

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

PENNICHUCK EAST UTILITY, INC.

2022 Qualified Capital Project Adjustment Charge

Docket No. DW 22-005

MOTION TO AMEND ORDER *NISI* APPROVING SETTLEMENT

ORDER NO. 26,767

NOW COMES Pennichuck East Utility, Inc. (“PEU” or “Company”), a corporation duly organized and existing under the laws of the State of New Hampshire and operating therein as a public utility subject to the jurisdiction of the New Hampshire Public Utilities Commission (the “Commission”), that hereby moves the Commission, pursuant to PUC 203.07 and RSA 365:28, to amend or modify Order No. 26,767 dated January 27, 2023 which was an Order *Nisi* approving the settlement issued by the Commission in Docket No. DW 22-005. The Order *Nisi* stated the Company shall submit a final calculation of the recoupment surcharge to be applied to customer bills within 14 days of the date of this order nisi. Given that the Company can only calculate the recoupment surcharge on the last bill issued prior to the effective date of this order on February 21, 2023, the Company requests that the Commission amend the deadline for filing a final calculation of the recoupment surcharge to be applied to customer bills within 14 days after the final bills issued before effective date of the Order *Nisi*. An amendment or modification of the Order *Nisi* to provide fourteen (14) days after the final bills

issued before the effective date of the Order Nisi will allow the Company adequate time to calculate the correct recoupment surcharges for the last customer bills issued as of February 21, 2023 that will be subject to the surcharge effective date as of October 18, 2022. In support of this request, the Company states the following:

1. PEU filed a petition for approval of its 2022 Qualified Capital Project Adjustment Charge (“QCPAC”) on February 10, 2022.

2. The complete docket of this proceeding can be found at the Commission’s website at: <https://www.puc.nh.gov/Regulatory/Docketbk/2022/22-005.html>

3. On February 16, 2022, the Commission issued a Letter of Acknowledgement in receipt of the Company’s petition.

4. On February 17, 2022, the Company filed a notice of service list change.

5. On March 25, 2022, the Department of Energy (“Department”) filed a notice of appearance including a notice of service list change.

6. On April 6, 2022, the Department filed a petition or assented-to motion for a proposed procedural schedule in Docket No. DW 22-005.

7. The Commission issued the Notice of Commencement of Adjudicative Proceeding and Notice of Prehearing Conference on April 8, 2022, along with a Notice of Hearing Guidelines which set a date for the prehearing conference on May 19, 2022.

8. Upon a motion by the Company dated April 8, 2022, which was subsequently approved by the Commission on April 12, 2022, the Prehearing Conference was rescheduled to June 14, 2022.

9. On June 14, 2022, the Commission held the Prehearing Conference which was attended by the Company and Department. There are no intervenors or other parties involved in this matter.

10. During the prehearing conference, the Commission approved the Department's motion for approval of a procedural schedule filed on April 12, 2022, and issued the Procedural Order dated June 15, 2022.

11. A pre-hearing conference was held by the Commission on June 15, 2022, and attended by the Company and the DOE, at which time the Commission granted the DOE's motion for approval of a procedural schedule previously filed on April 6, 2022. The Commission also issued a procedural order to that affect dated June 16, 2022.

12. The approved procedural schedule anticipated two sets of discovery requests to be completed by September 28, 2022, a technical session on October 12, 2022, and responses to technical session data requests submitted by the Company by October 19, 2022, and ultimately a proposed Settlement Agreement that would be filed with the Commission by November 16, 2022.

13. On October 17, 2022, the Company with the DOE's assent, filed a Motion to Amend the Procedural Schedule to provide for PEU to file its QCPAC budget update by November 1, 2022, a third set of discovery requests based thereon by the DOE submitted to the Company by November 8, 2022 with responses due by November 18, 2022, and to extend the deadline for filing the proposed Settlement Agreement from November 16, 2022 to December 14, 2022, to allow for additional time to complete 4 discovery and prepare the necessary updates and documents for the settlement. That motion was approved by the Commission via a procedural order on October 18, 2022.

14. The Company filed its QCPAC budget update to the 2022 QCPAC Budget tab of Exhibit DLW-1, pursuant to Order No. 26,608 (April 8, 2022) in DW 21-022, on November 1, 2022, for the period ending September 30, 2022, and filed an additional budget update on January 12, 2023, for the period ending November 30, 2022.

15. The Company and Department filed the Settlement Agreement with the Commission on December 12, 2022 with the Commission.

16. On January 27, 2023, the Commission issued Order No. 26,767, an Order *Nisi* approving the Settlement Agreement in Docket No. 22-005 for the PEU 2022 QCPAC. The Order authorized the Company to recover the 2022 QCPAC for projects placed in service in 2021, effective October 18, 2022, with billing of this charge to begin on the effective date of this order, or February 27, 2023. See Order No. 26,797 (January 27, 2023) at 4, 6.

17. The Company represents that the last bills during the effective period from October 18, 2022 to February 27, 2022 will be issued on February 21, 2022. In order to effectively calculate the final recoupment surcharge, the Company must have those final bills issued.

18. The Order requires the Company to submit with 14 days the final calculation of the recoupment surcharge, specifically the order sets forth the following:

“FURTHER ORDERED, Pennichuck East Utility, Inc. shall submit to the New Hampshire Department of Energy and the New Hampshire Public Utilities Commission a final calculation of the recoupment surcharge to be applied to customer bills within 14 days of the date of this order nisi; and it is....¹”

¹ Order No. 26,767 (January 27, 2023) at 5.

19. Given that the Order was issued on January 27, 2023, the fourteen (14) day deadline for filing the final calculation of the recoupment surcharge applied to customer bills will be February 10, 2023. This would not provide the Company adequate time to calculate the final recoupment calculation, assuming there are no errors or corrections with the bills issued on February 21, 2023 prior to the effective date of the Order *Nisi*.

20. The Company therefore requests fourteen (14) additional days following the last bills issued prior to effective date of the Order *Nisi* or until March 10, 2023 to submit the final calculation of the recoupment surcharge applied to customer bills to the Commission, which will provide adequate time for the Company to review the final bills and provide the final calculation requested.

21. The Company further states, that the Commission may suspend, set aside or modify any order pursuant to RSA 365:28. RSA 365:28 provides:

At any time after the making and entry thereof, the commission may, after notice and hearing, alter, amend, suspend and set aside, or otherwise modify any order made by it. This hearing shall not be required when any prior order made by the commission was made under a provision of law that did not require a hearing and a hearing was, in fact, not held. See RSA 365:28.

Applying RSA 365:28, here would be appropriate in this matter for the Commission to suspend, set aside or otherwise modify the Order *Nisi* pursuant to RSA 365:28 as it has in the past issued orders on QCPACs by order *nisi*. See RSA 365:28, see also, Public Service Company of New Hampshire d/b/a Eversource Energy, 2018 WL 6048264 (NH PUC Docket 17-160, Order 26,191 at 4). Indeed, the Commission issued Order No. 26,767, the subject order of this motion, as an Order *Nisi*, without a merits hearing. PEU consulted with the Department of Energy (Department) regarding its motion, and the Department takes no position and has no objection to the motion and the requested relief.

WHEREFORE, the Company respectfully requests that the Commission amend or modify Order No. 26,767 to provide the Company with fourteen (14) days following the last bills issued prior to the effective date of the Order Nisi to submit the final calculation for recoupment by March 10, 2023, for the reasons set forth above.

Respectfully submitted,

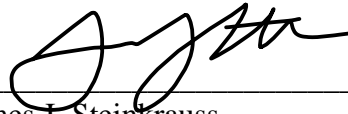
PENNICHUCK WATER WORKS, INC.

By Its Attorneys

RATH, YOUNG AND PIGNATELLI, P.C.

Dated: January 31, 2023

By: _____



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Certificate of Service

I hereby certify that a copy of this motion was provided via electronic mail to the individuals included on the Commission's service list for this docket.

Dated: January 31, 2023

A handwritten signature in black ink, appearing to read 'J. Steinkrauss', is written over a horizontal line.

James J. Steinkrauss