

STATE OF NEW HAMPSHIRE
BEFORE THE
NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

DW 23-040

Pennichuck Water Works, Inc.

**Petition of Pennichuck Water Works, Inc. for Financing Approval to
Renew and Extend its Fixed Asset Line of Credit with TD Bank, N.A.**

Motion to Amend or Modify Order *Nisi* No. 26,827

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Docket No. DW 23-040

**MOTION TO AMEND ORDER *NISI* NO. 26,827 APPROVING THE PETITION TO
RENEW AND EXTEND THE FIXED ASSET LINE OF CREDIT WITH TD BANK, N.A.**

NOW COMES Pennichuck Water Works, Inc. (“PWW” 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. 26,827 dated May 25, 2023 which was an Order *Nisi* issued by the Commission approving PWW’s petition to renew and extent its fixed asset line of credit (FALOC) with TD Bank, NA in Docket No. DW 23-040. Specifically, the Company requests that the Commission amend the publication requirements to remove the obligation to insert a copy of the order via into all customer bills during the next billing cycle to all customers of the Company following the issuance of the order. The Order *Nisi* also includes deadlines for publication of the Order *Nisi* on the Company’s website (May 26, 2023) and publication in a statewide newspaper of general circulation or circulation to those portions of the state where the Company operates (June 2, 2023) and file an affidavit of compliance by June 12, 2023.

The Company asserts that it complied with the website publication on May 25, 2023, and will complete the publication of the Order *Nisi* in the Union Leader on May 31, 2023. The Company requests that the Commission amend the Order *Nisi* to remove the obligation to provide the order via bill inserts to all customers because the Company will provide reasonable notice of the Commission's Order *Nisi* via its website and newspaper publication because it believes it will cause confusion with its customers, add administrative burden to the Company, and increased costs for compliance. The Company's request will not otherwise change or alter the remaining publication obligations of the Order, In support of this request, the Company states the following:

1. PWW filed a petition for financing approval to renew and extend its FALOC with TD Bank, NA on March 29, 2023.
2. The complete docket of this proceeding can be found at the Commission's website at: <https://www.puc.nh.gov/Regulatory/Docketbk/2023/23-040.html>
3. On March 30, 2023, the Commission issued a Letter of Acknowledgement in receipt of the Company's petition.
4. On March 30, 2023, the Company filed a request to amend the service list for Docket DW 23-040.
5. On April 3, 2023, the Department of Energy ("Department") filed a notice of appearance including a notice of service list change.
6. On April 10, 2023, the Department filed a joint proposed procedural schedule for Docket No. DW 23-040.

7. On April 11, 2023, the Commission issued a procedural order approving the proposed procedural schedule and requested a recommendation from the Department be filed by May 16, 2023.

8. On April 19, 2023, the Company made a supplemental filing to its petition providing evidence of approval of the proposed FALOC renewal with T.D. Bank by the City of Nashua.

9. On May 16, 2023, the Department filed a cover letter, Technical Statement of Anthony J. Leone and attachments in support of the Technical Statement, which included the Department's review and analysis of the proposed financing and analysis of whether the proposed financing was consistent with the public good and routine.

10. On May 25, 2023, the Commission issued Order *Nisi* No. 26,827 in Docket No. 23-040 ("Order *Nisi*") authorizing the proposed financing and granting the Company's motion for protective treatment. See Order *Nisi* No. 26,827 (May 25, 2023) at 6, 8.

11. The Order *Nisi* also contained following order for publication by the Company: **FURTHER ORDERED**, that Pennichuck Water Works, Inc. shall cause a copy of this order to be published on its website by no later than the close of business on May 26, 2023; *noticed through bill inserts in the next billing cycle after the issuance of this order*; and published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to be no later than June 2, 2023, and to be documented by affidavit filed with this office on or before June 12, 2023;...*(emphasis added)* See Order *Nisi* No. 26,827 at 9.

12. On May 25, 2023, the Company caused a copy of the order to be published on its website by the deadline of May 26, 2023. See the attached Exhibit A. The Company also forwarded a copy of the Order *Nisi* by letter to the Union Leader via electronic mail requesting

the order be published no later than June 2, 2023 and received confirmation that the order will be published on May 31, 2023. See the letter dated May 25, 2023, and email from Ms. Gonzales with the Union Leader dated May 26, 2023 attached as Exhibit B.

13. The Company represents that it bills customers monthly for water consumption but issues bills to customers over a four (4) week period. On May 25, 2023, based upon the print-house timing to print the five (5) double-side page insert, it would not be available for insertion in the June 9, 2023 bills. The inserts could be available for insertion in the June 15, 2023, June 22, 2023, June 29, 2023, and completed with the July 6, 2023 billing cycle. The billing insert could not therefore be mailed to all customers prior to June 12, 2023. See Affidavit of Tara King at 5.

14. Unlike the Company's motion to amend Order *Nisi* 26,824 (May 18, 2023) in Docket No. DW 23-024, as amended by the Commission on May 22, 2023, the Company here requests that the billing insert requirement be removed because it believes that the publication of the Order *Nisi* on the Company's website and in the Union Leader provides reasonable notice to its customers, the billing inserts adds administrative burden, may create confusion with its customers and adds additional costs to the financing that impacts its ratepayers.

15. As set forth in Exhibits A and B, the Company complied with the publication of the Order *Nisi* on the Company website on May 25, 2023, and will publish the full text of the Order *Nisi* in the Union Leader on May 31, 2023. As requested by the Order *Nisi*, the Union Leader is a newspaper of statewide circulation. These two methods are consistent with prior orders for financing dockets and non-rate matters, such as Order No. 26,640 (June 10, 2022) in Docket No. DW 22-025 (PEU CoBank Loan), Order No. 26,641 (June 15, 2022) in Docket No. DW 22-013 (DWGTF Loan and Grant) and Order No. 26,673 (August 29, 2022) in Docket No. DW 22-033

(SRF Funding), to provide reasonable notice to its customers in compliance with PUC 203.12(b).

16. The Company further states that the added billing inserts to its approximately 28,000 customers will result in additional labor for Company personnel and additional administrative burden for implementing the billing inserts. See Affidavit of Tara King at 7.

17. The Company estimates that the printing costs for the five (5) page insert will be approximately twelve thousand dollars (\$12,000.00). See Affidavit of Tara King at 7. The total cost for the billing insert mailed to all customers would be approximately twelve thousand dollars (\$12,000.00) before adding in additional publication costs. See Affidavit of Tara King at 8. The overall cost of the proposed financing would be approximately \$20,000 to \$27,000 (including a one-time upfront renewal fee of \$12,000 and estimated \$8,000 to \$15,000 for legal fees for PWW counsel and T.D. Bank's counsel). See Order *Nisi* at 5, Petition at Bates 3, 4. Therefore, the additional printing costs will add approximately 44% to 60% to the overall impact of the approved financing.

18. Finally, the cost to publish the Order *Nisi* No. 26,824 in the Union Leader will be two thousand nine hundred ninety-five dollars and thirty cents (\$2,995.30). See Exhibit B.

19. The Company appreciates the Department's and Commission's expedited review and approval of the Company's petition to renew and extend the FALOC with TD Bank, NA. The Company also recognizes the Commission may require publication of the Order *Nisi* by such other method as the Commission deems appropriate and advisable in order to ensure reasonable notification to interested parties. See PUC 203.12(b). However, given the publication of the order by two other methods, additional administrative burden, potential confusion with customers caused by the insert, and additional cost of the billing insert, which

increases the costs of this financing will further impact its customers, the Company requests the Order *Nisi* be amended to remove the billing insert obligation.

20. Therefore, the Company respectfully requests that the Commission amend the order to eliminate the additional requirement to include the order as a billing insert to its customers.

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 this Order *Nisi* to remove the billing insert notice requirement pursuant to RSA 365:28, because the Commission has in the past issued orders 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). PEU consulted with the Department of Energy (Department) regarding its motion, and the Department takes no position on the motion and the requested relief.

WHEREFORE, the Company respectfully requests that the Commission amend or modify Order *Nisi* No. 26,827 to remove the requirement for billing inserts, for the reasons set forth above.

Respectfully submitted,

PENNICHUCK WATER WORKS, INC.

By Its Attorneys

RATH, YOUNG AND PIGNATELLI, P.C.

Dated: May 31, 2023

By:  _____

James J. Steinkrauss

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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: May 31, 2023

 _____

James J. Steinkrauss