STATE OF NEW HAMPSHIRE

BEFORE THE

NEW HAMPSHIRE PUBILC UTILITIES COMMISSION

DW 23-101

Pennichuck Water Works, Inc., Pennichuck East Utility, Inc., and

Pittsfield Aqueduct Company

2023 Joint Amended Petition of Pennichuck Water Works, Inc., Pennichuck East Utility, Inc., and Pittsfield Aqueduct Company for the Approval to Acquire by Consolidation or Merger of Pennichuck East Utility, Inc. and Pittsfield Aqueduct Company into Pennichuck Water Works, Inc. and Approval of Rates for the Consolidated Pennichuck Water Works

Pennichuck Water Works, Inc., ("PWW"), Pennichuck East Utility, Inc. ("PEU") and Pittsfield Aqueduct Company ("PAC") (collectively the "Joint Petitioners"), corporations duly organized and existing under the law of the State of New Hampshire and operating therein as public utilities subject to the jurisdiction of the New Hampshire Public Utilities Commission (the "Commission"), pursuant to RSA 369:8, 374:26, 374:30, 374:33 and RSA 378, collectively file this petition requesting the Commission approve the acquisition of PEU and PAC into PWW by way of consolidation or merger and transfer of all of PEU's and PAC's assets and liabilities to PWW. PWW is an existing public utility as defined by RSA 362:3 and shall remain the surviving public entity upon approval of the transaction by the Commission. The Joint Petitioners request the Commission to approve the following: 1) consolidation or merger and acquisition of all of PEU and PACs assets by PWW used to service the customers in the respective PEU and PAC service systems; 2) approve the transfer of all short-term and long-term debt associated with the respective assets of PEU and PAC to PWW; 3) approve the direct acquisition of PEU and PAC by PWW pursuant to the terms of an Agreement and Plan of Merger ("Merger Agreement") in substantially the form attached as Exhibit A; and 4) approve a consolidated ratemaking structure designed to establish rates that balance customer interests with the need of PWW to obtain sufficient cash flow to meet its debt service obligations to Pennichuck Corp. and the City of Nashua. In support of this Petition, the Joint Petitioners state as follows:

BACKGROUND INFORMATION

1. The City of Nashua, New Hampshire (the "City") is a New Hampshire municipal corporation with offices at 229 Main Street, Nashua, New Hampshire. The City is the second largest City in the State of New Hampshire and is the center of a diverse and dynamic region. The City acquired the interest of Pennichuck Corporation, including all of its regulated subsidiaries including PWW, PEU, and PAC, by virtue of a merger agreement and transaction approved by Order No. 25,292 (November 23, 2011) in Docket No. DW 11-026. The City is the sole shareholder of all Pennichuck Corporation stock. See Direct Testimony of John Boisvert at 11-14.

2. Pennichuck Corporation ("Penn Corp.") is a New Hampshire business corporation, organized pursuant to RSA 293-A, with offices at 25 Walnut Street, Nashua, New Hampshire. Penn Corp. is a holding company that owns 100 percent of the common stock of the three regulated subsidiaries PWW, PEU, and PAC. Penn. Corp. also owns two other subsidiaries, Pennichuck Water Service Corporation and The Southwood Corporation, neither of which is a public utility as defined by RSA 362:2. See the Direct Testimony of John Boisvert at 11-14.

3. The proposed consolidation or merger of PWW, PEU and PAC will not impact or otherwise change the status of the City as sole shareholder or change the current corporate structure of the parent Penn Corp. as approved in Docket No. DW 11-026 by Order 25,292 (November 23, 2011). A copy of the pre-consolidation and post-consolidation corporate

structures are attached hereto as Exhibit JJB-4 and Exhibit JJB-5. See the Direct Testimony of John Boisvert at 18, 23-24.

4. On November 18, 2023, PWW, PEU, and PAC filed a consolidated rate case in Docket No. DW 23-088. On December 15, 2023, the Department of Energy ("DOE" or "Department") filed a motion to dismiss the rate case. On December 18, 2023, the Commission issued Order No. 26,914 suspended rates for a period of 12 months. After a hearing on the motion to dismiss on January 21, 2024, the Commission issued Order No. 26,942 on February 6, 2024, dismissing the joint petition.

5. On February 14, 2024, the Commission held a pre-hearing conference in this docket upon which the parties discussed filing a motion to amend the instant petition to incorporate a consolidated rate filing.

6. On February 15, 2024, the City of Nashua filed a petition to intervene in this docket, to which the Petitioners have no objection to the City's petition late intervention pursuant to PUC 203.17 and RSA 541-A:32, II.

7. On March 8, 2024, the Petitioners filed a motion to amend this petition and a motion for waiver pursuant to N.H. Administrative Rules PUC 201.05.

THE JOINT PETITIONERS

8. PWW is a New Hampshire business corporation organized pursuant to RSA 293-A and a public utility defined in RSA 362:2, with a principal place of business at 25 Walnut Street, Nashua, New Hampshire. PWW serves approximately 29,400 customers in the City of Nashua and the Towns of Amherst, Hollis, Merrimack, Bedford, Derry, Epping, New Market, Plaistow, Salem and Milford, New Hampshire. PWW also owns and operates the community

water systems in Bedford, East Derry, Epping, Milford, Newmarket, Plaistow, and Salem, New Hampshire.

9. PEU is a New Hampshire business corporation organized pursuant to RSA 293-A and a public utility defined in RSA 362:2, with a principal place of business at 25 Walnut Street, Nashua, New Hampshire. PEU serves approximately 8,600 customers in the Towns of Atkinson, Barnstead, Bow, Chester, Derry, Exeter, Hooksett, Lee, Litchfield, Londonderry, Pelham, Plaistow, Raymond, Sandown, Tilton, Weare, and Windham, New Hampshire. By virtue of a transfer pursuant to Order No. 25,051 (December 11, 2009) in Docket No. DW 09-051, PEU obtained the assets of PAC that serve approximately 219 customers in North Conway (Birch Hill), 85 customers in Middleton (Sunrise Estates), and 868 customers in Center Barnstead (Locke Lake) (hereinafter the "North Country Systems"). PEU has no employees. PEU contracts for personnel and administrative services from PWW to service its franchise area.

10. PAC is a New Hampshire business corporation organized pursuant to RSA 293-A and a public utility defined in RSA 362:2, with a principal place of business at 25 Walnut Street, Nashua, New Hampshire. PAC serves approximately 648 customers in the Town of Pittsfield. PAC has no employees. PAC contracts for personnel and administrative services from PWW to service its franchise area.

11. The communities and number of customers served by PWW, PEU, and PAC under Penn Corp. subject to this petition are set forth in Exhibit JJB-1 and described in further detail in the attached testimony. See Direct Testimony of John Boisvert at 6-7, and Exhibit JJB-1. See also Direct Testimony of Donald Ware at 5-8.

12. The Company has performed outreach to the Department of Energy, Office of Consumer Advocate, New Hampshire Department of Environmental Services, communities, and

customers within the PWW, PEU, and PAC systems. See Direct Testimony of John Boisvert at 37-39. The Company also conducted outreach to its lenders and sought consent for the proposed transaction. See Direct Testimony of John Boisvert at 33 and Direct Testimony of George Torres at 10,19. Finally, the Company specifically trained its customer service staff to respond to customers in light of the proposed consolidation or merger and the Consolidated Rate Petition discussed in more detail below. See Direct Testimony of John Boisvert at 35.

LEGAL AUTHORITIES AND STANDARD OF REVIEW

13. The Commission should review this petition requesting a consolidation or merger to determine whether its terms are just, reasonable and serve the public interest, and whether the proposed consolidation or merger of PAC and PEU with PWW is lawful, proper and in the public interest, as required by RSA 374:33. RSA 374:33 provides, in part, that:

> No public utility or public utility holding company as defined in section 2(a)(7)(A) of the Public Utility Holding Company Act of 1935 shall directly or indirectly acquire more than 10 percent, or more than the ownership level which triggers reporting requirements under 15 U.S.C. section 78-P, whichever is less, of the stocks or bonds of any other public utility or public utility holding company incorporated in or doing business in this state, unless the commission finds that such acquisition is lawful, proper, and in the public interest . . . . See RSA 374:33.

The Commission has interpreted the public interest standard to involve a consideration of the positive and negative aspects of a proposed consolidation or merger to determine whether, on balance, the transaction is consistent with the public interest. *Hampton Water Works, Inc.*, Order No. 23,924 at 12, 14 (March 1, 2002); *New England Elec. Sys.*, Order No. 23,308 at 15-16 (October 4, 1999); *Re: Consumers N.H. Water Co.*, Order No. 22,792, 82 NH PUC 814, 816-17 (November 21, 1997); *Re: Eastern Utilities Associates*, Order No. 20,094, 76 NH PUC 236 (April 1, 1991).

14. The NH Supreme Court accorded the Commission considerable discretion in its application of the public interest standard.

> The analogous phrase "public good" has been given a broad definition by this court and has been held not only to include the needs of particular persons directly affected . . . but also . . . the needs of the public at large and the general welfare of the utility involved. In the application of the general criteria provided by the statute the commission has broad discretion and '(t)his case, with its variety of conflicting considerations, is an excellent example of why the prime responsibility for determining the public interest is with a specialized agency and not with the courts. See Waste Control Sys., Inc. v. State, 114 N.H. 21, 24 (1974).

In *New England Electric System*, Order No. 23,308, 84 NHPUC 502, (October 4, 1999), the Commission stated that the mandate in RSA 369:8, which requires that acquisitions will "not adversely affect the rates, terms, service, or operation of the public utility within the state," embodies the same standard reflected in RSA 374:33 that authorizes the Commission to approve acquisitions that are "lawful, proper and in the public interest." *New England Electric* at 16. Proposed acquisitions must meet a "no net harm" test in order to be approved by the Commission. See *Id*. The Commission stated that, in applying the no net harm test, it must "assess the benefits and risks of the proposed merger and determine what the overall effect on the public interest will be, giving the transaction our approval if the effect is at worst neutral from the public interest perspective." See *Id*.; see also *Aquarion Water Company of New Hampshire*, Order No. 24,691, 91 NHPUC at 513; *Hampton Water Works, Inc*., Order No. 23,924, 87 NHPUC 104 (March 1, 2002). Accordingly, the Commission's standard will be met where an applicant for approval of an acquisition demonstrates that customers would be no worse off with the acquisition than without the acquisition. Pursuant to the Commission's findings in New England Electric, the Joint Petitioners demonstrate herein that the Transaction meets and exceeds the Commission's no net harm standard and thus seek the Commission's approval.

15. The Joint Petitioners note that RSA 274:26[1] and RSA 374:30,I[2] are also applicable to the proposed consolidation or merger because it is a merger of common stock of subsidiaries under a holding company and involves a transfer or lease of the PEU and PAC franchises, works, and systems to PWW. The evidence provided herein demonstrating no net harm also demonstrates that the proposed consolidation or merger "will be for the public good" within the meaning of that statute. The public good standard "is analogous to the 'public interest' standard . . . applied and interpreted by the Commission and by the New Hampshire Supreme Court." See *Consumers New Hampshire Water Company*, 82 NHPUC 814, 816 (1977) (citing *Waste Control Systems, Inc. v. State*, 114 N.H. 21, 22-23 (1974)). The public interest or public good standards are satisfied with a showing that the consolidation or merger will not harm ratepayers. See *Pennichuck Corp.*, 83 NHPUC 44, 44 (1998)("Under the public interest or public good standard to be applied by the Commission where an individual or entity seeks to acquire a jurisdictional utility, the Commission must determine that the proposed transaction will not harm ratepayers.")

16. The Commission has long noted that RSA 378:7 authorizes the Commission to fix rates pursuant to an order after a hearing. In determining just and reasonable rates, the Commission must balance the consumers' interest in paying no higher rates than are required with the investors' interest in obtaining a reasonable return on their investment. See, *Eastman*

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[1] RSA 374:26 states, "The commission shall grant such permission whenever it shall, after due hearing, find that such engaging in business, construction or exercise of right, privilege or franchise would be for the public good, and not otherwise; and may prescribe such terms and conditions for the exercise of the privilege granted under such permission as it shall consider for the public interest. Such permission may be granted without hearing when all interested parties are in agreement."

[2] RSA 374:30,I states, "Any public utility may transfer or lease its franchise, works, or system, or any part of such franchise, works, or system, exercised or located in this state, or contract for operation of its work and system located in this state, when the commission shall find that it will be for the public good and shall make an order assenting thereto, but not otherwise, except that commission approval shall not be required for any such transfer, lease, or contract by an excepted local exchange carrier. The commission may, by general order, authorize a public utility to transfer to another public utility a part interest in poles and their appurtenances for the purpose of joint use by such public utilities."

Sewer Company, Inc., 138 N.H. 221, 225 (1994). In circumstances where a utility seeks to increase rates, the utility bears the burden of proving the necessity of the increase pursuant to RSA 378:8. In circumstances where the utility seeks to consolidate rates, the Commission has reviewed a number of factors: (1) whether there will be a wide disparity among rates absent consolidation such that some rates would be outside of a 'zone of just and reasonableness'; (2) would consolidated rates ensure affordability; and (3) whether consolidated rates would ensure the continued viability of the water system. See, *Lakes Region Water Company, Inc*., Docket No. DR 97-188, Order No. 23,146 (February 11, 1999) citing *Pennichuck Water Works, Inc.,* Docket No. DR 97-058, Order No. 22,883 (March 25, 1998).

17. Also pursuant to RSA 378:7, the Commission "shall be under no obligation to investigate any rate matter which it has investigated within a period of 2 years, but may do so within said period at its discretion." In *Public Service Company of New Hampshire*, Docket No. DR 79-107, Order No. 13,799 (August 29, 1979), the Commission noted that "[w]hile RSA 378:7 allows for a rate investigation prior to the expiration of a two-year period… the commission attempts to adhere to the general rule of waiting the two years unless there are unusual circumstances or a possible confiscation of property." Here, PWW avers that the Companies' needs for revenues and rate relief and the desire to mitigate rate shock and unaffordable rates, is an "unusual circumstance" that warrants the Commission's investigation. Consolidating PEU and PAC into PWW provides mitigation to that rate shock. Further, the rate relief is driven by the needs of PEU's customers, which last received a rate increase, effective December 24, 2020, and based on a 2019 test year, by Order No. 26,586 (February 18, 2022). The instant case is based on a 2022 test year, which is greater than two years. Similarly, PAC's last rate case was based on a 2019 test year.

18. In *Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities*, in Docket No. DG 19-161, Order No. 26,319 (December 24, 2019), the Commission cited *Appeal of Gas Service, Inc.* 121 N.H. 602 (1981) and the issue of "whether deciding not to investigate [the] proposed rates at this time would constitute an unconstitutional taking." Order at 5. As described in Direct Rate Testimony Mr. Ware's (Bates 262-337), PWW, PEU, and PAC have expenses that exceed the revenues authorized by this Commission. PEU and PAC are required by Commission order to file rate cases in 2023. Notwithstanding that PWW is not yet at its three-year ordered cycle, PWW's revenue requirement is 7.43% greater than the 2021 test-year based revenue requirement approved by the Commission. Accordingly, even PWW is not earning sufficient revenues to meet expenses, which constitutes a confiscatory situation, thereby satisfying the Commission's threshold considerations. Further, if the companies are merged absent a rate case, then PWW would suffer a loss of about $5.3M in allowed revenues. Direct Rate Testimony of Donald Ware at 18 (Bates 279). A loss of $5.3M would adversely affect the rate stabilization fund accounts. There would be an additional loss of about $233,000 per year in fixed meter charges based on the difference between PEU's fixed meter charges (based on the projected 24.1% increase in revenues detailed in Attachment A of Mr. Ware's rate testimony (Bates 326) and the fixed meter charge approved in PWW's last rate case, DW 22-032. *Id.* at 19.

19. The Joint Petitioners seek authority from the Commission: (1) pursuant to RSA 374:30 to obtain the assets of PEU and PAC, including those assets in the North Country Systems, and also pursuant to RSA 374:26, RSA 374:30 and RSA 374:33 to obtain all assets including franchises to serve those PEU and PAC customers; (2) pursuant to RSA 378 to provide service to customers in the PEU, PAC and North Country Systems under the terms and conditions of PEU's and PAC's current tariff on file with the Commission, subject to

modification pursuant to the Consolidated Rate Case; (3) pursuant to RSA 369:1 for PWW to assume the short-term and long-term debt currently held by PEU and PAC respectively associated with their service systems and assets in the North Country Systems; (4) approval of the consolidation agreements in the form substantially similar to those agreements attached as Exhibits JJB-2 for PEU and JJB-3 for PAC, respectively to consolidate or merge with PWW; and (5) approval of consolidated rates consistent with RSA 378:7 as set forth in the filings included here including the filed Revised Notice of Intent to File Rate Schedules (Tab 2) (Bates 170), Attestation (Tab 3) (Bates 172), Motion for Protective Order and Confidential Treatment (Tab 4) (Bates 174-181), Report of Proposed Rate Changes (Tab 6) (Bates 182-185), Customer Notices (Tab 7) (Bates 186-194), Rate Testimony of John J. Boisvert (Tab 8) (Bates 195-260), Rate Testimony of Donald Ware (Tab 9) (Bates 261-336), Cost of Service Study and Testimony (Tab 10) (Bates 222-412), Filing Requirement Schedules (Tab 11) (Bates 413-1214), Rate of Return Schedules (Tab 12) (1215-1255), Revised Permanent Consolidated Rate Tariff Pages (Tab 13) (Bates 1256-1296) Index and Full Rate Case Schedules per PUC 1604.1(a) (Tabs 14 – 39) (Bates 1297-1556) and Summary of Rate Case Expense Estimates (Tab 40) (Bates 1557-1558).

THE REASONS AND BENEFITS FOR THE TRANSACTION

20. The proposed consolidated rates request an increase in the PWW rates granted in DW 22-032 by Order No. 26,862 (July 27, 2023) and to amend the rate structure ("consolidated rates") to account for the proposed acquisition of PEU and PAC by consolidation or merger into PWW sought in this Petition. As set forth in this amended petition, if PEU filed a separate rate case that would result in an increase of 24.10% for PEU customers and if PAC filed a separate rate case that would result in an increase of 3.40% for PAC customers. See Direct Merger Testimony of Donald Ware at 20, Exhibit DLW-F. The consolidate rates in this case would result

in an overall rate increase of 9.95% for the combined PWW customers over the revenues generated by the rates approved in Docket No. DW 22-032, DW 20-156 and DW 20-153, but would result in a rate decrease of 31.94% for PEU customers versus standalone rates, 0.53% reduction for PAC customers versus standalone rates, and a 24.40% reduction for PEU North Country System customers versus a standalone rates increase of 19.86%. See Direct Merger Testimony of Donald Ware at 12, Exhibit DLW-F, Rate Table. This would result in a significantly lower rate increase for PEU customers and less of a rate increase for PAC customers compared to standalone rates sought by PEU and PAC in separate rate filings.

21. Significant rate increases for the PEU customers if PEU files a separate rate case are driven largely by the cost of water purchased from the Manchester Water Works system, higher interest rates, chemical treatment, capital costs, and limited access to debt for a smaller customer rate base than the PWW system. See Direct Merger Testimony of Donald Ware at 8-11, Exhibit DLW-E. PEU is concerned that a 24.10% rate increase in a separate, individual rate case could result in destabilizing effects to the PEU customers and communities, and to the broader three-utility Pennichuck system. These adverse effects could include complex efforts to disconnect certain customers from the PEU system, resulting in loss of the synergies of the integrated system and potentially adverse effects for various stakeholders including both the customers seeking to avoid the separate rate increase and the remaining customers who are required to continue to pay the rates required to ensure continued provision of safe drinking water to those areas. These effects could adversely impact the ability of PEU to contribute to the required City Bond Fixed Revenue Requirement (CBFRR) which is PEU's contribution to pay for the City's acquisition of Penn Corp. See *Id*. Any impact on PEU's ability to pay the CBFRR would likely result in adverse rate impacts to PWW and/or PAC customers. See *Id*.

22. The Companies deemed that the proposed merger would result in the most sustainable rate and operating structures for PEU and PAC without unduly burdening PWW's customers with a large amount of subsidization between the individual utilities. Additionally, it would result in Pennichuck, through PWW, maintaining a presence as a utility that serves it current franchise areas across the State, on an equal basis, not unlike other electric and gas utilities serving customers throughout New Hampshire. See Direct Merger Testimony of Donald Ware at 11.

23. The consolidation of PEU and PAC into PWW will also result in a number of efficiencies that will reduce costs for the consolidated company and provide customers and assets in the PEU and PAC system access to more debt providers and options than currently available to either PEU and PAC which is discussed in greater detail below.

24. PEU utilizes debt lines from CoBank, ACB to fund capital expenses through its Fixed Asset Line of Credit (FALOC) and annual term loan financings, as well as loans through the State Revolving Fund (SRF) through the Drinking Water Groundwater Trust Fund (DWGTF). See Direct Merger Testimony of George Torres at 5-7.

25. PAC's sole debt facility is access to short-term and long-term intercompany loans with Penn Corp., with occasional access to State of New Hampshire loans through SRF through the DWGTF. See Direct Merger Testimony of George Torres at 5-7.

26. PAC and PEU are too small to justify larger bond offerings at more attractive interest rates resulting in higher debt service for the entities. The combined annual capital expenditures and reinvestments of the merged entity will result in larger annual bond offering allowing the surviving, combined PWW to go to the bond market that are more attractive to investors and will likely result in lower rates and lower debt service for customers of the

combined entity. See Direct Merger Testimony of John Boisvert at 18-20, see also Direct Merger Testimony of Donald Ware at 8-11.

27. Both PAC and PEU have recently petitioned the Commission for an increase and waiver of the short-term debt limit of 10% to account for necessary borrowings to finance capital improvements to their respective systems since their only access to capital is through debt since the acquisition by the City eliminated access to equity markets. The Commission approved the petition for debt limit waiver and increase by Order No. 26,895 (October 17, 2023) in Docket No. 23-066. See Direct Merger Testimony of George Torres at 26. The need for debt limit waivers will likely be eliminated by the consolidation or merger and acquisition of PEU and PAC by PWW. See *Id*. However, PWW may need to temporarily increase short-term borrowing through an increase its Fixed Asset Line of Credit ("FALOC") with TD Bank, NA to accommodate the additional short-term debt financed capital needs of PEU (currently financed through FALOC with CoBank) and PAC (currently financed through the Penn Corp. Working Capital Line of Credit). See Direct Merger Testimony of John Boisvert at 20, 46, see also Direct Merger Testimony of George Torres at 22-23.

28. The Company asserts that the following savings and benefits will be realized if the acquisition of PEU and PAC by PWW through consolidation or merger and consolidated rates are approved by the Commission: 1) allow capital projects for all three utilities to be funded by 30-year tax exempt bonds at lower debt costs; 2) employees will spend less time on daily time sheets for each of the three utilities; 3) reduced regulatory filings such as finance dockets, one QCPAC (versus two) and other related Commission filings; 4) file one rate case every three years instead of three rates case every three years; 5) maintaining one set of financials for the single merged utility; 6) reporting financials for a single merged utility instead

of reporting for three utilities; 7) eliminate the need to manage 12 bank accounts and segregate funds for CBFRR, MOERR, DSR and related RSF funds between the three utilities; 8) simplified time keeping for field staff and reduced work orders and administrative costs; 9) simplified management fee with PWW only allocating charges to Pennichuck Water Service Company; and 10) improved customer service having to only deal with one set of rates versus three separate sets of rates for customers over the three utilities. See Direct Merger Testimony of John Boisvert at 24-26, see also Direct Merger Testimony of Donald Ware at 12-14.

29. Expanding upon point number 1 above, the approved consolidation or merger will result in access to tax-exempt or taxable bond financing for all projects of the former three utilities through the New Hampshire Business Finance Authority for terms up to 35 years. This presents an opportunity to provide access to lower cost of capital over longer terms, access to more debt to fund needed capital projects that may not otherwise be possible for the small, individual utilities such as PAC (storage tank upgrade), lower the cost of capital and debt service impacting rate revenue requirements, reducing fixed costs of debt by limiting the number of issuances and credit facilities, and spreading the fixed costs of issuance across more capital per issuance. See Direct Merger Testimony of John Boisvert at 26-27, see also Direct Merger Testimony of Donald Ware at 14.

30. The consolidation and acquisition of PEU and PAC will not impact the capitalization of PWW, as the dedicated PEU and PAC Rates Stabilization Funds (RSF's) that support those existing debt obligations will be merged with the newly consolidated PWW. See Direct Merger Testimony of George Torres at 6. The Company also performed due diligence on the impact of the consolidation or merger on its existing debt obligations by submitting the debt

for legal review with outside counsel and meeting with NHDES, TD Bank, NA, and CoBank. See Direct Merger Testimony of George Torres at 6-7.

31. In consultation with PWW's bond underwriters, the consolidation of PEU and PAC into PWW should not have an impact on PWW's stable "A" credit rating. This is primarily because this is a merger of like entities, with a uniform allowed revenue structure, and capital structure, and as such, all attributes in support of the Company's underlying credit worthiness will be unchanged from the merger. See Direct Merger Testimony of George Torres at 8-10.

32. The Company does not anticipate any negative impacts on the Company's planned Capital Improvements programs. See Direct Merger Testimony of John Boisvert at 27-28. The Company anticipates the consolidated utility will improve the ability of the PAC system given the increased access to larger debt facilities and more capital than currently available to the smaller utility which does not have a QCPAC process or access to lenders. See Direct Merger Testimony of John Boisvert at 28-29, see also Direct Merger Testimony of Donald Ware at 15-16.

33. The combined Company anticipates the continued use of the Qualified Capital Projects Adjustment Charge ("QCPAC") an annual charge that was established to allow for the recovery of 1.1 times the principal and interest incurred by PWW or PEU for the debt incurred for used and useful capital improvements that were invested in during the prior year and were used and useful during the prior year. The QCPAC also allows for the recovery of the incremental property taxes that will be incurred as result of the prior years used and useful capital improvements. PAC does not have a QCPAC program. See Direct Merger Testimony of Donald Ware at 15-16. The QCPAC process provides assurance to PWW and PEU's bond holders/lenders that it has the regulatory capacity generate the annual cash flows required to pay

for the principal and interest on the Bonds sold or debt entered into each year to complete its necessary Capital Improvements Plans. See Direct Merger Testimony of Donald Ware at 16-17. Whereas PWW will continue as the surviving utility and it has a QCPAC program that program will continue as it has since it was first implemented in 2018. The PEU QCPAC program will be eliminated (and merged into PWW's QCPAC filings) as all of PEU's capital investment will be completed as part of PWW's annual capital improvement program. There will be one annual capital improvement program for PWW which will encapsulate all the capital improvements that need to be completed within all the water systems currently owned by PWW, PEU and PAC. See Direct Merger Testimony of Donald Ware at 17-18. Post-merger or consolidation, the QCPAC would be consolidated eliminating the PEU filing and resulting in lower legal and staff expenses associated with that filing. See *Id* at 18.

34. As a result of the approved consolidation or merger, the Company anticipates eliminating the North Country Capital Recovery Surcharge ("NCCRS") and to have the DSRR components of allowed revenues in the merged utility to pay for these related legacy capital costs which will benefit the customers in the North Country system currently part of PEU. See Direct Merger Testimony of John Boisvert at 36-37. Those customers in the North Country systems are anticipated to pay the same volumetric rate and fixed changes as non-core customers proposed in the Consolidated Rate Petition. See Direct Merger Testimony of John Boisvert at 36-37.

35. The combined Company will not adversely impact special contracts of PWW and PEU. There is only one special contract between PEU and PWW for the Litchfield system (serving Londonderry, Windham and Pelham), that contract will no longer be necessary because those customers served by Litchfield will be treated as a "Core" customer post-merger. See Direct Merger Testimony of John Boisvert at 29-30. PWW's existing special contracts with

Anheuser-Busch, Merrimack Village District, Town of Milford, Town of Hudson and Town of Tyngsborough will not be impacted by the merger or consolidation. See Direct Merger Testimony of John Boisvert at 30, see also Direct Merger Testimony of Donald Ware at 18-19.

36. The merger will impact the allocation of the CBFRR between PWW, PEU, and PAC by combining it into a single allocation equal to the sum of the amount owned by the three entities for PWW; however, the merger would not impact the ability of PWW to pay the CBFRR assuming the consolidated rate now part of this petition is also approved by the Commission. See Direct Merger Testimony of George Torres at 13.

37. The proposed merger or consolidation transaction will not impact the Municipal Acquisition Regulatory Asset (MARA) which is the premium over the book value of underlying assets resulting from the acquisition of Penn Corp. in Docket DW 11-026. See Direct Merger Testimony of George Torres at 13-14. The Company proposes no changes to the MARA which must be maintained in its current form through 2042 when it will be fully amortized. See *Id*.

38. PWW has the requisite technical, managerial, and financial expertise to acquire and operate the PEU, PAC and North Country Systems, in addition to the existing PWW systems. See Direct Merger Testimony of John Boisvert at 49-50. PEU and PAC both provide services to their customers through employees of PWW. See Direct Merger Testimony of John Boisvert at 23. Currently, the employee time is currently allocated pursuant to a Cost Allocation and Service Agreement ("Money Pool Agreement"). See Direct Merger Testimony of John Boisvert at 24[3]. This transaction will not result in the change of the Money Pool Agreement as it

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The Money Pool Agreement, filed as Tab 8, Attachment 2 to the Direct Rate Testimony of John Boisvert at (Bates 245-252).

will continue to define the relationship between Penn Corp, PWW, PWSC and TSC. See Direct Merger Testimony of Goerge Torres at 20.

39. The consolidation or merger will not result in any change in the management of PWW if approved. See Direct Testimony of John Boisvert at 23. Therefore, the employees who currently provide services to the PEU, PAC and North Country Systems will be unchanged and there should be no change in the level of service provided to those customers. See Direct Testimony of John Boisvert at 49-50.

TRANSACTION AND RATES WILL BE JUST AND REASONABLE

Specific Consolidated Single Tariff Revenue and Rate Relief Sought

40. A revenue increase of 9.95% is being sought for the merged utilities over the sum of PWW, PEU, and PAC's individual combined 2022 test year revenues, adjusted to their five-year average revenues. The 2022 test year revenue requirement being sought is $55,233,521 (from all revenue sources exclusive of Other Operating Revenues) versus the combined 2022 actual revenues (adjusted for the 5-year trailing average from all revenue sources, exclusive of QCPACs and Other Operating Revenues) of PWW, PEU and PAC of $50,233,067, or a revenue deficiency of $5,000,454.

41. PWW would largely keep its existing customer classes and rate groups. PWW would eliminate the 10-inch metered customer class because of lack of use. For its General Metered Service, PWW proposes to create a "Core" and "Non-Core" volumetric rate. Given the differences in the cost to provide municipal fire protection service, PWW would adopt PEU's fire protection rate groups for Londonderry, Derry, Bow-Pines of Bow, Raymond-Green Hills, Windham, Exeter, Lee, Birch Hill, Pelham, and Litchfield. The consolidated tariff rate schedules

for these changes to the rate groups are attached to this petition (formerly found at Tab 13 of the rate filing) in track-change and clean versions (Bates 1256-1296).

42. The reasoning for these changes is described in Mr. Ware's rate testimony at pages 53-56 (Bates 314-317) and is supported by the cost of service study described at pages 57-59 (Bates 318-320). Mr. Gregg Therrien's cost of service testimony and study is found at Tab 10 of the rate filing (Bates 337-412). The reasoning for creating a Core and Non-Core volumetric rate is to recognize the difference between the cost to produce water for the Core and Non-Core customers. See Direct Rate Testimony of John Boisvert at 27 (Bates 222). The cost of treated water leaving the Nashua treatment facility and delivered to Core customers is approximately $0.65 per CCF, whereas the average cost of purchased or treated water for Non-Core PEU customers is $2.47 per CCF. See *Id*.

43. The rate changes to the existing and proposed PWW customer classes is reflected on the Report of Proposed Rate Change found at Tab 6 of the rate filing (Bates 182-185). Current PWW customers that are classified as Core will have an increase in their volumetric rate of 19.58% ($1.05 per CCF) while those that are classified as Non-Core PEU will experience an increase of 43.40% (1.92 per CCF) in their volumetric rate from their current rate. Current PEU customers that are classified as Non-Core will see a decrease in their volumetric rate by 33.4% ($3.17 per CCF) while those customers classified as Core will see a decrease by 44.5% ($4.23 per CCF) in their volumetric rate, from their current rate. This rate differential is not uncommon in that Manchester Water Works maintains a tiered water rate with respect to general metered customers. MWW charges customers that reside outside of the City of Manchester nearly 1.15 times (15% more) than the customers within the City of Manchester.

2006 Cost Allocation Agreement

44. PWW, PEU, and PAC share costs pursuant to a 2006 Cost Allocation Agreement. PWW holds the employees who are then contracted out among the subsidiaries. This arrangement and function of the PWW employees is not expected to change as a result of the merger. This cost allocation agreement is attached to Mr. Boisvert's rate testimony as Tab 8, Attachment B, Exhibit JJB-2 (Bates 245-252). Since 2006, the Commission has reviewed the allocation of costs among the regulated and unregulated subsidiaries of Pennichuck Corporation at each rate case for PWW, PEU, and PAC. The underlying metrics and attributes currently attributed to PEU and PAC in that computation will be merged into the same metrics and attributes as PWW, and the resulting allocation of Penn Corp costs and PWW costs will then be allocated on that same multi-tier basis, based upon the pro-rata calculations that result.

No Change to Ratemaking Methodology

45. PWW, PEU, and PAC all have unique ratemaking structures which include revenue requirements for:

a) City Bond Fixed Revenue Requirement (CBFRR);

b) Material Operating Expenses (MOE's);

c) Non-Material Operating Expenses (NOE's), which are the basis of the Non-Material Operating Revenue Requirement (NOERR);

d) Material Operating Expense Factor (MOEF), which is applied against the MOE's, exclusive of its amortization expenses. The MOEF is applied to the merged Company's MOE's, less amortization expenses, and then amortization expenses are added in which are the basis of the Material Operating Expense Revenue Requirement (MOERR);

e) 1.0 Debt Service Revenue Requirement (1.0 DSRR), which is the annual principal and interest payments; and

f) Debt Service coverage factor of 0.1 which provides for the coverage of the Debt Service payments in accordance with the bond coverage requirements. This expense is the basis of the 0.1 Debt Service Revenue Requirement (0.1 DSRR).

The consolidation of PEU and PAC into PWW and aggregation of PEU and PAC's ratemaking components into PWW is not anticipated to change this ratemaking structure. Should future changes be necessary, the issue will be brought before the Commission in a separate rate filing.

2025 Test Year Rate Case Proposed to Realize Benefits of Consolidation

46. The Companies fully expect administrative efficiencies to occur as a result of the merger. As such, the Companies propose filing PWW's next future rate case, using a 2025 test year, to fully analyze the benefits of the merger and true-up rates. This first rate case under a merged PWW would be similar to what the Commission ordered PWW, PEU, and PAC to do following the first year under the City's ownership. For reference see Docket No. DW 11-026 and Order No. 25,292 ordering the Companies to file rate cases no later than June 1, 2013 so as to include in rates any savings from the City's ownership.

Notification of Rate Case

47. PWW, PEU, and PAC have conducted outreach to stakeholders who would be affected by this consolidation. As described in Mr. Boisvert's rate testimony, PWW, PEU, and PAC met with the Department of Energy, Office of the Consumer Advocate, and the Department of Environmental Services. See Direct Rate Testimony John Boisvert at 42 (Bates 237). PWW, PEU, and PAC met with representatives of communities including the City of Nashua, Town of Londonderry, Town of Litchfield, Town of Bedford, and the Town of Pelham. See *Id*. at 42 (Bates 237). Additionally, PWW, PEU, and PAC directly mailed letters to the Town Managers,

State Representatives and State Senators for all communities served by PWW, PEU and PAC to inform them of the consolidated rate case and merger petitions. See *Id*. at 42 (Bates 237).

48. PWW customarily informs its customers as part of its rate case filings. Starting on January 3, 2024, PWW prepared and mailed individual notices to all PWW, PEU, and PAC customers, which were delivered in a direct mailing, separate from the customer bills, and included a Frequently Asked Questions information sheet. A copy of the revised Customer Notices (Tab 7) (Bates 186-194) will be forwarded to customers consistent with PUC 1203.02(c).

CONSEQUENCES IF THE TRANSACTION IS NOT APPROVED

49. If the Commission denies this petition for the merger and consolidated rates, the projected rates for PEU and PAC will increase by 24.10% and 3.40% respectively. See Direct Merger Testimony of Donald Ware at 20, Exhibit DLW-F. The Companies originally filed the Consolidated Rate Petition on November 21, 2023 in Docket No. DW 23-088; however, PEU and PAC filed Notices of Intents for separate, standalone rates cases on November 28, 2023 for relief in event the merger or consolidation is denied. See Direct Merger Testimony of Donald Ware at 20. The Company has since withdrawn those stand-alone rate cases pending the amendment of this petition to incorporate the consolidate rates in this Petition and the Consolidated rate petition filed in DW 23-088 was dismissed. If this Petition is not amended, then the Company anticipates filing a Notice of Intent and stand-alone rate case for PEU. See *Id*.

50. As noted above, such sharp and material separate stand-alone rate increases could result in destabilizing effects to the PEU customers and communities, and to the broader three-utility Pennichuck system. These adverse effects could include complex attempts to disconnect certain customers from the PEU system, resulting in loss of the synergies of the integrated

system and potentially adverse effects for various stakeholders including both the customers seeking to avoid the separate rate increase and the remaining customers who are required to continue to pay the rates required to ensure continued provision of safe drinking water to those areas. These effects could also adversely impact the ability of PEU to contribute to the required City Bond Fixed Revenue Requirement (CBFRR) which is PEU's contribution to pay for the City's acquisition of Penn Corp. See *Id*. Any impact on PEU's ability to pay the CBFRR would likely result in adverse rate impacts to PWW and/or PAC customers. See *Id*.

51. Furthermore, such sharp and material separate standalone rate increases could result in uncollectable receivables and a rapid drawdown of PEU's RSF accounts, result in customers seeking to drill individual wells and disconnect from the PEU system. This would further exacerbate the financial pressures on PEU and impact PEU's ability to maintain its system and fund future capital improvements. See *Id*. at 22-23.

52. Denial of the merger or consolidation may also impact the RSF funds and coverage requirements for PEU and PAC, as well as the availability of debt or credit facilities for PEU to fund capital improvements. See *Id*. at 23-24. As stated above, PAC has no access to debt or credit facilities outside of loans from NHDES or intercompany loans with Penn Corp. See *Id.* at 24. The net result could impact the ability of PAC and PEU to provide safe, high-quality water to its customers if the merger is denied. See *Id*. at 24-25.

53. Given the present circumstances facing PEU and PAC's customers and the future pressure of increasing rates, the Companies believe it important as a matter of good utility practice and for the future sustainability of PEU and PAC's rates, to bring to the Commission's attention the option of consolidating rates. In this petition, Mr. Donald L. Ware, describes in his rate testimony his first-hand experience with past circumstances where the Commission has

sought solutions, such as rate consolidation, to high customer rates. See Direct Rate Testimony of Mr. Donald Ware at 16-17 (Bates 277-278). Mr. Ware's testimony describes that when preparing PEU and PAC's 2023 rate cases, PEU and PAC learned that the necessary revenues would result in rate increases that would exceed 1% of New Hampshire's median household income, a test that the U.S. Environmental Protection Agency (EPA) evaluates in measuring affordability of water rates in the context of Clean Water Act compliance matters.[4] See *Id*.

54. Mr. John J. Boisvert described in his rate testimony that PEU's proposed rates for the average single-family residential customer using 6.64 hundred cubic feet (CCF) of water per month would result in a monthly bill of $106.28, or $1,275.38 per annum. See Direct Rate Testimony of John J. Boisvert at 18-19 (Bates 213-214). The EPA recommended affordability index for water rates specifies that the cost of public water should not exceed 1% of Median Household income. See *Id*. New Hampshire's 2023 median household income is $88,235[5]. One percent of that income, $882.35 per annum, sets the "high bar" for affordable water rates. See *Id*. PEU's rates would exceed that affordability threshold. Although PAC's immediate rate case rate increase alone would not exceed the affordability measure, its future trajectory would not be affordable. See *Id*. Further, given the integrated nature of PWW, PEU, and PAC and the fact that PEU and PAC rely on PWW's employees, it did not make economic sense to consolidate PEU with PWW and not include PAC's customers. See *Id*. at 33 (Bates 228).

WHY THE TRANSACTION IS IN THE PUBLIC GOOD

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[4] Source: EPA 2023 CWA Financial Capability Assessment Guidance (https://www.epa.gov/system/files/documents/2023-01/cwa-financial-capability-assessment-guidance.pdfepa.gov)
[5] Source, New Hampshire Employment Security: https://www.nhes.nh.gov/elmi/products/vs/documents/vs-2022-ch2-income-wages.pdf

55. PWW, PEU, and PAC believe that this Joint Petition and approval of the consolidation of PEU and PAC with PWW will be in the public good because of the following:

(1) It will enable PWW to provide adequate cash flows in support of ongoing infrastructure replacements to the benefit of its ratepayers, as fully debt funded projects.

(2) The same Rate Stabilization Funds will continue to exist for the merged entity. These will continue to normalize revenues between rate cases, to the benefit of the Company's ratepayers, allowing for increased rate stability.

(3) Because the larger, surviving merged entity will likely go to market with larger bond issuances in any given year, PWW may have the ability to access debt at more favorable rates, and at a lower cost of issuance per unit of debt, to the benefit of its ratepayers over time; PEU and PAC as they exist today do not have this ability, thus this benefit will be felt by all ratepayers.

(4) The merged entity of PWW will be able to maintain ongoing compliance with all of its debt covenants; and

(5) The merged entity of PWW will maintain operations in an efficient and effective manner for its ratepayers, as there will be fewer overall rate case filings, only one QCPAC filing each year, fewer financing dockets, and a reduced burden with respect to managing funds transferring between the existing three utilities and Penn Corp.

(6) Will insure that rates for all of its customers remain affordable based on EPA's affordability criteria and are just and reasonable. See the Direct Merger Testimony of George Torres at 27-28.

56. The Companies have also set forth above the savings and benefits that will be realized as a result of the approved transaction. Since PWW provides services to the customers

in the PEU, PAC and North Country Systems, there will be no change in the level of service and provision of safe and clean drinking water to their respective customers after the consolidation and no adverse impacts to the customers and their service.

57. The approval of the consolidation or merger is in the public good or interest because it will avoid rate shock with the consolidation of PEU with PWW that could also prevent the loss of certain large municipal systems and prevent the transfer of CBFRR payment obligations to PWW and/or PAC customers.

58. The proposed merger would be in the public good and interest because it would bring more predictability and stability to future revenue requirements than it would for the stand-alone entities. Therefore, bringing more predictability and stability to any potential rate impact to the consumer. This is achieved due to the larger aggregate sharing of revenue coverage for necessary and prudent operating expenses, favorable overall cash flow requirements to service current and future debt, and the consolidation of customers across all communities served as residential, commercial and industrial customer classes. See the Direct Merger Testimony of George Torres at 14, 27-28.

59. Upon approval of this Amended Petition by the Commission, PWW expects that Penn Corp. Board will vote to approve the consolidation and then a vote will be held by the City, Penn Corp's sole shareholder. See Direct Merger Testimony of John Boisvert at 31-32. After vote and resolutions by the respective City and Penn Corp. Board of Directors, PWW expects the Consolidation Agreements, in substantially the same forms as set forth in Exhibits JJB-2 and JJB-3, will be executed and the transactions will close. Upon completion of the transaction, PWW will be the sole remaining surviving public utility and subsidiary acquiring the assets,

franchises and liabilities of PEU and PAC. PWW anticipates filing amended articles of incorporation and amended and restated bylaws upon completion of the consolidation.

60. PWW, PEU and PAC request that the Commission approve the consolidation or merger and consolidate rates in the dates set forth in the proposed joint procedural schedule filed with the Commission on February 28, 2024, approved by the Commission by procedural order on March 4, 2024, with the plan for the consolidation and merger and rates approved and effective by January 1, 2025. This would allow for the filing and acceptance of all of the tariff changes to PWW's tariffs, as well as to complete all of the legal documentation needed to complete the merger and transfer certain contractual agreements and banking documents needed by the effective date. See Direct Merger Testimony of Donald Ware at 26.

61. For the reasons described above, the consolidation or merger of PEU and PAC with PWW is in the public interest and public good. See also the Direct Merger Testimony of John Boisvert at 44-48. The Company therefore requests that the Commission approve the consolidation or merger as in the public interest and public good, authorize the acquisition of PEU and PAC by PWW, and authorize consolidated rates for the surviving PWW utility that will just and reasonable. See Direct Merger Testimony of John Boisvert at 44-45, and Direct Merger Testimony of Donald Ware at 20.

WHEREFORE, the Joint Petitioners respectfully request that the Commission:

A. Determine that the proposed transaction set forth in the Consolidation Agreements are in the public interest and public good pursuant to RSA 374:30, RSA 374:33, and RSA 378, to the extent required;

B. Approve the assumption of PEU's and PAC's short-term and long-term indebtedness associated with their respective assets by PWW in accordance with RSA 369:8;
C. Approve the consolidated rates in this Petition for PWW as just and reasonable rates approved for the combined PWW and in the public interest and good for this merger transaction;
D. Issue any and other approvals or authorizations necessary to conclude the Consolidation Agreements and authorize PWW to act as the merged entity going forward;
E. Grant such further relief as may be just, reasonable and in the public good and interest.

Respectfully submitted,

PENNICHUCK WATER WORKS, INC.,
PENNICHUCK EAST UTILITY, INC., AND
PITTSFIELD AQUEDUCT COMPANY, INC.

By Its Attorneys

RATH, YOUNG AND PIGNATELLI, P.C.

Dated: March 8, 2024 By: ______________________________

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Certificate of Service

I hereby certify that a copy of this Amended Petition for approval of consolidation or merger and consolidated rates, including the pre-filed testimony, rates, schedules, attachments and exhibits referred to in the Amended Petition, have this day been forwarded to the Docket Related Service list via electronic mail and paper copies of the updated rate schedules will be delivered to the Commission.

Dated: March 8, 2024

____
James J. Steinkrauss

STATE OF NEW HAMPSHIRE

BEFORE THE

NEW HAMPSHIRE PUBILC UTILITIES COMMISSION

DW 23-101

Pennichuck Water Works, Inc., Pennichuck East Utility, Inc., and

Pittsfield Aqueduct Company

2023 Joint Amended Petition of Pennichuck Water Works, Inc., Pennichuck East Utility, Inc., and Pittsfield Aqueduct Company for the Approval to Acquire by ~~of a~~ Consolidation or Merger of Pennichuck East Utility, Inc. and Pittsfield Aqueduct Company into~~with~~ Pennichuck Water Works, Inc. and Approval of Rates for the Consolidated Pennichuck Water Works ~~(formerly Docket No. DW 23-088)~~

Pennichuck Water Works, Inc., ("PWW"), Pennichuck East Utility, Inc. ("PEU") and Pittsfield Aqueduct Company ("PAC") (collectively the "Joint Petitioners"), corporations duly organized and existing under the law of the State of New Hampshire and operating therein as public utilities subject to the jurisdiction of the New Hampshire Public Utilities Commission (the "Commission"), pursuant to RSA 369:8, 374:26, 374:30, 374:33 and RSA 378, collectively file this petition requesting the Commission approve the acquisition of PEU and PAC into PWW by way of consolidation or merger and transfer of all of PEU's and PAC's assets and liabilities to PWW. PWW is an existing public utility as defined by RSA 362:3 and shall remain the surviving public entity upon approval of the transaction by the Commission. The Joint Petitioners request the Commission to approve the following: 1) consolidation or merger and acquisition of all of PEU and PACs assets by PWW used to service the customers in the respective PEU and PAC service systems; 2) approve the transfer of all short-term and long-term debt associated with the respective assets of PEU and PAC to PWW; 3) approve the direct acquisition of PEU and PAC by PWW pursuant to the terms of an Agreement and Plan of Merger

(“Merger Agreement”) in substantially the form attached as Exhibit A; and 4) approve a consolidated ratemaking structure designed to establish rates that balance customer interests with the need of PWW to obtain sufficient cash flow to meet its debt service obligations to Pennichuck Corp. and the City of Nashua. In support of this Petition, the Joint Petitioners state as follows:

BACKGROUND INFORMATION

1. The City of Nashua, New Hampshire (the “City”) is a New Hampshire municipal corporation with offices at 229 Main Street, Nashua, New Hampshire. The City is the second largest City in the State of New Hampshire and is the center of a diverse and dynamic region. The City acquired the interest of Pennichuck Corporation, including all of its regulated subsidiaries including PWW, PEU, and PAC, by virtue of a merger agreement and transaction approved by Order No. 25,292 (November 23, 2011) in Docket No. DW 11-026. The City is the sole shareholder of all Pennichuck Corporation stock. See Direct Testimony of John Boisvert at 11-14.

2. Pennichuck Corporation (“Penn Corp.”) is a New Hampshire business corporation, organized pursuant to RSA 293-A, with offices at 25 Walnut Street, Nashua, New Hampshire. Penn Corp. is a holding company that owns 100 percent of the common stock of the three regulated subsidiaries PWW, PEU, and PAC. Penn. Corp. also owns two other subsidiaries, Pennichuck Water Service Corporation and The Southwood Corporation, neither of which is a public utility as defined by RSA 362:2. See the Direct Testimony of John Boisvert at 11-14.

3. The proposed consolidation or merger of PWW, PEU and PAC will not impact or otherwise change the status of the City as sole shareholder or change the current corporate structure of the parent Penn Corp. as approved in Docket No. DW 11-026 by Order 25,292

(November 23, 2011). A copy of the pre-consolidation and post-consolidation corporate structures are attached hereto as Exhibit JJB-4 and Exhibit JJB-5. See the Direct Testimony of John Boisvert at 18, 23-24.

4. On November 18, 2023, PWW, PEU, and PAC filed a consolidated rate case in Docket No. DW 23-088. On December 15, 2023, the Department of Energy ("DOE" or "Department") filed a motion to dismiss the rate case. On December 18, 2023, the Commission issued Order No. 26,914 suspended rates for a period of 12 months. After a hearing on the motion to dismiss on January 21, 2024, the Commission issued Order No. 26,942 on February 6, 2024, dismissing the joint petition.

5. On February 14, 2024, the Commission held a pre-hearing conference in this docket upon which the parties discussed filing a motion to amend the instant petition to incorporate a consolidated rate filing.

6. On February 15, 2024, the City of Nashua filed a petition to intervene in this docket, to which the Petitioners have no objection to the City's petition late intervention pursuant to PUC 203.17 and RSA 541-A:32, II.

7. On March 8, 2024, the Petitioners filed a motion to amend this petition and a motion for waiver pursuant to N.H. Administrative Rules PUC 201.05.

THE JOINT PETITIONERS

~~3.~~8. PWW is a New Hampshire business corporation organized pursuant to RSA 293-A and a public utility defined in RSA 362:2, with a principal place of business at 25 Walnut Street, Nashua, New Hampshire. PWW serves approximately 29,400 customers in the City of Nashua and the Towns of Amherst, Hollis, Merrimack, Bedford, Derry, Epping, New Market, Plaistow, Salem and Milford, New Hampshire. PWW also owns and operates the community water systems in Bedford, East Derry, Epping, Milford, Newmarket, Plaistow, and Salem, New Hampshire.

~~4.~~9. PEU is a New Hampshire business corporation organized pursuant to RSA 293-A and a public utility defined in RSA 362:2, with a principal place of business at 25 Walnut Street, Nashua, New Hampshire. PEU serves approximately 8,600 customers in the Towns of Atkinson, Barnstead, Bow, Chester, Derry, Exeter, Hooksett, Lee, Litchfield, Londonderry, Pelham, Plaistow, Raymond, Sandown, Tilton, Weare, and Windham, New Hampshire. By virtue of a transfer pursuant to Order No. 25,051 (December 11, 2009) in Docket No. DW 09-051, PEU obtained the assets of PAC that serve approximately 219 customers in North Conway (Birch Hill), 85 customers in Middleton (Sunrise Estates), and 868 customers in Center Barnstead (Locke Lake) (hereinafter the "North Country Systems"). PEU has no employees. PEU contracts for personnel and administrative services from PWW to service its franchise area.

~~5.~~10. PAC is a New Hampshire business corporation organized pursuant to RSA 293-A and a public utility defined in RSA 362:2, with a principal place of business at 25 Walnut Street, Nashua, New Hampshire. PAC serves approximately 648 customers in the Town of Pittsfield. PAC has no employees. PAC contracts for personnel and administrative services from PWW to service its franchise area.

~~6.~~11. The communities and number of customers served by PWW, PEU, and PAC under Penn Corp. subject to this petition are set forth in Exhibit JJB-1 and described in further detail in the attached testimony. See Direct Testimony of John Boisvert at 6-7, and Exhibit JJB-1~~[1]~~. See also Direct Testimony of Donald Ware at 5-8.

~~[1] Exhibit JBB-1 was also filed as Tab 8, Bates 93-94 in the Consolidated Rate Petition in Docket No. DW 23-088 on November 21, 2023.~~

~~7.~~12. The Company has performed outreach to the Department of Energy, Office of Consumer Advocate, New Hampshire Department of Environmental Services, communities, and customers within the PWW, PEU, and PAC systems. See Direct Testimony of John Boisvert at 37-39. The Company also conducted outreach to its lenders and sought consent for the proposed transaction. See Direct Testimony of John Boisvert at 33 and Direct Testimony of George Torres at 10,19. Finally, the Company specifically trained its customer service staff to respond to customers in light of the proposed consolidation or merger and the Consolidated Rate Petition discussed in more detail below. See Direct Testimony of John Boisvert at 35.

LEGAL AUTHORITIES AND STANDARD OF REVIEW

~~8.~~13. The Commission should review this petition requesting a consolidation or merger to determine whether its terms are just, reasonable and serve the public interest, and whether the proposed consolidation or merger of PAC and PEU with PWW is lawful, proper and in the public interest, as required by RSA 374:33. RSA 374:33 provides, in part, that:

> No public utility or public utility holding company as defined in section 2(a)(7)(A) of the Public Utility Holding Company Act of 1935 shall directly or indirectly acquire more than 10 percent, or more than the ownership level which triggers reporting requirements under 15 U.S.C. section 78-P, whichever is less, of the stocks or bonds of any other public utility or public utility holding company incorporated in or doing business in this state, unless the commission finds that such acquisition is lawful, proper, and in the public interest . . . . See RSA 374:33.

The Commission has interpreted the public interest standard to involve a consideration of the positive and negative aspects of a proposed consolidation or merger to determine whether, on balance, the transaction is consistent with the public interest. *Hampton Water Works, Inc.*, Order No. 23,924 at 12, 14 (March 1, 2002); *New England Elec. Sys.*, Order No. 23,308 at 15-16 (October 4, 1999); *Re: Consumers N.H. Water Co.*, Order No. 22,792, 82 NH PUC 814, 816-17

(November 21, 1997); *Re: Eastern Utilities Associates*, Order No. 20,094, 76 NH PUC 236 (April 1, 1991).

~~9.~~14. The NH Supreme Court accorded the Commission considerable discretion in its application of the public interest standard.

> The analogous phrase "public good" has been given a broad definition by this court and has been held not only to include the needs of particular persons directly affected . . . but also . . . the needs of the public at large and the general welfare of the utility involved. In the application of the general criteria provided by the statute the commission has broad discretion and '(t)his case, with its variety of conflicting considerations, is an excellent example of why the prime responsibility for determining the public interest is with a specialized agency and not with the courts. See Waste Control Sys., Inc. v. State, 114 N.H. 21, 24 (1974).

In *New England Electric System*, Order No. 23,308, 84 NHPUC 502, (October 4, 1999), the Commission stated that the mandate in RSA 369:8, which requires that acquisitions will "not adversely affect the rates, terms, service, or operation of the public utility within the state," embodies the same standard reflected in RSA 374:33 that authorizes the Commission to approve acquisitions that are "lawful, proper and in the public interest." *New England Electric* at 16. Proposed acquisitions must meet a "no net harm" test in order to be approved by the Commission. See *Id*. The Commission stated that, in applying the no net harm test, it must "assess the benefits and risks of the proposed merger and determine what the overall effect on the public interest will be, giving the transaction our approval if the effect is at worst neutral from the public interest perspective." See *Id*.; see also *Aquarion Water Company of New Hampshire*, Order No. 24,691, 91 NHPUC at 513; *Hampton Water Works, Inc*., Order No. 23,924, 87 NHPUC 104 (March 1, 2002). Accordingly, the Commission's standard will be met where an applicant for approval of an acquisition demonstrates that customers would be no worse off with the acquisition than without the acquisition. Pursuant to the Commission's findings in New England Electric, the Joint Petitioners demonstrate herein that the Transaction meets and exceeds the Commission's no net harm standard and thus seek the Commission's approval.

15. The Joint Petitioners note that RSA 274:26[2] and RSA 374:30,I[3] are also applicable to the proposed consolidation or merger because it is a merger of common stock of subsidiaries under a holding company and involves a transfer or lease of the PEU and PAC franchises, works, and systems to PWW. The evidence provided herein demonstrating no net harm also demonstrates that the proposed consolidation or merger "will be for the public good" within the meaning of that statute. The public good standard "is analogous to the 'public interest' standard . . . applied and interpreted by the Commission and by the New Hampshire Supreme Court." See *Consumers New Hampshire Water Company*, 82 NHPUC 814, 816 (1977) (citing *Waste Control Systems, Inc. v. State*, 114 N.H. 21, 22-23 (1974)). The public interest or public good standards are satisfied with a showing that the consolidation or merger will not harm ratepayers. See *Pennichuck Corp.*, 83 NHPUC 44, 44 (1998)("Under the public interest or public good standard to be applied by the Commission where an individual or entity seeks to acquire a jurisdictional utility, the Commission must determine that the proposed transaction will not harm ratepayers.")

16. The Commission has long noted that RSA 378:7 authorizes the Commission to fix

[2] RSA 374:26 states, "The commission shall grant such permission whenever it shall, after due hearing, find that such engaging in business, construction or exercise of right, privilege or franchise would be for the public good, and not otherwise; and may prescribe such terms and conditions for the exercise of the privilege granted under such permission as it shall consider for the public interest. Such permission may be granted without hearing when all interested parties are in agreement."

[3] RSA 374:30,I states, "Any public utility may transfer or lease its franchise, works, or system, or any part of such franchise, works, or system, exercised or located in this state, or contract for operation of its work and system located in this state, when the commission shall find that it will be for the public good and shall make an order assenting thereto, but not otherwise, except that commission approval shall not be required for any such transfer, lease, or contract by an excepted local exchange carrier. The commission may, by general order, authorize a public utility to transfer to another public utility a part interest in poles and their appurtenances for the purpose of joint use by such public utilities."

rates pursuant to an order after a hearing. In determining just and reasonable rates, the Commission must balance the consumers' interest in paying no higher rates than are required with the investors' interest in obtaining a reasonable return on their investment. See, *Eastman Sewer Company, Inc.,* 138 N.H. 221, 225 (1994). In circumstances where a utility seeks to increase rates, the utility bears the burden of proving the necessity of the increase pursuant to RSA 378:8. In circumstances where the utility seeks to consolidate rates, the Commission has reviewed a number of factors: (1) whether there will be a wide disparity among rates absent consolidation such that some rates would be outside of a 'zone of just and reasonableness'; (2) would consolidated rates ensure affordability; and (3) whether consolidated rates would ensure the continued viability of the water system. See, *Lakes Region Water Company, Inc*., Docket No. DR 97-188, Order No. 23,146 (February 11, 1999) citing *Pennichuck Water Works, Inc.,* Docket No. DR 97-058, Order No. 22,883 (March 25, 1998).

17. Also pursuant to RSA 378:7, the Commission "shall be under no obligation to investigate any rate matter which it has investigated within a period of 2 years, but may do so within said period at its discretion." In *Public Service Company of New Hampshire*, Docket No. DR 79-107, Order No. 13,799 (August 29, 1979), the Commission noted that "[w]hile RSA 378:7 allows for a rate investigation prior to the expiration of a two-year period… the commission attempts to adhere to the general rule of waiting the two years unless there are unusual circumstances or a possible confiscation of property." Here, PWW avers that the Companies' needs for revenues and rate relief and the desire to mitigate rate shock and unaffordable rates, is an "unusual circumstance" that warrants the Commission's investigation. Consolidating PEU and PAC into PWW provides mitigation to that rate shock. Further, the rate relief is driven by the needs of PEU's customers, which last received a rate increase, effective

December 24, 2020, and based on a 2019 test year, by Order No. 26,586 (February 18, 2022). The instant case is based on a 2022 test year, which is greater than two years. Similarly, PAC's last rate case was based on a 2019 test year.

18. In *Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities*, in Docket No. DG 19-161, Order No. 26,319 (December 24, 2019), the Commission cited *Appeal of Gas Service, Inc.* 121 N.H. 602 (1981) and the issue of "whether deciding not to investigate [the] proposed rates at this time would constitute an unconstitutional taking." Order at 5. As described in Direct Rate Testimony Mr. Ware's (Bates 262-337), PWW, PEU, and PAC have expenses that exceed the revenues authorized by this Commission. PEU and PAC are required by Commission order to file rate cases in 2023. Notwithstanding that PWW is not yet at its three-year ordered cycle, PWW's revenue requirement is 7.43% greater than the 2021 test-year based revenue requirement approved by the Commission. Accordingly, even PWW is not earning sufficient revenues to meet expenses, which constitutes a confiscatory situation, thereby satisfying the Commission's threshold considerations. Further, if the companies are merged absent a rate case, then PWW would suffer a loss of about $5.3M in allowed revenues. Direct Rate Testimony of Donald Ware at 18 (Bates 279). A loss of $5.3M would adversely affect the rate stabilization fund accounts. There would be an additional loss of about $233,000 per year in fixed meter charges based on the difference between PEU's fixed meter charges (based on the projected 24.1% increase in revenues detailed in Attachment A of Mr. Ware's rate testimony (Bates 326) and the fixed meter charge approved in PWW's last rate case, DW 22-032. *Id.* at 19.

~~10.~~19. The Joint Petitioners seek authority from the Commission: (1) pursuant to RSA 374:30 to obtain the assets of PEU and PAC, including those assets in the North Country Systems, and also pursuant to RSA 374:26, RSA 374:30 and RSA 374:33 to obtain all assets including franchises to serve those PEU and PAC customers; (2) pursuant to RSA 378 to provide service to customers in the PEU, PAC and North Country Systems under the terms and conditions of PEU's and PAC's current tariff on file with the Commission, subject to modification pursuant to the Consolidated Rate Case; (3) pursuant to RSA 369:1 for PWW to assume the short-term and long-term debt currently held by PEU and PAC respectively associated with their service systems and assets in the North Country Systems; ~~and~~ (4) approval of the consolidation agreements in the form substantially similar to those agreements attached as Exhibits JJB-2 for PEU and JJB-3 for PAC, respectively to consolidate or merge with PWW; and (5) approval of consolidated rates consistent with RSA 378:7 as set forth in the filings included here including the filed Revised Notice of Intent to File Rate Schedules (Tab 2) (Bates 170), Attestation (Tab 3) (Bates 172), Motion for Protective Order and Confidential Treatment (Tab 4) (Bates 174-181), Report of Proposed Rate Changes (Tab 6) (Bates 182-185), Customer Notices (Tab 7) (Bates 186-194), Rate Testimony of John J. Boisvert (Tab 8) (Bates 195-260), Rate Testimony of Donald Ware (Tab 9) (Bates 261-336), Cost of Service Study and Testimony (Tab 10) (Bates 222-412), Filing Requirement Schedules (Tab 11) (Bates 413-1214), Rate of Return Schedules (Tab 12) (1215-1255), Revised Permanent Consolidated Rate Tariff Pages (Tab 13) (Bates 1256-1296) Index and Full Rate Case Schedules per PUC 1604.1(a) (Tabs 14 – 39) (Bates 1297-1556) and Summary of Rate Case Expense Estimates (Tab 40) (Bates 1557-1558).~~.~~

THE REASONS AND BENEFITS FOR THE TRANSACTION

~~11.~~20. The proposed consolidated rates ~~On November 21, 2023, PWW, PEU, and PAC filed with the Commission a joint petition for consolidated rates in Docket No. DW 23-088 to~~ request an increase in the PWW rates granted in DW 22-032 by Order No. 26,862 (July 27, 2023) and to amend the rate structure ("consolidated rates~~Consolidated Rate Petition~~") to account for the proposed acquisition of ~~consolidation of~~ PEU and PAC by consolidation or merger into~~with~~ PWW sought in this Petition. As set forth in this amended~~e Consolidated Rate P~~ petition, if PEU filed a separate rate case that would result in an increase of 24.10% for PEU customers and if PAC filed a separate rate case that would result in an increase of 3.40% for PAC customers. See Direct Merger Testimony of Donald Ware at 20, Exhibit DLW-F. The consolidate rates~~Consolidated Rate~~ in this case ~~Case~~ would result in an overall rate increase of 9.95% for the combined PWW customers over the revenues generated by the rates approved in Docket No. DW 22-032, DW 20-156 and DW 20-153, but would result in a rate decrease of 31.94% for PEU customers versus standalone rates, 0.53% reduction for PAC customers versus standalone rates, and a 24.40% reduction for PEU North Country System customers versus a standalone rates increase of 19.86%. See Direct Merger Testimony of Donald Ware at 12, Exhibit DLW-F, Rate Table. This would result in a significantly lower rate increase for PEU customers and less of a rate increase for PAC customers compared to standalone rates sought by PEU and PAC in separate rate filings.

~~12.~~21. Significant rate increases for the PEU customers if PEU files a separate rate case are driven largely by the cost of water purchased from the Manchester Water Works system, higher interest rates, chemical treatment, capital costs, and limited access to debt for a smaller customer rate base than the PWW system. See Direct Merger Testimony of Donald Ware at 8-11, Exhibit DLW-E. PEU is concerned that a 24.10% rate increase in a separate, individual rate case could result in destabilizing effects to the PEU customers and communities, and to the broader three-utility Pennichuck system. These adverse effects could include complex efforts to disconnect certain customers from the PEU system, resulting in loss of the synergies of the integrated system and potentially adverse effects for various stakeholders including both the customers seeking to avoid the separate rate increase and the remaining customers who are required to continue to pay the rates required to ensure continued provision of safe drinking water to those areas. These effects could adversely impact the ability of PEU to contribute to the required City Bond Fixed Revenue Requirement (CBFRR) which is PEU's contribution to pay for the City's acquisition of Penn Corp. See *Id*. Any impact on PEU's ability to pay the CBFRR would likely result in adverse rate impacts to PWW and/or PAC customers. See *Id*.

~~13.~~22. The Companies deemed that the proposed merger would result in the most sustainable rate and operating structures for PEU and PAC without unduly burdening PWW's customers with a large amount of subsidization between the individual utilities. Additionally, it would result in Pennichuck, through PWW, maintaining a presence as a utility that serves it current franchise areas across the State, on an equal basis, not unlike other electric and gas utilities serving customers throughout New Hampshire. See Direct Merger Testimony of Donald Ware at 11.

~~14.~~23. The consolidation of PEU and PAC into~~with~~ PWW will also result in a number of efficiencies that will reduce costs for the consolidated company and provide customers and assets in the PEU and PAC system access to more debt providers and options than currently available to either PEU and PAC which is discussed in greater detail below.

~~15.~~24. PEU utilizes debt lines from CoBank, ACB to fund capital expenses through its Fixed Asset Line of Credit (FALOC) and annual term loan financings, as well as loans through the State Revolving Fund (SRF) through the Drinking Water Groundwater Trust Fund (DWGTF). See Direct Merger Testimony of George Torres at 5-7.

~~16.~~25. PAC's sole debt facility is access to short-term and long-term intercompany loans with Penn Corp., with occasional access to State of New Hampshire loans through SRF through the DWGTF. See Direct Merger Testimony of George Torres at 5-7.

~~17.~~26. PAC and PEU are too small to justify larger bond offerings at more attractive interest rates resulting in higher debt service for the entities. The combined annual capital expenditures and reinvestments of the merged entity will result in larger annual bond offering allowing the surviving, combined PWW to go to the bond market that are more attractive to investors and will likely result in lower rates and lower debt service for customers of the combined entity. See Direct Merger Testimony of John Boisvert at 18-20, see also Direct Merger Testimony of Donald Ware at 8-11.

~~18.~~27. Both PAC and PEU have recently petitioned the Commission for an increase and waiver of the short-term debt limit of 10% to account for necessary borrowings to finance capital improvements to their respective systems since their only access to capital is through debt since the acquisition by the City eliminated access to equity markets. The Commission approved the petition for debt limit waiver and increase by Order No. 26,895 (October 17, 2023) in Docket No. 23-066. See Direct Merger Testimony of George Torres at 26. The need for debt limit waivers will likely be eliminated by the consolidation or merger and acquisition of PEU and PAC by ~~with~~ PWW ~~for PEU and PAC~~. See *Id*. However, PWW may need to temporarily increase short-term borrowing through an increase its Fixed Asset Line of Credit ("FALOC") with TD Bank, NA to accommodate the additional short-term debt financed capital needs of PEU (currently financed through FALOC with CoBank) and PAC (currently financed through the Penn Corp. Working Capital Line of Credit). See Direct Merger Testimony of John Boisvert at 20, 46, see also Direct Merger Testimony of George Torres at 22-23.

~~19.~~28. The Company asserts that the following savings and benefits will be realized if the acquisition of PEU and PAC by PWW through consolidation or merger and consolidated rates are ~~is~~ approved by the Commission: 1) allow capital projects for all three utilities to be funded by 30-year tax exempt bonds at lower debt costs; 2) employees will spend less time on daily time sheets for each of the three utilities; 3) reduced regulatory filings such as finance dockets, one QCPAC (versus two) and other related Commission filings; 4) file one rate case every three years instead of three rates case every three years; 5) maintaining one set of financials for the single merged utility; 6) reporting financials for a single merged utility instead of reporting for three utilities; 7) eliminate the need to manage 12 bank accounts and segregate funds for CBFRR, MOERR, DSR and related RSF funds between the three utilities; 8) simplified time keeping for field staff and reduced work orders and administrative costs; 9) simplified management fee with PWW only allocating charges to Pennichuck Water Service Company; and 10) improved customer service having to only deal with one set of rates versus three separate sets of rates for customers over the three utilities. See Direct Merger Testimony of John Boisvert at 24-26, see also Direct Merger Testimony of Donald Ware at 12-14.

~~20.~~29. Expanding upon point number 1 above, the approved consolidation or merger will result in access to tax-exempt or taxable bond financing for all projects of the former three utilities through the New Hampshire Business Finance Authority for terms up to 35 years. This presents an opportunity to provide access to lower cost of capital over longer terms, access to more debt to fund needed capital projects that may not otherwise be possible for the small, individual utilities such as PAC (storage tank upgrade), lower the cost of capital and debt service impacting rate revenue requirements, reducing fixed costs of debt by limiting the number of issuances and credit facilities, and spreading the fixed costs of issuance across more capital per issuance. See Direct Merger Testimony of John Boisvert at 26-27, see also Direct Merger Testimony of Donald Ware at 14.

~~21.~~30. The consolidation and acquisition of PEU and PAC will not impact the capitalization of PWW, as the dedicated PEU and PAC Rates Stabilization Funds (RSF's) that support those existing debt obligations will be merged with the newly consolidated PWW. See Direct Merger Testimony of George Torres at 6. The Company also performed due diligence on the impact of the consolidation or merger on its existing debt obligations by submitting the debt for legal review with outside counsel and meeting with NHDES, TD Bank, NA, and CoBank. See Direct Merger Testimony of George Torres at 6-7.

~~22.~~31. In consultation with PWW's bond underwriters, the consolidation of PEU and PAC into PWW should not have an impact on PWW's stable "A" credit rating. This is primarily because this is a merger of like entities, with a uniform allowed revenue structure, and capital structure, and as such, all attributes in support of the Company's underlying credit worthiness will be unchanged from the merger. See Direct Merger Testimony of George Torres at 8-10.

~~23.~~32. The Company does not anticipate any negative impacts on the Company's planned Capital Improvements programs. See Direct Merger Testimony of John Boisvert at 27-28. The Company anticipates the consolidated utility will improve the ability of the PAC system given the increased access to larger debt facilities and more capital than currently available to the smaller utility which does not have a QCPAC process or access to lenders. See Direct Merger Testimony of John Boisvert at 28-29, see also Direct Merger Testimony of Donald Ware at 15-16.

~~24.~~33. The combined Company anticipates the continued use of the Qualified Capital Projects Adjustment Charge ("QCPAC") an annual charge that was established to allow for the recovery of 1.1 times the principal and interest incurred by PWW or PEU for the debt incurred for used and useful capital improvements that were invested in during the prior year and were used and useful during the prior year. The QCPAC also allows for the recovery of the incremental property taxes that will be incurred as result of the prior years used and useful capital improvements. PAC does not have a QCPAC program. See Direct Merger Testimony of Donald Ware at 15-16. The QCPAC process provides assurance to PWW and PEU's bond holders/lenders that it has the regulatory capacity generate the annual cash flows required to pay for the principal and interest on the Bonds sold or debt entered into each year to complete its necessary Capital Improvements Plans. See Direct Merger Testimony of Donald Ware at 16-17. Whereas PWW will continue as the surviving utility and it has a QCPAC program that program will continue as it has since it was first implemented in 2018. The PEU QCPAC program will be eliminated (and merged into PWW's QCPAC filings) as all of PEU's capital investment will be completed as part of PWW's annual capital improvement program. There will be one annual capital improvement program for PWW which will encapsulate all the capital improvements that need to be completed within all the water systems currently owned by PWW, PEU and PAC. See Direct Merger Testimony of Donald Ware at 17-18. Post-merger or consolidation, the QCPAC would be consolidated eliminating the PEU filing and resulting in lower legal and staff expenses associated with that filing. See *Id* at 18.

~~25.~~34. As a result of the approved consolidation or merger, the Company anticipates eliminating the North Country Capital Recovery Surcharge ("NCCRS") and to have the DSRR components of allowed revenues in the merged utility to pay for these related legacy capital costs which will benefit the customers in the North Country system currently part of PEU. See Direct Merger Testimony of John Boisvert at 36-37. Those customers in the North Country systems are anticipated to pay the same volumetric rate and fixed changes as non-core customers proposed in the Consolidated Rate Petition. See Direct Merger Testimony of John Boisvert at 36-37.

~~26.~~35. The combined Company will not adversely impact special contracts of PWW and PEU. There is only one special contract between PEU and PWW for the Litchfield system (serving Londonderry, Windham and Pelham), that contract will no longer be necessary because those customers served by Litchfield will be treated as a "Core" customer post-merger. See Direct Merger Testimony of John Boisvert at 29-30. PWW's existing special contracts with Anheuser-Busch, Merrimack Village District, Town of Milford, Town of Hudson and Town of Tyngsborough will not be impacted by the merger or consolidation. See Direct Merger Testimony of John Boisvert at 30, see also Direct Merger Testimony of Donald Ware at 18-19.

~~27.~~36. The merger will impact the allocation of the CBFRR between PWW, PEU, and PAC by combining it into a single allocation equal to the sum of the amount owned by the three entities for PWW; however, the merger would not impact the ability of PWW to pay the CBFRR assuming the c~~C~~onsolidated r~~R~~ate now part of this p~~P~~etition is also approved by the Commission. See Direct Merger Testimony of George Torres at 13.

~~28.~~37. The proposed merger or consolidation transaction will not impact the Municipal Acquisition Regulatory Asset (MARA) which is the premium over the book value of underlying assets resulting from the acquisition of Penn Corp. in Docket DW 11-026. See Direct Merger Testimony of George Torres at 13-14. The Company proposes no changes to the MARA which must be maintained in its current form through 2042 when it will be fully amortized. See *Id.*

~~31~~38. PWW has the requisite technical, managerial, and financial expertise to acquire and operate the PEU, PAC and North Country Systems, in addition to the existing PWW systems. See Direct Merger Testimony of John Boisvert at 49-50. PEU and PAC both provide services to their customers through employees of PWW. See Direct Merger Testimony of John Boisvert at 23. Currently, the employee time is currently allocated pursuant to a Cost Allocation and Service Agreement ("Money Pool Agreement"). See Direct Merger Testimony of John Boisvert at 24[4]. This transaction will not result in the change of the Money Pool Agreement as it will continue to define the relationship between Penn Corp, PWW, PWSC and TSC. See Direct Merger Testimony of Goerge Torres at 20.

~~32~~39. The consolidation or merger will not result in any change in the management of PWW if approved. See Direct Testimony of John Boisvert at 23. Therefore, the employees who currently provide services to the PEU, PAC and North Country Systems will be unchanged and there should be no change in the level of service provided to those customers. See Direct Testimony of John Boisvert at 49-50.

TRANSACTION AND RATES WILL BE JUST AND REASONABLE

Specific Consolidated Single Tariff Revenue and Rate Relief Sought

40. A revenue increase of 9.95% is being sought for the merged utilities over the sum of PWW, PEU, and PAC's individual combined 2022 test year revenues, adjusted to their five-year average revenues. The 2022 test year revenue requirement being sought is $55,233,521 (from all revenue sources exclusive of Other Operating Revenues) versus the combined 2022 actual revenues (adjusted for the 5-year trailing average from all revenue sources, exclusive of QCPACs and Other Operating Revenues) of PWW, PEU and PAC of $50,233,067, or a revenue deficiency of $5,000,454.

[4]The Money Pool Agreement, filed as Tab 8, Attachment 2 to the Direct Rate Testimony of John Boisvert at (Bates 245-252).

41. PWW would largely keep its existing customer classes and rate groups. PWW would eliminate the 10-inch metered customer class because of lack of use. For its General Metered Service, PWW proposes to create a "Core" and "Non-Core" volumetric rate. Given the differences in the cost to provide municipal fire protection service, PWW would adopt PEU's fire protection rate groups for Londonderry, Derry, Bow-Pines of Bow, Raymond-Green Hills, Windham, Exeter, Lee, Birch Hill, Pelham, and Litchfield. The consolidated tariff rate schedules for these changes to the rate groups are attached to this petition (formerly found at Tab 13 of the rate filing) in track-change and clean versions (Bates 1256-1296).

42. The reasoning for these changes is described in Mr. Ware's rate testimony at pages 53-56 (Bates 314-317) and is supported by the cost of service study described at pages 57-59 (Bates 318-320). Mr. Gregg Therrien's cost of service testimony and study is found at Tab 10 of the rate filing (Bates 337-412). The reasoning for creating a Core and Non-Core volumetric rate is to recognize the difference between the cost to produce water for the Core and Non-Core customers. See Direct Rate Testimony of John Boisvert at 27 (Bates 222). The cost of treated water leaving the Nashua treatment facility and delivered to Core customers is approximately $0.65 per CCF, whereas the average cost of purchased or treated water for Non-Core PEU customers is $2.47 per CCF. See *Id.*

43. The rate changes to the existing and proposed PWW customer classes is reflected on the Report of Proposed Rate Change found at Tab 6 of the rate filing (Bates 182-185). Current PWW customers that are classified as Core will have an increase in their volumetric rate of 19.58% ($1.05 per CCF) while those that are classified as Non-Core PEU will experience an increase of 43.40% (1.92 per CCF) in their volumetric rate from their current rate. Current PEU customers that are classified as Non-Core will see a decrease in their volumetric rate by 33.4%

($3.17 per CCF) while those customers classified as Core will see a decrease by 44.5% ($4.23 per CCF) in their volumetric rate, from their current rate. This rate differential is not uncommon in that Manchester Water Works maintains a tiered water rate with respect to general metered customers. MWW charges customers that reside outside of the City of Manchester nearly 1.15 times (15% more) than the customers within the City of Manchester.

2006 Cost Allocation Agreement

44. PWW, PEU, and PAC share costs pursuant to a 2006 Cost Allocation Agreement. PWW holds the employees who are then contracted out among the subsidiaries. This arrangement and function of the PWW employees is not expected to change as a result of the merger. This cost allocation agreement is attached to Mr. Boisvert's rate testimony as Tab 8, Attachment B, Exhibit JJB-2 (Bates 245-252). Since 2006, the Commission has reviewed the allocation of costs among the regulated and unregulated subsidiaries of Pennichuck Corporation at each rate case for PWW, PEU, and PAC. The underlying metrics and attributes currently attributed to PEU and PAC in that computation will be merged into the same metrics and attributes as PWW, and the resulting allocation of Penn Corp costs and PWW costs will then be allocated on that same multi-tier basis, based upon the pro-rata calculations that result.

No Change to Ratemaking Methodology

45. PWW, PEU, and PAC all have unique ratemaking structures which include revenue requirements for:

a) City Bond Fixed Revenue Requirement (CBFRR);

b) Material Operating Expenses (MOE's);

c) Non-Material Operating Expenses (NOE's), which are the basis of the Non-Material Operating Revenue Requirement (NOERR);

d) Material Operating Expense Factor (MOEF), which is applied against the MOE's, exclusive of its amortization expenses. The MOEF is applied to the merged Company's MOE's, less amortization expenses, and then amortization expenses are added in which are the basis of the Material Operating Expense Revenue Requirement (MOERR);

e) 1.0 Debt Service Revenue Requirement (1.0 DSRR), which is the annual principal and interest payments; and

f) Debt Service coverage factor of 0.1 which provides for the coverage of the Debt Service payments in accordance with the bond coverage requirements. This expense is the basis of the 0.1 Debt Service Revenue Requirement (0.1 DSRR).

The consolidation of PEU and PAC into PWW and aggregation of PEU and PAC's ratemaking components into PWW is not anticipated to change this ratemaking structure. Should future changes be necessary, the issue will be brought before the Commission in a separate rate filing.

2025 Test Year Rate Case Proposed to Realize Benefits of Consolidation

46. The Companies fully expect administrative efficiencies to occur as a result of the merger. As such, the Companies propose filing PWW's next future rate case, using a 2025 test year, to fully analyze the benefits of the merger and true-up rates. This first rate case under a merged PWW would be similar to what the Commission ordered PWW, PEU, and PAC to do following the first year under the City's ownership. For reference see Docket No. DW 11-026 and Order No. 25,292 ordering the Companies to file rate cases no later than June 1, 2013 so as to include in rates any savings from the City's ownership.

Notification of Rate Case

47. PWW, PEU, and PAC have conducted outreach to stakeholders who would be affected by this consolidation. As described in Mr. Boisvert's rate testimony, PWW, PEU, and

PAC met with the Department of Energy, Office of the Consumer Advocate, and the Department of Environmental Services. See Direct Rate Testimony John Boisvert at 42 (Bates 237). PWW, PEU, and PAC met with representatives of communities including the City of Nashua, Town of Londonderry, Town of Litchfield, Town of Bedford, and the Town of Pelham. See *Id*. at 42 (Bates 237). Additionally, PWW, PEU, and PAC directly mailed letters to the Town Managers, State Representatives and State Senators for all communities served by PWW, PEU and PAC to inform them of the consolidated rate case and merger petitions. See *Id*. at 42 (Bates 237).

48. PWW customarily informs its customers as part of its rate case filings. Starting on January 3, 2024, PWW prepared and mailed individual notices to all PWW, PEU, and PAC customers, which were delivered in a direct mailing, separate from the customer bills, and included a Frequently Asked Questions information sheet. A copy of the revised Customer Notices (Tab 7) (Bates 186-194) will be forwarded to customers consistent with PUC 1203.02(c).

CONSEQUENCES IF THE TRANSACTION IS NOT APPROVED

~~33~~49. If the Commission denies this petition for the merger and consolidated rates~~e~~ ~~consolidated rate petition and consolidation or merger petition~~, the projected rates for PEU and PAC will increase by 24.10% and 3.40% respectively. See Direct Merger Testimony of Donald Ware at 20, Exhibit DLW-F. The Companies ~~jointly~~ originally filed the Consolidated Rate Petition on November 21, 2023 in Docket No. DW 23-088; however, PEU and PAC filed Notices of Intents for separate, standalone rates cases on November 28, 2023 for relief in event the merger or consolidation is denied. See Direct Merger Testimony of Donald Ware at 20. The Company has since withdrawn those stand-alone rate cases pending the amendment of this petition to incorporate the consolidate rates in this Petition and the Consolidated rate petition filed in DW 23-088 was dismissed. If this Petition is not amended, then the Company anticipates filing a Notice of Intent and stand-alone rate case for~~both~~ PEU~~ and PAC rates case petitions prior to December 30, 2023~~. See *Id*.

~~34~~50. As noted above, such sharp and material separate stand-alone rate increases could result in destabilizing effects to the PEU customers and communities, and to the broader three-utility Pennichuck system. These adverse effects could include complex attempts to disconnect certain customers from the PEU system, resulting in loss of the synergies of the integrated system and potentially adverse effects for various stakeholders including both the customers seeking to avoid the separate rate increase and the remaining customers who are required to continue to pay the rates required to ensure continued provision of safe drinking water to those areas. These effects could also adversely impact the ability of PEU to contribute to the required City Bond Fixed Revenue Requirement (CBFRR) which is PEU's contribution to pay for the City's acquisition of Penn Corp. See *Id*. Any impact on PEU's ability to pay the CBFRR would likely result in adverse rate impacts to PWW and/or PAC customers. See *Id*.

~~35~~51. Furthermore, such sharp and material separate standalone rate increases could result in uncollectable receivables and a rapid drawdown of PEU's RSF accounts, result in customers seeking to drill individual wells and disconnect from the PEU system. This would further exacerbate the financial pressures on PEU and impact PEU's ability to maintain its system and fund future capital improvements. See *Id*. at 22-23.

~~36~~52. Denial of the merger or consolidation may also impact the RSF funds and coverage requirements for PEU and PAC, as well as the availability of debt or credit facilities for PEU to fund capital improvements. See *Id*. at 23-24. As stated above, PAC has no access to debt or credit facilities outside of loans from NHDES or intercompany loans with Penn Corp. See *Id.*

at 24. The net result could impact the ability of PAC and PEU to provide safe, high-quality water to its customers if the merger is denied. See *Id*. at 24-25.

53. Given the present circumstances facing PEU and PAC's customers and the future pressure of increasing rates, the Companies believe it important as a matter of good utility practice and for the future sustainability of PEU and PAC's rates, to bring to the Commission's attention the option of consolidating rates. In this petition, Mr. Donald L. Ware, describes in his rate testimony his first-hand experience with past circumstances where the Commission has sought solutions, such as rate consolidation, to high customer rates. See Direct Rate Testimony of Mr. Donald Ware at 16-17 (Bates 277-278). Mr. Ware's testimony describes that when preparing PEU and PAC's 2023 rate cases, PEU and PAC learned that the necessary revenues would result in rate increases that would exceed 1% of New Hampshire's median household income, a test that the U.S. Environmental Protection Agency (EPA) evaluates in measuring affordability of water rates in the context of Clean Water Act compliance matters.[5] See *Id.*

54. Mr. John J. Boisvert described in his rate testimony that PEU's proposed rates for the average single-family residential customer using 6.64 hundred cubic feet (CCF) of water per month would result in a monthly bill of $106.28, or $1,275.38 per annum. See Direct Rate Testimony of John J. Boisvert at 18-19 (Bates 213-214). The EPA recommended affordability index for water rates specifies that the cost of public water should not exceed 1% of Median Household income. See *Id*. New Hampshire's 2023 median household income is $88,235[6]. One percent of that income, $882.35 per annum, sets the "high bar" for affordable water rates. See

[5] Source: EPA 2023 CWA Financial Capability Assessment Guidance (https://www.epa.gov/system/files/documents/2023-01/cwa-financial-capability-assessment-guidance.pdfepa.gov)
[6] Source, New Hampshire Employment Security: https://www.nhes.nh.gov/elmi/products/vs/documents/vs-2022-ch2-income-wages.pdf

Id. PEU's rates would exceed that affordability threshold. Although PAC's immediate rate case rate increase alone would not exceed the affordability measure, its future trajectory would not be affordable. See *Id*. Further, given the integrated nature of PWW, PEU, and PAC and the fact that PEU and PAC rely on PWW's employees, it did not make economic sense to consolidate PEU with PWW and not include PAC's customers. See *Id*. at 33 (Bates 228).

WHY THE TRANSACTION IS IN THE PUBLIC GOOD

~~37~~55. PWW, PEU, and PAC believe that this Joint Petition and approval of the consolidation of PEU and PAC with PWW will be in the public good because of the following:

(1) It will enable PWW to provide adequate cash flows in support of ongoing infrastructure replacements to the benefit of its ratepayers, as fully debt funded projects.

(2) The same Rate Stabilization Funds will continue to exist for the merged entity. These will continue to normalize revenues between rate cases, to the benefit of the Company's ratepayers, allowing for increased rate stability.

(3) Because the larger, surviving merged entity will likely go to market with larger bond issuances in any given year, PWW may have the ability to access debt at more favorable rates, and at a lower cost of issuance per unit of debt, to the benefit of its ratepayers over time; PEU and PAC as they exist today do not have this ability, thus this benefit will be felt by all ratepayers.

(4) The merged entity of PWW will be able to maintain ongoing compliance with all of its debt covenants; and

(5) The merged entity of PWW will maintain operations in an efficient and effective manner for its ratepayers, as there will be fewer overall rate case filings, only one

QCPAC filing each year, fewer financing dockets, and a reduced burden with respect to managing funds transferring between the existing three utilities and Penn Corp.

(6) Will insure that rates for all of its customers remain affordable based on EPA's affordability criteria and are just and reasonable. See the Direct Merger Testimony of George Torres at 27-28.

~~38~~56. The Companies have also set forth above the savings and benefits that will be realized as a result of the approved transaction. Since PWW provides services to the customers in the PEU, PAC and North Country Systems, there will be no change in the level of service and provision of safe and clean drinking water to their respective customers after the consolidation and no adverse impacts to the customers and their service.

~~39~~57. The approval of the consolidation or merger is in the public good or interest because it will avoid rate shock with the consolidation of PEU with PWW that could also prevent the loss of certain large municipal systems and prevent the transfer of CBFRR payment obligations to PWW and/or PAC customers.

~~40~~58. The proposed merger would be in the public good and interest because it would bring more predictability and stability to future revenue requirements than it would for the stand-alone entities. Therefore, bringing more predictability and stability to any potential rate impact to the consumer. This is achieved due to the larger aggregate sharing of revenue coverage for necessary and prudent operating expenses, favorable overall cash flow requirements to service current and future debt, and the consolidation of customers across all communities served as residential, commercial and industrial customer classes. See the Direct Merger Testimony of George Torres at 14, 27-28.

~~41~~59. Upon approval of this Amended~~e Joint~~ Petition by the Commission, PWW expects that Penn Corp. Board will vote to approve the consolidation and then a vote will be held by the City, Penn Corp's sole shareholder. See Direct Merger Testimony of John Boisvert at 31-32. After vote and resolutions by the respective City and Penn Corp. Board of Directors, PWW expects the Consolidation Agreements, in substantially the same forms as set forth in Exhibits JJB-2 and JJB-3, will be executed and the transactions will close. Upon completion of the transaction, PWW will be the sole remaining surviving public utility and subsidiary acquiring the assets, franchises and liabilities of PEU and PAC. PWW anticipates filing amended articles of incorporation and amended and restated bylaws upon completion of the consolidation.

~~42~~60. PWW, PEU and PAC request that the Commission approve the consolidation or merger and consolidate rates in the dates set forth in the proposed joint procedural schedule filed with the Commission on February 28, 2024, approved by the Commission by procedural order on March 4, 2024, with the plan for the consolidation and merger and rates approved and effective by January 1, 2025. This would allow for the filing and acceptance of all of the tariff changes to PWW's tariffs, as well as to complete all of the legal documentation needed to complete the merger and transfer certain contractual agreements and banking documents needed by the effective date. See Direct Merger Testimony of Donald Ware at 26.

~~43~~61. For the reasons described above, the consolidation or merger of PEU and PAC with PWW is in the public interest and public good. See also the Direct Merger Testimony of John Boisvert at 44-48. The Company therefore requests that the Commission approve ~~above~~ the consolidation or merger as in the public interest and public good, authorize the acquisition of PEU and PAC by PWW, and authorize consolidated rates for the surviving PWW utility that will just and reasonable. See Direct Merger Testimony of John Boisvert at 44-45, and Direct Merger Testimony of Donald Ware at 20.

WHEREFORE, the Joint Petitioners respectfully request that the Commission:

A. Determine that the proposed transaction set forth in the Consolidation Agreements are in the public interest and public good pursuant to RSA 374:30, RSA 374:33, and RSA 378, to the extent required;

B. Approve the assumption of PEU's and PAC's short-term and long-term indebtedness associated with their respective assets by PWW in accordance with RSA 369:8;

C. Approve the consolidated rates in this Petition for PWW as ~~the~~ just and reasonable rates approved for the combined PWW and in the public interest and good for this merger transaction;

D. Issue any and other approvals or authorizations necessary to conclude the Consolidation Agreements and authorize PWW to act as the merged entity going forward;

E. Grant such further relief as may be just, reasonable and in the public good and interest.

Respectfully submitted,

PENNICHUCK WATER WORKS, INC.,
PENNICHUCK EAST UTILITY, INC., AND

PITTSFIELD AQUEDUCT COMPANY, INC.

By Its Attorneys

RATH, YOUNG AND PIGNATELLI, P.C.

Dated: ~~December 15~~March 8, ~~2023~~2024 By:

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Certificate of Service

I hereby certify that a copy of this Amended~~Joint~~ Petition for approval of consolidation or merger and consolidated rates, including the pre-filed testimony, rates, schedules, attachments and exhibits referred to in the Amended ~~Joint~~ Petition, have this day been forwarded to the Docket Related Service list ~~Office of Consumer Advocate~~ via electronic mail ~~at ocalitigation@oca.nh.gov and the Department of Energy via electronic mail at Energy-Litigation@energy.nh.gov.~~ and paper copies of the updated rate schedules will be delivered to the Commission.

Dated~~Dated~~: March 8, 2024~~December 15, 2023~~

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James J. Steinkrauss