA's  
17 position today is that this Petition should be  
18 dismissed or rejected. These Companies have had  
19 recent rate cases. Pennichuck Water Works was a  
20 2019 case, with a decision in the month of  
21 April 2021, that was an increase for the Company  
22 of 11.35 percent; Pennichuck East Utility had a  
23 rate case in 2020, with a decision that just came  
24 down in February of this year, that was a 16.79

1           percent increase for the utility; Pittsfield  
2           Aqueduct Company had a case in 2020 as well, with  
3           a decision in December of 2021, and that was a  
4           5.45 percent increase. So, within a year, all of  
5           these Companies have had decisions on permanent  
6           rates.

7                         Now, as the Commissioners have heard,  
8           it is true that these fees haven't been addressed  
9           since 2019 [sic]. However, it is the OCA's  
10          position that, in this instance, the Companies  
11          should have known they were inadequate, as they  
12          now claim they are, and they should have been  
13          examined in the context of a rate case.

14                        It's OCA's position that this should  
15          not be coming now, after the fact of a rate case,  
16          and that it is single-issue ratemaking, and that  
17          is something that the Commission has not favored  
18          and routinely rejected.

19                        Counsel did inform me of a case from  
20          2009, that was DW 09-102, and that involved  
21          Pennichuck East Utility and Pittsfield Aqueduct  
22          Company, and that was the Petition for  
23          Miscellaneous Fees from 2009. And the difference  
24          in that case, from this case, is that Pennichuck

1 Water Works at the time had a rate case going on,  
2 and that these were thoroughly being examined in  
3 that context.

4 There is a Staff, now Department of  
5 Energy, recommendation in that 2009 docket that,  
6 yes, Pennichuck East and Pittsfield Aqueduct's  
7 fees should increase, but the difference was it  
8 said they should increase to maintain consistency  
9 between the Companies, because Pennichuck Water  
10 Works' fees were increasing within the context of  
11 the rate case.

12 So, again, the fact that this is not in  
13 the context of any rate case, as it was in 2009,  
14 it is the OCA's position that this should be  
15 dismissed, because allowing increases in this  
16 manner leads to single-issue ratemaking.

17 CMSR. CHATTOPADHYAY: Can I ask, does  
18 OCA intend to file a motion?

19 MS. DESMET: Had not been considered,  
20 but we can certainly do so, if that is needed?

21 CMSR. CHATTOPADHYAY: I think it would  
22 be helpful if something is filed in writing,  
23 because others would also get the opportunity to  
24 respond to it, the other stakeholders or other

1 parties.

2 MS. DESMET: Yes.

3 CMSR. CHATTOPADHYAY: So, I'll let, you  
4 know, the initial statements be done first, and  
5 then we'll come to that point.

6 MS. DESMET: Okay.

7 CMSR. CHATTOPADHYAY: Okay?

8 MS. DESMET: Thank you.

9 CMSR. CHATTOPADHYAY: Okay. So,  
10 please, for the Department of Energy.

11 MR. TUOMALA: Thank you, Commissioner.

12 The Department anticipated working with  
13 the parties to establish a procedural schedule,  
14 and the Department had considered issuing  
15 discovery on the charges. But, now, with the  
16 OCA's potential motion, we'd have to consider  
17 their position.

18 And I agree with the Commission, I  
19 think it would be helpful in writing to see what  
20 that position is. We hadn't thought along the  
21 same lines of the OCA. But we have initially  
22 reviewed the Petition. We do have some  
23 questions. If this docket is to go forward, we  
24 anticipated a few rounds of discovery, a

1 technical session. We've been in communication  
2 with the Company, who graciously offered a  
3 potential procedural schedule. And we had agreed  
4 that that looked pertinent for this docket. So,  
5 we'll follow with a technical session, and  
6 depending on what discovery had uncovered,  
7 possibly supporting the Petition. Or, if there  
8 is a major difference from the Petition with the  
9 positions of the parties, possibly a settlement  
10 agreement at that time. But I believe that's a  
11 bit premature now with the OCA's Motion to  
12 Dismiss the Petition.

13 But, in any case, we are prepared to go  
14 forward and discuss with the parties after the  
15 hearing.

16 *[Commissioner Chattopadhyay and*  
17 *Commissioner Simpson conferring.]*

18 CMSR. CHATTOPADHYAY: Yes, please.

19 MS. BROWN: Commissioners, if the  
20 Company can just briefly respond, because we do  
21 have a motion, and it was included in the  
22 earliest preliminary statements. If I could just  
23 briefly respond to that, knowing that, hopefully,  
24 there will be a written motion coming, and then

1 we can, you know, properly respond to a more  
2 vetted argument.

3 But, initially, the suggestion that  
4 "miscellaneous fees can only be changed in the  
5 context of a general rate case", I would make  
6 note that general rate cases are for changes in  
7 rates of general applicability. These are very  
8 specific rates. They're -- you know, the  
9 Commission has had a history of treating --  
10 reviewing them and treating these changes in  
11 context outside of rate cases. So, there is no  
12 rule that these have to be absorbed into the  
13 general rate case model, as seen in the 2009  
14 docket.

15 With respect to there being rate  
16 increases already, as we noted in the testimony  
17 and in the Petition, these are cost-based, and  
18 they are for the specific company that incurs  
19 these, there is no return. And the hope is to  
20 increase these, so there is no subsidy from other  
21 companies or other revenues subsidizing these, I  
22 guess, under-sufficient rates.

23 So, and I would just also reaffirm that  
24 these are proformed out of the rate cases and the

1 revenue requirement. So, there's been a history  
2 of this Commission treating them separately. And  
3 we would just like to have this docket go  
4 forward, and not have it stalled, especially  
5 since it's going to be a few more years since --  
6 until PAC/PEU are in for a rate case. So, it is  
7 appropriate, since they are all tied at a hip, to  
8 go forward.

9 But we will see what the motion  
10 arguments are and respond. But, just initially,  
11 those are my initial, I guess, objections to the  
12 motion to dismiss this case.

13 Thank you.

14 *[Commissioner Chattopadhyay and*  
15 *Commissioner Simpson conferring.]*

16 CMSR. CHATTOPADHYAY: Thank you. I  
17 think what the Company shared, some of it might  
18 be part of the written response. So, I would  
19 definitely like or require the OCA to file a  
20 motion. And then, we will have responses from  
21 the Company and DOE.

22 How much time do you think, I'm asking  
23 the OCA now, that you could be ready with a  
24 motion?



1 MS. DESMET: I guess I don't know what  
2 general due course is. If a week is fine with  
3 everyone, --

4 CMSR. CHATTOPADHYAY: Okay.

5 MS. DESMET: -- certainly a week. If  
6 it needs to be in by the end of this week, I can  
7 make that happen as well. So, if a week is a  
8 general timeframe, I would gladly have that  
9 timeframe, if that's appropriate.

10 CMSR. SIMPSON: A week seems reasonable  
11 to me.

12 CMSR. CHATTOPADHYAY: So, then, today  
13 is Wednesday, maybe by Tuesday?

14 MS. DESMET: Yes.

15 CMSR. CHATTOPADHYAY: Okay. Sorry.

16 *[Commissioner Chattopadhyay and*  
17 *Commissioner Simpson conferring.]*

18 MS. BROWN: Is that April 5th?

19 CMSR. CHATTOPADHYAY: Yes. My screen  
20 went blank right when I was going to look at the  
21 date.

22 CMSR. SIMPSON: Yes, it's April 5th.

23 CMSR. CHATTOPADHYAY: Okay. And how  
24 much time do the parties -- do the others think

1           they would need to respond?

2                   MS. BROWN: I believe the rules allot  
3           ten days, if my memory serves me. And I think  
4           that would be sufficient.

5                   CMSR. CHATTOPADHYAY: Okay. And that  
6           would be?

7                   MR. GOODHUE: April 15th.

8                   CMSR. CHATTOPADHYAY: April 15th. So,  
9           let's go with those dates.

10                   I think it's, I mean, clearly, this  
11           came up. And it's absolutely fine. Anything can  
12           come up during a hearing. I'm going to proceed  
13           with what I had, but we will try not to get into  
14           additional material that we think can be handled  
15           later. So, let me just -- so, thank you for all  
16           of that.

17                   As noted in Order 26,585, the Petition  
18           by the Companies raises the issue of whether the  
19           proposed changes to the Miscellaneous Utility  
20           Service Fees are just and reasonable as required  
21           under RSA 374:2 and RSA 378:5 and 7.

22                   The Petition suggests that the last  
23           time the Miscellaneous Rates were changed was  
24           roughly 13 years ago. Evolving economic

1           circumstances, including inflationary trends, are  
2           expected to impact the costs associated with  
3           miscellaneous services, which appropriately  
4           should inform the rates going forward.

5                         We are looking forward to the  
6           procedural schedule being developed by the  
7           parties to allow proper discovery and  
8           consideration of the issues, such as actual  
9           trends in the costs associated with the  
10          miscellaneous services, trends in cross  
11          subsidization of these services, and the  
12          demonstrated appropriateness at-large of the cost  
13          estimates that inform the rates proposed by the  
14          Companies, going forward.

15                        Now, what I've shared here is, is just  
16          trying to keep a parallel track open. And, when  
17          we have the material, we'll be able to proceed  
18          accordingly. Okay?

19                        So, we will -- I don't think, but I'll  
20          still ask you, if you have any questions or  
21          anything to --

22                        CMSR. SIMPSON: I don't, Commissioner  
23          Chattopadhyay. At this time, I'll hold on  
24          further questions. Look forward to reviewing the

1 motion, along with reply comments from the  
2 Department and the Company.

3 CMSR. CHATTOPADHYAY: So, I would ask  
4 the parties to gather and engage in the technical  
5 session following the prehearing conference, and,  
6 certainly work on the procedural schedule. But,  
7 like we discussed, we have the motion that will  
8 be coming in on the 5th of April, and, after ten  
9 days following that, we'll have a better picture  
10 of how to proceed.

11 CMSR. SIMPSON: And, hopefully, the  
12 technical session and the procedural schedule  
13 developed by the parties will help inform the  
14 Commission as to scheduling and next steps.  
15 Appreciate everyone's collaboration.

16 CMSR. CHATTOPADHYAY: Thank you.

17 MS. BROWN: Thank you.

18 MS. DESMET: Thank you.

19 CMSR. CHATTOPADHYAY: We are adjourned.

20 CMSR. SIMPSON: Thank you.

21 ***(Whereupon the prehearing conference***  
22 ***was adjourned at 9:29 a.m., and a***  
23 ***technical session was held thereafter.)***