

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 13-130

PENNICHUCK WATER WORKS, INC.

Permanent and Temporary Rate Increase Proceeding

Order on Temporary Rates

ORDER NO. 25,598

November 22, 2013

APPEARANCES: Devine, Millimet & Branch, PA, by Thomas Getz, Esq., for Pennichuck Water Works, Inc.; Office of the Consumer Advocate on behalf of residential ratepayers, by Rorie Hollenberg, Esq.; and Marcia Brown, Esq. and Michael Sheehan, Esq., of the Staff of the Public Utilities Commission.

I. PROCEDURAL HISTORY

Pennichuck Water Works, Inc. (PWW) provides water service through its core system to about 24,600 customers in the City of Nashua and in the Towns of Amherst, Hollis, Merrimack, and Milford. PWW also serves about 2,150 customers in the Towns of Bedford, Derry, Epping, Plaistow, Newmarket, and Salem. On May 1, 2013, PWW filed with the New Hampshire Public Utilities Commission (Commission) a notice of intent to increase customer rates 0.12 percent, effective July 1, 2013, in order to generate \$34,016 in additional revenue. Exhibit 1 at 26, 87. PWW projected that this new permanent rate would cause an average residential customer's annual bill to rise less than one dollar. Exhibit 1, at 21, 26. PWW was required to file this full rate case by the Settlement Agreement in Docket No. DW 11-026. Order No. 25,292 (Nov. 23, 2011).¹

¹ Order No. 25, 292 approved the City of Nashua's acquisition of Pennichuck Corporation, which is the parent company of three regulated water utilities including PWW. Paragraph III.B.5 of the Settlement Agreement required the three regulated utilities to simultaneously file their first post-acquisition full rate cases no later than June 1, 2013.

On May 31, 2013, PWW filed proposed tariff pages, supporting testimony and schedules, and a petition seeking temporary rates at the same level as existing rates. Exhibit 1 at 10; Transcript of October 22, 2013 Public Hearing (Tr.) at 5-8, 30-31.

The Office of Consumer Advocate (OCA) participated on behalf of PWW's residential ratepayers pursuant to RSA 363:28, II. No other party intervened.

On October 2, 2013, Staff filed a *Settlement Agreement – Temporary Rates* (Settlement Agreement). Exhibit 2; Tr. at 4. The Settlement Agreement provides for temporary rates to be set at existing rates effective July 1, 2013, and that temporary rates will be subject to reconciliation pursuant to RSA 378:29. Exhibit 2; *see* Tr. at 8.

II. POSITIONS OF THE PARTIES

A. Staff and Pennichuck Water Works

Staff and PWW support the Settlement Agreement. Tr. at 8, 10-11. Given the small increase in proposed permanent rates, the Settlement Agreement calls for temporary rates at the same level as existing rates, effective July 1, 2013. Exhibit 2; Exhibit 1 at 40. PWW and Staff stated that any change in permanent rates will be reconciled to July 1, 2013, and that the proposed temporary rates are just and reasonable. Tr. at 8, 14.

Staff testified that it reviewed PWW's filing and other books and records on file with the Commission, and stated that setting current rates as temporary rates was appropriate because PWW's proposed permanent rate increase was so small. Tr. at 9-11. Staff supported approval of the Settlement Agreement. Tr. at 10-11.

PWW also presented evidence that customers received notice of the rate increase prior to the proposed effective date of July 1, 2013. On May 1, 2013 PWW filed its notice of intent to seek a rate increase effective July 1, 2013. PWW filed its rate schedules and supporting

documents on May 31, 2013. Exhibit 1. PWW published a notice of the proposed rate increase in the New Hampshire *Union Leader* and *The Telegraph* in Nashua on June 26, 2013, Tr. at 16, which notified the public of PWW's rate case filing, the effective date of the proposed increase, proposed tariffs, the date of the Commission's prehearing conference, and the ability to intervene in this proceeding, *see* Customer Notice, Exhibit 1 at 6. PWW also mailed copies of the notice with customer bills over a four week period in June 2013. Tr. at 16.

B. OCA

OCA stated that it does not oppose the Settlement Agreement. Tr. at 31.

III. COMMISSION ANALYSIS

The parties ask us to approve the Settlement Agreement which calls for temporary rates to be set at the same level as current rates, effective July 1, 2013. N.H. Code of Admin. Rules Puc 203.20(b) provides that the Commission shall approve the disposition of any contested case by settlement "if it determines that the result is just and reasonable and serves the public interest." *See also* RSA 541-A:31, V(a) ("Unless precluded by law, informal disposition may be made of any contested case ... by stipulation [or] agreed settlement"). Nonetheless, the Commission cannot approve a settlement agreement, even when all parties agree, "without independently determining that the result comports with applicable standards." *Unitil Energy System, Inc.* Order No. 24,677, 91 NH PUC 416, 425-426 (2006) (citation omitted).

Pursuant to RSA 378:27, the Commission may approve temporary rates for the duration of the rate proceeding if the Commission finds that the public interest so requires and the reports of the public utility filed with the Commission indicate that the temporary rates are reasonable. The standard for approval of temporary rates, which are reconcilable, is less stringent than that

for permanent rates. *Appeal of Office of Consumer Advocate*, 134 N.H. 651, 660 (1991), citing *New Eng. Tel. & Tel. Co. v. State*, 95 N.H. 515, 518 (1949).

We have reviewed the evidence presented regarding temporary rates and the terms of the Settlement Agreement. Both PWW and Staff testified that PWW's proposed permanent rates represent only a 0.12 percent increase over current rates and that the permanent rates ultimately approved will not likely vary substantially from current rates, giving rise to little risk of a substantial over or under earning during the pendency of this case. We thus find maintaining PWW's existing revenue requirement and setting current rates as temporary rates to be just and reasonable and we will approve them pursuant to RSA 378:27.

We next consider the proposed effective date of July 1, 2013. RSA 378:27 allows the Commission to authorize effective dates as early as the date on which the petition for a permanent rate change is filed. *See Appeal of Pennichuck Water Works*, 120 NH 562, 567 (1980). The evidence demonstrates that customers and the public were notified through publication and billing notices prior to July 1, 2013, the requested effective date for temporary rates. In light of this notice, we find that setting current rates as temporary rates for service on or after July 1, 2013 is just and reasonable and consistent with our statutory authority.

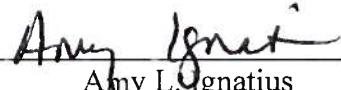
We also approve as just and reasonable the remaining substantive term of the Settlement Agreement, that any difference between temporary and permanent rates will be reconciled.

Based upon the foregoing, it is hereby

ORDERED, that the *Settlement Agreement – Temporary Rates*, Exhibit 2, is hereby APPROVED; and it is

FURTHER ORDERED, that that Pennichuck Water Works, Inc., shall submit tariff pages in compliance with this order within 15 days of the date of this order.

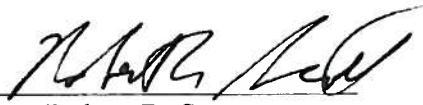
By order of the Public Utilities Commission of New Hampshire this twenty-second day
of November, 2013.



Amy L. Ignatius
Chairman

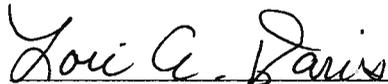


Michael D. Harrington
Commissioner



Robert R. Scott
Commissioner

Attested by:



Lori A. Davis
Assistant Secretary