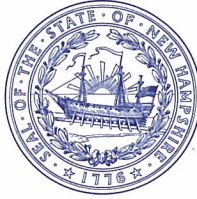


THE STATE OF NEW HAMPSHIRE

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June 30, 2009

Debra Howland
Executive Director
New Hampshire Public Utilities Commission
21 S. Fruit St., Suite 10
Concord, New Hampshire 03301

Re: DW 08-073, Pennichuck Water Works, Inc.

Dear Ms. Howland:



Staff is writing to respond to the letter filed by the Office of the Consumer Advocate (OCA) on June 25, 2009. Staff submits this response on behalf of itself and Pennichuck Water Works, Inc. (PWW), the settling parties in this docket.

OCA makes certain assertions that the settling parties believe warrant a response. OCA implies that the settling parties were deceitful in their presentation of a settlement agreement at the May 19, 2009 merits hearing in this docket. OCA states that Staff's step adjustment recommendation letter, dated June 15, 2009, calls for approval of and rate treatment for certain capital additions that went into service in 2009 but have been heretofore labeled as "2008 additions", therefore apparently obscuring the actual in-service dates. OCA states that Staff's recommendation "improperly" seeks to expand the scope of the relief requested in PWW's original petition to allow plant additions that came into service in 2009 to be included in the "2008 additions". Staff and PWW wholly disagree with OCA's characterization of Staff and PWW's position.

As OCA is fully aware, PWW's initial filing, filed on June 23, 2008, included a request for two step adjustments to its rates. PWW's test year for the rate filing was 2007, the first step adjustment was to recognize plant additions relating to PWW's water treatment plant upgrade that were completed and in service by May 1, 2008. The second step adjustment was to recognize other plant additions that PWW expected would be completed and in service by November 1, 2008. As is noted in the May 15, 2009 settlement agreement, page 4 - 5, the settling parties combined the two requested step adjustments into one since it was evident from the record that all the assets were

completed and in-service at the time the settlement agreement was executed.¹ Thus, there was no longer a need to have two separate step adjustments and they were combined.

OCA in its June 25 letter asserts that, throughout the course of this proceeding, the assets to be considered in one or more step adjustments have been referred to as the “2008 additions.” This is accurate. It is clear from review of PWW’s original step adjustment request in its filing that PWW expected all of the assets to be completed and in service by the end of 2008. The parties to this docket referred to the potential step adjustment assets as “the 2008 additions” as a matter of convenience, not to imply a calendar year cut off for additions. Importantly, the parties to the proceeding, including OCA, became aware as early as January 8, 2009 that not all of the plant additions would be in service as originally planned. See attached response to Staff Data Request 2-22 which indicates some of the assets were anticipated to be completed in early 2009.² In addition, at the May 19, 2009 hearing on the settlement agreement, Ms. Hartley testified that “We also requested two step increases for capital additions that were to be put in service in 2008 and completed in the –completed near the beginning of 2009...The second step, which we’ve just explained, originally was filed for plant that would be used and useful by November 1st, 2008.” 5/19/09 Transcript (“Tr.”), page 16, lines 7 through 16.

It is additionally important to note that the assets Staff audited and recommended the Commission approve rate treatment for are the same plant assets that were under consideration the entire duration of this proceeding. There are no new plant additions proposed in the step adjustment that were not previously requested by PWW and subject to discovery by OCA and the parties to this docket. OCA’s June 25 letter omits this critical detail and instead leads the Commission to believe that somehow the settling parties have “expanded the scope” of the relief sought and have created a subterfuge regarding recovery of certain plant additions. In fact, these very additions were discussed at the hearing. Mr. Ware testified about the completion and replacement of the Fifield tank and improvements to the pumping station and existing pipeline. Tr. at page 39.

The settling parties do not consider the delay of certain in-service dates of the step adjustment assets to constitute deception on the part of the settling parties. Staff disagrees that its recommendation letter “improperly” expanded the scope of the relief sought by PWW after the merits hearing on May 19, 2009. OCA asserts that the incorporation of “2009” capital additions is inconsistent with the settlement agreement as well as PWW’s filings, but a simple review of the record in this docket refutes that assertion. The “2009” capital assets that OCA refers to are the same assets the company requested consideration of in its initial filing. The settling parties were comfortable in recommending the inclusion of the so-called 2008 capital additions into rates because,

¹ As indicated on page 5 of the settlement agreement, there remained only audit review of PWW’s plant records to be completed at the date the agreement was signed. The fact that the audit had yet to occur was made clear at the hearing on the settlement agreement. See Transcript of May 19, 2009 hearing in DW 08-073 at 31-32, 39, 42-43.

² Filter #5, a component of PWW’s water treatment plant upgrade, was placed in service on January 30, 2009. Fifield Tank construction was delayed due to heavy rains during the summer of 2008 as well as the December 2008 ice storm, and was finally completed, tested, and placed in service March 4, 2009.

per terms of the settlement agreement, recovery of those assets would not occur until some time after the May 19, 2009 merits hearing when the Commission issued its order. Customers will be asked to provide a return only on assets used and useful.

If there are any further questions regarding this matter, please let me know.

Sincerely,

A handwritten signature in blue ink, reading "Mark A. Naylor". The signature is fluid and cursive, with a long horizontal stroke at the beginning.

Mark A. Naylor, Director
Gas & Water Division

Attachment
Cc: service list

DW 08-073
Pennichuck Water Works, Inc.'s Responses to
Staff Data Requests – Set 2
Permanent Rates

Date Request Received: 12/8/08
Request No. Staff 2-22

Date of Response: 1/8/09
Witness: Donald L. Ware

REQUEST: Regarding Tab 14 (with Revised Step 2):

- a) Please provide an update with regard to the current status of the asset installations associated with the Company's proposed Step 2 (revised).
- b) When will records be available to be reviewed with regard to proposed Step 2 (revised)?

RESPONSE: a) The following is an update of the used and useful dates for the Step 2 rate increase:

Filter #4 was completed and used and useful in September 2, 2008.
Filter #5 will be completed and used and useful by the end of January of 2009.

The Fifield Tank will be completed and used and useful by the end of January 2009.

The Water main improvements on Morse and Booth Streets were completed and used and useful in August of 2008.

- b) The project files on all these projects are available to be reviewed.

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Docket #: 08-073 Printed: June 30, 2009

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