

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DW 24-071**

**PENNICHUCK WATER WORKS, INC.**

**Petition for Approval of Special Contract with Tyngsborough Water District**

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

On May 6, 2024, Pennichuck Water Works, Inc. (PWW) filed a petition requesting that the Commission approve a second special contract between it and the Tyngsborough Water District in Tyngsborough, Massachusetts (TWD). In support of its petition, PWW filed the direct testimony of Donald L. Ware, PWW's Chief Operating Officer (Ware Testimony), and related attachments, including a copy of the proposed contract and a statement of special circumstances. PWW also filed a motion for protective order and confidential treatment. All docket filings, other than any information subject to confidential treatment, are available on the Commission's website at [www.puc.nh.gov/Regulatory/Docketbk/2024/24-071.html](http://www.puc.nh.gov/Regulatory/Docketbk/2024/24-071.html).

**I. BACKGROUND AND PROCEDURAL HISTORY**

Both PWW and TWD have water systems that serve the Pheasant Lane Mall, which is located in both Nashua, New Hampshire and Tyngsborough, Massachusetts. Petition, ¶ 2; *Pennichuck Water Works, Inc.*, Order No. 25,800, at 1 (July 28, 2015). PWW sells TWD additional water pursuant to a special contract that the Commission approved in Docket No. DW 15-133 (First Contract). See Order No. 25,800. This contract will expire on July 28, 2024. Ware Testimony at 4.

TWD notified PWW in late 2023 that it wished to extend the First Contract and agreed to pay for a cost of service study (COSS). *Id.* at 4, 6. The completed COSS was used to develop the rates contained in the proposed second special contract between

PWW and TWD (Second Contract). *Id.* at 8-9. PWW seeks Commission approval of the Second Contract by July 28, 2024 to avoid a lapse between the two special contracts. *Id.* at 10.

Under the Second Contract, TWD would guarantee a minimum annual purchase of 158,590 hundred cubic feet of water (CCF) or 325,000 gallons per day (GPD), more than the 250,000 GPD it is obligated to buy by the First Contract. *Id.* at 6-7, 11. Although TWD does not pay either of these fees under the First Contract, the Second Contract would require it to pay PWW a base annual fixed fee of \$165,244 toward TWD's share of PWW's fixed expenses and a monthly fixed meter charge of \$86.57 to cover the cost of operating and maintaining the water meter serving TWD. *Id.* at 6-8. Additionally, PWW would charge TWD an initial volumetric rate of \$1.0582 per CCF in the Second Contract, which is lower than the volumetric rate in the First Contract. *Id.* at 7, 9. The Second Contract would have an initial five-year term, with the option to renew it for two additional five-year terms. *Id.* at 7, 10-11.

TWD would realize a savings of \$376,199 per year compared to retail rates if the Second Contract were approved. *Id.* at 11. TWD would be PWW's fourth largest customer, and TWD's payments under the Second Contract would provide a guaranteed contribution toward PWW's fixed expenses for the term of this contract. *Id.* at 5, 7, 12.

## **II. ISSUES PRESENTED**

The filing presents, *inter alia*, the following issue: whether special circumstances exist to support the Commission's approval of the Second Contract as just and consistent with the public interest under RSA 378:18. Accordingly, an adjudicative proceeding will be convened to address these issues.

The Commission will be conducting the prehearing conference and any hearings scheduled in this matter in person. The Commission will consider requests to conduct hearings using a hybrid format to permit remote participation by a specific individual only if the Commission has determined that a sufficient reason has been provided for why that individual would be unable to attend in person. Any party requesting that a specific individual be permitted to participate remotely should file a written request with the Commission's Clerk's Office no later than fifteen (15) days prior to the prehearing conference or hearing date. If the Commission determines that one or more individuals will be permitted to appear remotely, then individuals in the Commission's hearing room, including the Commissioners, will be broadcast on a web-enabled platform.

**Based upon the foregoing, it is hereby**

**ORDERED**, that an adjudicative proceeding be commenced for the purpose of reviewing and resolving the foregoing issues pursuant to RSA chapter 541-A, RSA 378:18, and the Commission's procedural rules; and it is

**FURTHER ORDERED**, that the Commission will hold a prehearing conference, pursuant to N.H. Admin. R., Puc 203.15, at its offices located at 21 S. Fruit St., Suite 10, Concord, New Hampshire, on August 6, 2024, at 9:00 a.m., at which each party should be prepared to address any of the issues set forth in N.H. Admin. R., Puc 203.15; and it is

**FURTHER ORDERED**, that the New Hampshire Department of Energy shall file its position regarding PWW's petition, including the reasons for this position, on or before July 23, 2024; and it is

**FURTHER ORDERED**, that during the prehearing conference, the Commission will consider the matters listed in Puc 203.15(c) and (d), including the establishment

of a procedural schedule governing the remainder of the proceeding. Parties and potential parties are encouraged to facilitate the development of a procedural schedule by conferring prior to the prehearing conference, so that the presiding officer can address any matters on which there is disagreement during the prehearing conference. Any procedural schedule, however, will not be approved until after the prehearing conference and after consulting the Commission's calendar; and it is

**FURTHER ORDERED**, that, immediately following the prehearing conference, PWW shall make appropriate personnel available for the parties to hold a technical session to review the filing; and it is

**FURTHER ORDERED**, that any entity or individual may petition to intervene and seek to be admitted as a party in this proceeding. Each party has the right to have an attorney represent the party at the party's own expense; and it is

**FURTHER ORDERED**, that, consistent with N.H. Admin. R., Puc 203.17 and Puc 203.02, any entity or individual seeking to intervene in the proceeding shall file with the Commission a petition to intervene with copies sent to PWW and any other parties on the service list, on or before July 19, 2024. The petition shall state the facts demonstrating how the petitioner's rights, duties, privileges, immunities, or other substantial interests may be affected by the proceeding, consistent with N.H. Admin. R., Puc 203.17; and it is

**FURTHER ORDERED**, that any party objecting to a petition to intervene make said objection on or before July 29, 2024; and it is

**FURTHER ORDERED**, that the parties may submit a stipulation containing a discovery schedule, statement of any additional issues not identified in this order of notice, and at least three dates on which they would be available for a final hearing in this matter, including how much time will be required, with a request that the

prehearing conference and technical session be cancelled, on or before July 23, 2024. The Commission may cancel the prehearing conference and technical session upon approval of such a stipulation; and it is

**FURTHER ORDERED**, that parties shall file any proposed exhibits, written testimony, motions, or other documents intended to become part of the record in this proceeding with the Commission. Pursuant to the secretarial letter issued on March 17, 2020, which is posted on the Commission's website at <https://www.puc.nh.gov/Regulatory/Secretarial%20Letters/20200317-SecLtr-Temp-Changes-in-Filing-Requirements.pdf>, all Commission rules requiring the filing of paper copies are suspended until further notice. Parties may elect to submit any filing in electronic form unless otherwise ordered by the Commission. Filings will be considered filed as of the time the electronic copy is received by the Commission; and it is

**FURTHER ORDERED**, that routine procedural inquiries may be made by contacting the Commission's Clerk's Office at (603) 271-2431 or [ClerksOffice@puc.nh.gov](mailto:ClerksOffice@puc.nh.gov). All requests to the Commission should be made in a written pleading filed with the Commission. Unless otherwise authorized by law, *ex parte* communications are prohibited; and it is

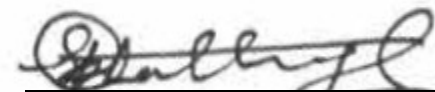
**FURTHER ORDERED**, that pursuant to N.H. Admin. R., Puc 203.12, PWW shall notify all entities and individuals desiring to be heard at this hearing by publishing a copy of this order of notice on its website no later than two business days after the date of issue, such publication to be documented by affidavit filed with the Commission on or before June 20, 2024. In addition, the Clerk shall publish this order of notice on the Commission's website no later than two business days after the date of issue; and it is

**FURTHER ORDERED**, that any hearings in this matter shall be conducted in accordance with the attached hearing guidelines.

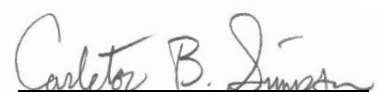
So ordered, this fourth day of June, 2024.



Daniel C. Goldner  
Chairman



Pradip K. Chattopadhyay  
Commissioner



Carleton B. Simpson  
Commissioner

Individuals needing assistance or auxiliary communication aids due to sensory impairment or other disability should contact the NHPUC, 21 S. Fruit St., Suite 10, Concord, New Hampshire 03301-2429; 603-271-2431; TDD Access: Relay N.H. 1-800-735-2964. Notification of the need for assistance should be made one week prior to the scheduled event.

## Service List - Docket Related

Docket#: 24-071

Printed: 6/4/2024

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