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P R O C E E D I N G

1
2 CHAIRMAN GOLDNER: Okay. Good morning.
3 I'm Chairman Dan Goldner. I'm joined today by
4 Commissioner Simpson and Commissioner
5 Chattopadhyay.

6 This is the prehearing conference for
7 Docket DW 24-071, the Commission review
8 proceeding for Pennichuck Water Works' Petition
9 for approval of a Second Special Contract between
10 PWW and Tyngsborough Water District of
11 Tyngsborough, Massachusetts. PWW's position was
12 filed on May 6th, 2024.

13 This prehearing conference is being
14 held pursuant to the Order of Notice issued by
15 the Commission on June 4th, 2024. PWW filed its
16 Affidavit of Publication on June 5th, 2024. The
17 New Hampshire Department of Energy filed a Notice
18 of Appearance on May 15th, and a preliminary
19 position statement on July 23rd.

20 On June 24th, the Commission granted
21 the parties' request to extend the current
22 special contract with Tyngsborough Water District
23 during the pendency of the Commission's review of
24 the parties' proposed Second Special Contract.

1 There have been no petitions to
2 intervene in this matter. Finally, on June 19th,
3 2024, the Commission approved a proposed
4 procedural schedule.

5 Before we take appearances, I would
6 like to offer the following framework for today's
7 proceeding: I would invite the Company and the
8 DOE to make opening statements today regarding
9 this proceeding. As a part of these opening
10 statements, I would ask that the DOE indicate its
11 position regarding the Company's Motion for
12 Confidential Treatment, and invite the Company to
13 advocate for approval of the same. Following the
14 statements of position, I may have some
15 preliminary questions for the Company and other
16 parties.

17 Are there any objections to this
18 approach?

19 MS. BROWN: No objection from the
20 Company.

21 MR. YOUNG: None from the Department.

22 CHAIRMAN GOLDNER: Thank you.

23 In that case, let us proceed with
24 appearances, starting with the Company.

1 MS. BROWN: Good morning, Chairman
2 Goldner and Commissioners Chattopadhyay and
3 Simpson. My name is Marcia Brown. I'm with NH
4 Brown Law, representing Pennichuck Water Works in
5 this matter. And to my right is Don Ware, who is
6 the Chief Operating Officer of the Company; and
7 to his right is Jay Kerrigan, who's the Manager
8 of Regulatory Affairs.

9 Thank you.

10 CHAIRMAN GOLDNER: Thank you. The New
11 Hampshire Department of Energy?

12 MR. YOUNG: Good morning,
13 Commissioners. Matthew Young, on behalf of the
14 Department of Energy. With me today is Jayson
15 Laflamme, who is the Director of the Water Group;
16 and David Goyette, who is an analyst in the Water
17 Group.

18 CHAIRMAN GOLDNER: Very good. And, so,
19 we'll begin with statements of initial position,
20 beginning with the New Hampshire Department of
21 Energy.

22 MR. YOUNG: Thank you, Mr. Chairman.

23 As you previously mentioned, the
24 parties have a proposed procedural schedule. The

1 Department has issued one round of data requests.
2 And we are still reviewing the Petition, so we do
3 not have a position at this time.

4 And I guess I will also note that we do
5 not oppose the request for confidential
6 treatment.

7 CHAIRMAN GOLDNER: Thank you. And
8 moving onto the Company.

9 MS. BROWN: Thank you, Chairman
10 Goldner.

11 I guess maybe I misunderstood. Was the
12 position on the Motion, did you want me to
13 reiterate that? Or, did you want me to launch
14 into opening remarks, which --

15 CHAIRMAN GOLDNER: Since the Department
16 is okay with the confidential treatment, you can
17 skip that, I think. And I assume you support
18 your own motion. And you can launch into your
19 initial position.

20 MS. BROWN: Yes. Thank you very much
21 for that.

22 As Chairman Goldner noted, Pennichuck
23 Water Works has petitioned the Commission for
24 approval of a new special contract with

1 Tyngsborough Water District. In addition to the
2 Petition, Pennichuck filed the prefiled Testimony
3 of Donald Ware; filed a Statement of Special
4 Circumstances; filed a signed copy of the
5 proposed contract; as well as a cost of service
6 study.

7 The special contract was signed by the
8 Tyngsborough Water District Commissioners. If
9 approved, this contract will be the Second
10 Special Contract between the parties.

11 Although Pennichuck is a New
12 Hampshire-based utility, it has an
13 interconnection with the Tyngsborough Water
14 District at the Booster Station in Tyngsborough,
15 Massachusetts, which is adjacent to the Pheasant
16 Lane Mall, which is in Nashua and partly in
17 Tyngsborough.

18 As you indicated, the First Contract
19 has been extended. That contract was initially
20 approved in 2015, in Docket DW 15-133. The
21 six-month extension takes that July 28th, 2024,
22 termination, and extends it for six months, to
23 about January 28th, 2025.

24 The Second Contract follows in very

1 similar terms of the First Contract. The terms
2 are also similar to special contracts that this
3 Commission has seen in special contracts with the
4 Company and the Town of Milford, that was in
5 Docket DW 22-070, and with Pennichuck and the
6 Town of Hudson, and that was in Docket DW 22-029.

7 So, that's -- as far as the rate
8 structure components, there is a Base Annual
9 Fixed Fee, and these also appear as a table in
10 the Petition, at Page 2. And the Base Annual Fee
11 covers the City Bond Fixed Revenue Requirement.
12 There is a volumetric charge that ensures that
13 Tyngsborough will cover its appropriate share of
14 the variable costs. The volumetric charge will
15 also be adjusted, similar to past special
16 contracts, when the Commission changes the
17 QCPAC -- or, approves changes to the QCPAC, and
18 to Pennichuck's General Metered volumetric rate,
19 so that that covering of variable costs will
20 track, and it will eliminate subsidies.

21 There is also a monthly meter charge,
22 and that is to cover the operating and
23 maintenance costs, and testing for accuracy of
24 the six-inch meter. There is also a guaranteed

1 minimum purchase of 325,000 gallons per day per
2 year.

3 The rates for each of the fee
4 components were derived using a up-to-date cost
5 of service study. The terms are for an initial
6 five-year term, with two five-year automatic
7 renewals.

8 As far as the governing statutes, RSA
9 378:18 allows the Commission to approve a
10 deviation from the general tariff schedules, if
11 it finds that special circumstances exist, which
12 render such departure from the general schedules,
13 just and consistent with the public interest.

14 Pennichuck believes the proposed
15 special contract is consistent with the public
16 interest. The reasons justifying the departure
17 are spelled out on Pages 5 and 6 of Mr. Ware's
18 testimony, also summarized in the Petition.

19 But, briefly, they are that
20 Tyngsborough can purchase water from another
21 supplier, that is the City of Lowell. Without
22 special pricing, it is likely that Tyngsborough
23 could purchase all or some of its water from the
24 City of Lowell, and in which case Pennichuck and

1 its customers would lose about \$228,000 each
2 year. That sum contributes to covering the fixed
3 costs and overhead that, if those revenues were
4 not brought in, would have to be spread over the
5 rest of the customers.

6 The other distinguishing factor is that
7 Tyngsborough has its own storage, which means it
8 does not have a high peaking factor, and it does
9 not need to receive water to meet its
10 instantaneous demands, there's that storage for
11 buffer.

12 Tyngsborough will also be, if the
13 contract is approved, Pennichuck's fourth largest
14 water user, behind Town of Hudson,
15 Anheuser-Busch, and Pennichuck East. The benefit
16 of Pennichuck and -- to Pennichuck and its
17 customers of securing revenues from a large user
18 over the term of years proposed is that it
19 produces revenue stability, which benefits all
20 customers.

21 Lastly, the proposed rates were arrived
22 at with a up-to-date cost of service study, which
23 ensures that the costs reflected in the proposed
24 fees adequately cover the cost to provide service

1 to Tyngsborough.

2 As the Commission noted, a procedural
3 schedule has been approved. Department of Energy
4 has already conducted one round of discovery.
5 There are two more rounds. And, then, there is
6 also an opportunity to engage in settlement
7 discussions.

8 The Company fully anticipates that,
9 given the similar terms, that this is a similar
10 special contract to Hudson and Milford, which
11 were disposed of with a settlement agreement,
12 that we will likely reach a settlement agreement
13 in this, in this proceeding.

14 You've already touched upon the Motion
15 for Protective Treatment. The only comment I
16 have on that is I don't think the Commission
17 needs to order -- issue a standalone order on
18 that. If we're going to do a settlement, we
19 might as well just wrap that issue into the
20 settlement agreement, and then the Commission can
21 just issue one order at the end of the proceeding
22 on all the issues. So, I just thought I would
23 mention that for efficiencies for the proceeding.

24 There are no other parties here. It's

1 just the Department so far, and they are
2 obligated to keep confidence in documents that
3 the Company wishes to protect.

4 So, with that, if you have any
5 questions, the Company representatives are here
6 to take any questions the Commissioners have.

7 Thank you very much.

8 CHAIRMAN GOLDNER: Thank you.

9 So, concerning the Motion for
10 Confidential Treatment, we'll take the matter
11 under advisement and issue an order, in some
12 form, in due course.

13 So, we have a few questions today.
14 I'll just lead with, does the outcome of the
15 proposed merger and consolidated rates of the
16 Pennichuck entities in 23-101 affect this
17 proceeding?

18 MS. BROWN: It's vice versa. These
19 revenues will be rolled into an ultimate revenue
20 requirement, because there's a rate component --
21 rate case component to that merger. But this --
22 the company that's acquiring the assets is
23 Pennichuck -- or, Pennichuck Water Works is
24 absorbing Pennichuck East and Pittsfield Aqueduct

1 Company. This special contract is between
2 Tyngsborough and Pennichuck Water Works. So,
3 there should be no corporate structure change
4 there.

5 And I will ask if Don Ware has any
6 other additional comments?

7 MR. WARE: So, the only other comment
8 would be, if this contract is approved in and
9 effective before the end of the year, when and if
10 the merger is approved, and there's an increase
11 in rates that occurs as a result of that to the
12 Nashua GM customer, that same percentage increase
13 would be applied against the dollars that are
14 associated with this contract in the volumetric
15 fee. That's the terms. Volumetric fee, in this
16 case, is based on the approved test year
17 operating expenses associated with the last rate
18 case in Pennichuck Water Works, which was a 2021
19 test year, prosecuted through DW 22-032. So,
20 that's the starting point. And, then, again,
21 that revenue or volumetric line that's tied to
22 that gets adjusted based on any changes to the
23 Nashua customers.

24 So, again, if the merger happens,

1 Nashua customers are going to see an increase of
2 some amount, that's going to apply against this
3 contract as well.

4 CHAIRMAN GOLDNER: Thank you. Does the
5 Department have any comments on that topic?

6 MR. YOUNG: I don't think we have
7 anything to add.

8 CHAIRMAN GOLDNER: Just maybe let me
9 ask it differently. Does the Department have any
10 concerns relative to this docket, the merger
11 docket, and the timing thereof? Would you care
12 to make any timing comments in particular?

13 MR. YOUNG: No. I don't think we have
14 any concerns regarding the timing.

15 CHAIRMAN GOLDNER: Okay. Okay, thank
16 you.

17 Is there any need to make the Town of
18 Tyngsborough a mandatory party?

19 And I'll first address the question to
20 the Company.

21 MS. BROWN: I don't know that they need
22 to be made a party, in that, if the Commission is
23 looking for evidence of their buy-in and their
24 position, that's why I mentioned that all of the

1 commissioners of the Tyngsborough Water District
2 had signed the proposal. So, if there are any
3 changes, we will certainly circle back with them
4 and solicit their position.

5 But, given that, you know, the Company,
6 you know, has employees that can attend a
7 prehearing. We have reached out to Tyngsborough
8 that, if Staff, in the tech session, have any
9 questions, that we can reach them by phone or
10 Zoom, have them Zoom.

11 But I don't think they need to be a
12 necessary party designation, because that would
13 just -- the goal, I would submit, is to get their
14 position, and we have their position. And we
15 will commit to keeping their position relevant in
16 this docket, if it changes.

17 CHAIRMAN GOLDNER: Thank you.

18 MS. BROWN: Thank you.

19 CHAIRMAN GOLDNER: So, the same
20 question for the Department?

21 MR. YOUNG: Thank you, Mr. Chairman.

22 I don't think they need to be a party
23 at this -- or, a mandatory party at this time.
24 But we certainly wouldn't oppose their

1 involvement if any issues were to arise down the
2 road.

3 CHAIRMAN GOLDNER: Okay. Thank you.

4 Okay. The final question that I have,
5 and then I'll turn to my fellow Commissioners,
6 the current procedural schedule does not include
7 proposed hearing dates. If the matter proceeds
8 to hearing, how much time would be required? And
9 have the parties looked at any hearing dates?

10 I'll address the question first to the
11 Company.

12 MS. BROWN: We had not proposed any
13 hearing dates, because if I recall the Department
14 of Energy's position statement, that they felt
15 that this could be dispensed through a settlement
16 agreement. And, given that RSA 374:26 allows for
17 dispensing with a proceeding, without a hearing,
18 if all parties are in agreement, I think that's
19 why they were thinking that we didn't need -- the
20 Commission didn't need any final hearing dates.

21 And that's consistent with past special
22 contracts, they have gone through with an order
23 *nisi*, rather than drag people in and, you know,
24 have a full-blown hearing, when all parties are

1 in agreement.

2 So, I think we were expecting that
3 similar track. So, we would ask that we delay in
4 providing you hearing dates, till we can prove to
5 you that maybe we're not in agreement, but highly
6 suspect we're going to be in agreement.

7 CHAIRMAN GOLDNER: Thank you. I'll
8 address the same question to the Department?

9 MR. YOUNG: The Department also
10 anticipates this being resolved through an order
11 *nisi*, based off of what we reviewed so far, and
12 just past practice in similar dockets like this.

13 If there were a hearing necessary, we
14 certainly wouldn't anticipate more than, you
15 know, a normal half-day block.

16 MS. BROWN: Okay.

17 CHAIRMAN GOLDNER: Okay. Thank you on
18 that. I see Attorney Brown agreeing with that
19 assessment.

20 Okay. I'll turn to my fellow
21 Commissioners for any additional questions,
22 beginning with Commissioner Simpson?

23 CMSR. SIMPSON: Nothing for me. Thank
24 you.

1 CHAIRMAN GOLDNER: And Commissioner
2 Chattopadhyay?

3 CMSR. CHATTOPADHYAY: This is a
4 prehearing conference, but I'm just -- I'll first
5 say that it's helpful to look at the table that's
6 in the testimony, Page 7. So, I have just a few
7 questions, trying to tie loose ends, ensuring
8 that I understand what's going on. So, if you
9 have it ready, I can proceed.

10 I think you, for the minimum purchase,
11 for the proposed Second Contract, that is not per
12 year, it's just that amount, right? Can you
13 please take a look?

14 MR. WARE: Yes. That is a "per year".
15 So, the contract, as it's proposed, runs from
16 September 1 through August 30 of the following
17 year. And, during that year, each month they're
18 billed for the number of days in that billing
19 period for the month, times 325,000 gallons a
20 day. If they use more than that, they're just
21 paying that amount.

22 CMSR. CHATTOPADHYAY: Yes.

23 MR. WARE: If they use less, they get a
24 credit that gets applied in the following month

1 where they use more. At the end of the year, if
2 they have not used 325,000 gallons a day times
3 the total number of days, they don't get any
4 money back.

5 CMSR. CHATTOPADHYAY: I understand.
6 I'm just, when you say "minimum purchase", it's
7 in gallons per day, 325,000?

8 *[Mr. Ware indicating in the*
9 *affirmative.]*

10 CMSR. CHATTOPADHYAY: So, that "per
11 year" is a little bit confusing, because you
12 don't have it for the First Contract.

13 MR. WARE: Right. The First Contract
14 was, you know, there was no Base Annual Fixed
15 Fee, but there was a guaranteed daily purchase,
16 and it was the same thing. You looked over a
17 period of a year, --

18 CMSR. CHATTOPADHYAY: Okay.

19 MR. WARE: -- September to August.

20 CMSR. CHATTOPADHYAY: Understood. Do
21 you recall, I think you've mentioned the First
22 Contract was signed in 2015, and do you recall
23 what the volumetric rate was at that time?

24 MR. WARE: Yes. The volumetric rate at

1 that time I believe was \$2.00 -- well, I'm
2 looking right at it here, thank you, Marcia,
3 \$2.09.4 cents *[sic]*.

4 CMSR. CHATTOPADHYAY: Okay, "2.094"?

5 MR. WARE: Correct.

6 CMSR. CHATTOPADHYAY: Okay. Do you
7 remember what the retail rate was at that time?

8 MR. WARE: That would be 2015, which
9 would have been, you know, just prior to the --
10 2015 was a test year. We would have to look it
11 up.

12 CMSR. CHATTOPADHYAY: You don't have
13 to. I'm just -- but it's something important
14 that --

15 MR. WARE: I think it's -- I believe it
16 was something over, like, close to \$3.90 a
17 hundred cubic feet at that time.

18 CMSR. CHATTOPADHYAY: Okay. That's all
19 I have. Thank you.

20 CHAIRMAN GOLDNER: Okay. I'll just
21 check in to see if there's anything else we need
22 to cover today?

23 *[Atty. Young indicating in the*
24 *negative.]*

1 CHAIRMAN GOLDNER: Okay. Seeing none.
2 The Commission will issue a prehearing order in
3 the near future regarding the matters presented
4 today.

5 We are adjourned. Thank you.

6 ***(Whereupon the prehearing conference***
7 ***was adjourned at 9:24 a.m., and a***
8 ***technical session was held***
9 ***thereafter.)***

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