

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 23-101

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

**Joint Petition for Approval of Consolidation of Pennichuck East Utility, Inc.
and Pittsfield Aqueduct Company with Pennichuck Water Works, Inc.**

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

On December 15, 2023, Pennichuck East Utility, Inc. (PEU), Pittsfield Aqueduct Company (PAC), and Pennichuck Water Works, Inc. (PWW) (collectively, the Joint Petitioners) filed a joint petition requesting that the Commission approve PWW's acquisition of PEU and PAC pursuant to agreements and plans of merger. In support of their petition, the Joint Petitioners submitted the direct testimony and related attachments of: John J. Boisvert, Chief Engineer of PWW (Boisvert Testimony); Donald L. Ware, Chief Operating Officer of PWW (Ware Testimony); and George Torres, the Chief Financial Officer, Treasurer, and Corporate Controller of PWW and Pennichuck Corporation (Penn Corp). All docket filings, other than any information subject to confidential treatment, are available on the Commission's website at www.puc.nh.gov/regulatory/Docketbk/2023/23-101.html.

I. BACKGROUND AND PROCEDURAL HISTORY

PEU, PAC, and PWW are regulated public utilities and New Hampshire corporations that are subsidiaries of Penn Corp, a New Hampshire corporation which owns 100 percent of their common stock. Petition (Pet.), ¶ 2. PEU provides water service to more than 9,000 customers located in southern New Hampshire, North

Conway, Middleton, and Center Barnstead.¹ See Pet., ¶ 5. PAC provides water service to approximately 648 customers in the Town of Pittsfield. *Id.*, ¶ 6. PWW provides water service to more than 29,000 customers in Nashua and other southern New Hampshire municipalities. *Id.*, ¶ 4. PWW also provides personnel and administrative services to PEU and PAC. *Id.*, ¶¶ 5-6; Boisvert Testimony at Bates pages 44-45.

The Commission approved the City of Nashua's acquisition of Penn Corp in Docket No. DW 11-026. See Order No. 25,292 at 44-45 (November 23, 2011). As a result, the City of Nashua is the sole shareholder of Penn Corp. Pet., ¶ 1. Following the City of Nashua's acquisition of Penn Corp, PWW, PEU, and PAC no longer had access to private equity markets for financing their capital needs, but were financed entirely through debt. Boisvert Testimony at Bates pages 33-34.

In their petition, the Joint Petitioners represented that the proposed mergers between PWW and PEU, and PWW and PAC would result in the three utilities gaining greater access to debt financing at a lower cost. Pet., ¶¶ 19, 21-22; Boisvert Testimony at Bates pages 47-48. Further, they maintained that the mergers would lead to greater efficiencies in daily operations, which would become more centralized, as well as regulatory filings, because only one filing would be required instead of separate filings for each of the three utilities. *Id.*, ¶ 21; Boisvert Testimony at Bates pages 66-68. These efficiencies would result in lower costs. *Id.*

The Joint Petitioners asked that approval of the proposed mergers be conditioned on the approval of a uniform ratemaking structure, which has been requested in Docket No. DW 23-088. Pet. at 19. Approval of a uniform ratemaking structure would ensure rate stability and obviate the need for the proposed 24.10

¹ The Commission approved the transfer of PAC's assets and franchise rights in its "North Country systems" (Birch Hill in North Conway, Sunrise Lake Estates in Middleton, and Locke Lake Colony in Barnstead) to PEU in Order No. 25,051 (December 11, 2009). *Id.* at 1, 12, 22.

percent rate increase requested by PEU in Docket No. DW 23-096 and the proposed 3.40 percent rate increase requested by PAC in Docket No. DW 23-097. *See id.*, ¶¶ 33-34. According to Mr. Ware's testimony, the proposed mergers would result in the most sustainable rate and operating structures for PEU and PAC, which face operating and capital challenges if they continue as standalone companies, without cross-subsidization that would unduly burden PWW customers. Ware Testimony at Bates pages 98-101.

The Joint Petitioners requested that the Commission approve the mergers by December 1, 2024, so that they and any consolidated tariff rates could become effective January 1, 2025. *See Pet.*, ¶ 42; Boisvert Testimony at Bates page 61. Upon receiving authorization from the Commission, the proposed mergers would be submitted to Penn Corp and then the City of Nashua for their approval. Boisvert Testimony at Bates page 42. After receiving these additional approvals, PWW and PEU would execute an agreement of merger, and PWW and PAC would execute an agreement of merger. *Id.* These transactions subsequently would be closed, with PEU's and PAC's franchises transferred to PWW. *Id.* at Bates pages 42, 71.

II. ISSUES PRESENTED

The filing presents, *inter alia*, the following issues: whether the transfer of PEU's and PAC's franchises and assets to PWW is for the public good and should be permitted under RSA 374:30, RSA 374:22, and RSA 374:26; whether the transfer of ownership of PEU and PAC to PWW is lawful, proper, and in the public interest pursuant to RSA 374:33; whether the transfer of PEU's and PAC's franchises, assets, and liabilities to PWW will result in PWW providing reasonably safe and adequate service at just and reasonable rates to customers in the transferred franchise areas in accordance with RSA 374:1, RSA 374:2, and RSA 378:7; and whether the transfer of

PEU's and PAC's liabilities to PWW is consistent with the public good under RSA 369:1. Accordingly, an adjudicative proceeding will be convened to address these issues.

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

Based upon the foregoing, it is hereby

ORDERED, that an adjudicative proceeding be commenced for the purpose of reviewing and resolving the foregoing issues pursuant to RSA chapter 541-A, RSA 374:30, RSA 374:22, RSA 374:26, RSA 374:33, RSA 374:1, RSA 374:2, RSA 378:7, RSA 369:1, and the Commission's procedural rules; and it is

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

FURTHER ORDERED, that the New Hampshire Department of Energy shall file its position regarding the Joint Petitioners' petition, including the reasons for this position, on or before January 24, 2024; and it is

FURTHER ORDERED, that during the prehearing conference, the Commission will consider the matters listed in Puc 203.15(c) and (d), including the establishment of a procedural schedule governing the remainder of the proceeding. Parties and potential parties are encouraged to facilitate the development of a procedural schedule by conferring prior to the prehearing conference, so that the presiding officer can address any matters on which there is disagreement during the prehearing conference. Any procedural schedule, however, will not be approved until after the prehearing conference and after consulting the Commission's calendar; and it is

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

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

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

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

FURTHER ORDERED, that the parties may submit a stipulation containing a discovery schedule, statement of any additional issues not identified in this order of notice, and at least three dates on which they would be available for a final hearing in this matter, including how much time will be required, with a request that the prehearing conference and technical session be cancelled, on or before January 26, 2024. The Commission may cancel the prehearing conference and technical session upon approval of such a stipulation; and it is

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

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

FURTHER ORDERED, that pursuant to N.H. Admin. R., Puc 203.12, Joint Petitioners shall notify all entities and individuals desiring to be heard at this hearing

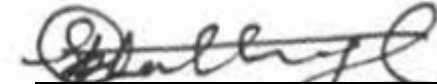
by publishing a copy of this order of notice on its website no later than two business days after the date of issue, such publication to be documented by affidavit filed with the Commission on or before January 16, 2024. In addition, the Clerk shall publish this order of notice on the Commission's website no later than two business days after the date of issue; and it is

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

So ordered, this fifth day of January, 2024.



Daniel C. Goldner
Chairman



Pradip K. Chattopadhyay
Commissioner



Carleton B. Simpson
Commissioner

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

Service List - Docket Related

Docket#: 23-101

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