

**STATE OF NEW HAMPSHIRE**  
**BEFORE THE**  
**PUBLIC UTILITIES COMMISSION**  
**Docket No. DW 22-085**  
**PENNICHUCK WATER WORKS, INC.**

**PETITION FOR APPROVAL OF SPECIAL CONTRACT**  
**WITH MERRIMACK VILLAGE DISTRICT**

The Pennichuck Water Works, Inc. (PWW) requests Commission approval, pursuant to RSA 378:18, to deviate from its general tariff and enter into a special contract with the Merrimack Village District (MVD) for wholesale water supply. In support of this request, PWW offers the attached pre-filed testimony of Mr. Donald L. Ware and attachments as well as the pre-filed direct testimony of Ronald Miner, Jr., and also states as follows:

**Parties**

1. PWW is a regulated public utility under RSA 362:2 and RSA 362:4. PWW is authorized by the Commission, under RSA 374:22 and 26, to provide water service in the City of Nashua and towns of Amherst, Bedford, Derry, Epping, Hollis, Merrimack, Milford, Newmarket, Plaistow, and Salem, New Hampshire as well as in Tyngsboro, Massachusetts at rates filed or approved under RSA Chapter 378. PWW also has, pursuant to RSA 378:18, Commission-approved special contracts with the Town of Hudson, Anheuser-Busch, LLC, Tyngsborough Water District, Pennichuck East Utility, Inc., and the Town of Milford.

2. MVD is a village district established and is regulated in accordance with the provisions of RSA 38 and RSA 52. MVD manages over 7,500 service connections that include residential, municipal, commercial and industrial properties. MVD's service area covers more

than 87% of the Town of Merrimack. MVD owns, services, and maintains approximately 930,800 feet (or roughly 176 miles) of water mains, 930 fire hydrants, six wells (Wells 2, 3, 4, 5, 7, and 8, three water storage tanks, an Iron & Manganese treatment plant, three booster stations and a Per- and Polyfluoroalkyl Substances (PFAS) Treatment Plant.

3. PWW and MVD's systems are interconnected. The interconnection point between the two systems (Interconnection Point) is at MVD's existing water booster station located along Route 101A in Merrimack.

#### **Distinguishment of MVD from PWW's General Customers**

4. Both PWW and MVD have made investments in plant to support the interconnection of the respective water systems and these investments are described in the testimonies of Mr. Ware and Mr. Miner. For MVD:

- a. It has its own water storage facilities, which results in MVD's usage being steady and consistent, without troublesome hourly or daily peaks during seasonal peaking periods (which are inefficient in the overall delivery of water by PWW into its distribution system).
- b. MVD paid for the entire cost of constructing the existing Route 101A interconnection between MVD and PWW.
- c. MVD has six large wells capable of providing 100% of MVD's essential water supply.
- d. The rates proposed in the Wholesale Contract were arrived at using a cost of service approach which is appropriate under the circumstances because it is more reflective of the actual cost to serve MVD based upon the facts detailed above, as opposed to the tariffed rate that would otherwise apply, absent a wholesale water contract.
- e. PWW currently provides MVD with a second source of water supply in the event that one or more of MVD's wells are not operational or have become contaminated. The existing interconnection provided about 50% of MVD's water over the past year while MVD completed the installation of water treatment facilities to remove Perfluorinated compounds from its well water.

- f. The variable cost of producing a hundred cubic feet (CCF) of water through PWW's Nashua Water Treatment plant, Year-to-Date in 2022, is about \$0.66 per CCF (based on a complete carbon change out every three years, plus all chemicals and electricity for 100% of water being pumped from the Merrimack River) versus the proposed MVD's Volumetric Charge of \$0.9403 per CCF, which if subjected to the proposed 13.5% increase in rated being sought by PWW in DW 22-032 would be \$1.0673 per CCF. The proposed MVD Volumetric Charge, in conjunction with the guaranteed minimum annual volume purchase amount, ensures that MVD pays a ratable share of PWW's administrative and general expenses, Water supply and Distribution administrative expenses per the COSS.

5. The circumstances justifying the departure from PWW's filed tariff are described in Mr. Ware's testimony and in the statement of special circumstances (Attachment DLW-3) signed by PWW. The pre-filed testimony of Ronald Miner also supports the departure. These facts distinguish MVD from PWW's general metered customers. Overall, the terms of the contract will better match MVD's actual water use while ensuring PWW's full costs to provide the service are covered. In light of the better match and coverage of costs, PWW avers that the proposed MVD special contract is a reasonable departure from PWW's general tariffs that will be just and reasonable and in the public interest.

### **Proposed Contract Terms and Rates**

6. PWW and MVD propose a contract with a three-year initial term (Initial Term) running from September 1, 2023 to August 31, 2026. Each year of the Initial Term constitutes a contract year (Contract Year) for purposes of usage credits discussed in Section 6(a) of the proposed contract. The contract will renew automatically in one-year terms (Renewal Term) for a maximum of three Renewal Terms. PWW and MVD request Commission approval of the contract no later than June 1, 2023 because it is foreseeable that MVD may need wholesale water supply from PWW prior to the start of the Initial Term. In the event the Commission approves the contract prior to the Initial Term or first Contract Year, PWW and MVD propose that any usage between June 1, 2023 and August 31, 2023 be considered a Stub Year. Usage during the

Stub Year will be factored into the credits discussed in Section 6. Any usage during months in the Stub Year will be considered in the usage during the first Contract Year and is subject to the minimum guaranteed daily purchase amount of 250,000 gallons per day.

7. Under the terms of the proposed contract, MVD shall pay PWW an annual demand charge of \$181,718 (Annual Demand Charge) payable to PWW in equal monthly installments of \$15,143.13 per month. The Demand Charge will be due and payable without regard to the amount of water actually taken by MVD or any volumetric charges for such purchases. The Demand Charge will cover MVD's share of the City Bond Fixed Revenue Requirement, 1.0 Debt Service Revenue Requirement, and 0.1 Debt Service Revenue Requirement. PWW may only adjust the Demand Charge in the event a new cost of service allocation study is obtained by PWW and approved by the NH Public Utilities Commission (Commission) and where the adjustment to the Demand Charge is in direct response to the need to comply with regulations of the United States Environmental Protection Agency or the New Hampshire Department of Environmental Services and where such compliance involves the need to make material investment in or upgrades to the material water supply facilities that serve MVD.

8. MVD will pay a volumetric charge (Volumetric Charge) of \$0.9403 per CCF with a guaranteed minimum yearly usage of 121,992 CCF per Contract Year. The Volumetric Charge will be assessed, and the guaranteed minimum yearly usage enforced, as follows: MVD will be billed each month at the Volumetric Charge rate for the greater of either: (A) MVD's actual usage; or (B) a Minimum Monthly Usage of 10,166 CCF, except that the Minimum Monthly Usage will be reduced by 334.2 CCF for each day that the Company cannot deliver at least 0.25 MGD to MVD in that month. If MVD's actual usage for the month is less than the Minimum

Monthly Usage, the difference between the billed Minimum Monthly Usage and MVD's actual consumption shall be carried as a credit into the following month's bill. The credit will reduce the next month's billable consumption if MVD's actual consumption exceeds the Minimum Monthly Usage. MVD will carry any credits from month-to-month up to the end of each Contract Year. If at the end of a Contract Year, MVD has a consumption credit that credit will be reset to zero for the start of the next Contract Year. Minimum usage requirements will apply to the Stub Year with the minimum usage calculation applying to the months in the Stub Year and any usage above or under the guaranteed minimum monthly usage during the Stub Year will carry forward into the first Contract Year beginning on September 1, 2023. The Volumetric Charge may only be adjusted by the same percentage and at the same time as any future change in the volumetric rates for general metered service, as adjudicated by the Commission, which PWW charges to its core system customers in the City of Nashua. The Volumetric Charge includes modifications made from time to time by adjustments to the Qualified Capital Adjustment Charge, as approved by the Commission.

9. Pursuant to section 6(c) of the Agreement, MVD will pay a Monthly Meter Charge of \$78.33 which reflects the cost to read and bill MVD on a monthly basis as well as the cost to test MVD's meter on an annual basis. The Monthly Meter Charge may only be adjusted by the same percentage and at the same time as any future change in the volumetric rates for general metered service, as adjudicated by the Commission, which PWW charges to its core system customers in the City of Nashua. The Monthly Meter Charge includes modifications made from time to time by adjustments to the Qualified Capital Adjustment Charge, as approved by the Commission.

### **Quantities of Water to be Guaranteed and Taken**

10. PWW and MVD propose that MVD have the right to take up to, but not in excess of, five hundred thousand (500,000) gallons of water per day (GPD) at the Interconnection Point; provided, however, that water taken for non-training firefighting purposes shall not be counted toward such maximum quantity. If MVD elects to have PWW wheel water from PWW through MVD's distribution system from the Interconnection Point to its Bedford customers in the Cabot Preserve, Greenfield Farms and Parker Ridge subdivisions in accordance with the May 17, 2004 Modified Agreement for Water Supply Between Pennichuck Water works, Inc and Merrimack Village District than the amount of water wheeled through the MVD distribution system to meet the needs of the Company's Bedford water system that provides water to its Cabot Preserve, Greenfield Farms and Parker Ridge subdivisions shall not be included in the 500,000 GPD Maximum Daily Demand. The 2004 Modified Agreement is part of Attachment DLW-2 to Mr. Ware's testimony. At all times, MVD's peak draw at the Interconnection Point will be limited to 347 gallons per minute, however, water taken for non-training firefighting purposes will not be counted toward such allowable draw. In the event PWW imposes water use restrictions on its customers pursuant to NHPUC rule Puc 604.07 and during the term(s) of the contract, the water use restrictions will also apply to MVD customers.

11. The proposed contract also contains terms governing: requests by MVD to increase usage; impairments to PWW's water supply; termination, dispute resolution, amendments and assignments, and notices.

### **Legal Authority**

12. Pursuant to RSA 378:14, no public utility “shall charge or receive a greater or different compensation for any service rendered to any person, firm, or corporation than the compensation fixed for such service by the schedules on file with the Commission and in effect at the time such service is rendered.” Pursuant to RSA 378:1, PWW’s tariff, terms and conditions of service, and rate schedules are on file with the Commission and set forth the rates and terms of service.

13. Pursuant to RSA 378:18, the Commission may deviate from RSA 374:14 and approve special rates for utility service if it finds that “special circumstances exist which render such departure from the general schedules just and consistent with the public interest...” RSA 378:18.

14. In support of the request to approve the proposed special contract, and as required by Puc 1606 and Puc 203.06, PWW has attached to this petition the pre-filed direct testimony of Mr. Donald L. Ware and attachments and the pre-filed direct testimony of Ronald Miner, Jr. In particular, attachments to Mr. Ware’s testimony are: Attachment DLW-1 is the cost of service model that analyzed the rates needed to pay for PWW’s expenses associated with supplying MVD under the contract; Attachment DLW-2 is the proposed Wholesale Water Supply Contract reflecting the rates and quantities; and Attachment DLW-3 is the Statement of Special Circumstances as required by Puc 1606.02(b) that affirms that MVD’s unique situation warrants a departure from PWW’s general rate schedules.

15. PWW believes that the proposed contract is consistent with the public interest not only for the factual reasons identified above but also because PWW and MVD’s cooperation is

consistent with the legislative policy encouraging regional cooperation among water systems.

See 2000 N.H. Laws Ch. 64 and 2002 N.H. Laws Ch. 141:7.

WHEREFORE, PWW respectfully requests the Commission:

- A. Approve the proposed special contract between Pennichuck Water Works, Inc. and Merrimack Village District, on or before June 1, 2023; and
- B. Grant such other and further relief as may be just and reasonable.

Respectfully submitted,

PENNICHUCK WATER WORKS, INC.

By its Attorney,

Date: December 16, 2022

By: Marcia A. Brown  
Marcia A. Brown, NH Bar #11249  
NH Brown Law, PLLC  
20 Noble Street  
Somersworth, NH 03878  
(603) 219-4911  
mab@nhbrownlaw.com

Certificate of Service

I hereby certify that a copy of the foregoing petition and supporting materials have been emailed this day to the Department of Energy and the Office of the Consumer Advocate.

Date: December 16, 2022

Marcia A. Brown  
Marcia A. Brown



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Respectfully submitted,

PENNICHUCK WATER WORKS, INC.

By its Attorney,

Date: December 16, 2022

By: Marcia A. Brown  
Marcia A. Brown, NH Bar #11249  
NH Brown Law, PLLC  
20 Noble Street  
Somersworth, NH 03878  
(603) 219-4911  
mab@nhbrownlaw.com

Certificate of Service

I hereby certify that a copy of the foregoing petition and supporting materials have been emailed this day to the Department of Energy and the Office of the Consumer Advocate.

Date: December 16, 2022

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