

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 08-052

**In the Matter of:
Pittsfield Aqueduct Company, Inc.
Permanent Rate Request**

Direct Testimony

of

James L. Lenihan

September 18, 2008

Revised September 26, 2008

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Q. Please state your name, business address and occupation.

A. My name is James L. Lenihan, and my business address is 21 South Fruit St. Concord, New Hampshire 03301. I am employed as a Utility Analyst by the New Hampshire Public Utilities Commission (Commission). I am a graduate from St. Francis College, Maine with a B.A. in Economics, and subsequently completed graduate courses at the University of Maine. In 1985 I attended the Michigan State University Regulatory Studies Program. During the period 1969-73 I was a Junior High School instructor in Biddeford, Maine. In the fall of 1973 I joined the Cost of Living Council in Washington, D.C. From 1974 to 1984 I held various positions in the Federal Energy Office, Federal Energy Administration and the Department of Energy as an Analyst in the areas of fossil fuel availability, distribution, and price for the residential, industrial and utility sectors on a national as well as regional level. In July of 1984 I joined the staff of the New Hampshire Public Utilities Commission as a utility analyst.

Q. What is the purpose of your Testimony?

A. The purpose of my testimony is to offer Staff's recommendation relative to Pittsfield Aqueduct Company Inc.'s (PAC or the Company's) request for temporary rates to be in effect while a thorough investigation is conducted on PAC's permanent rate request.

Q. Why is the Company seeking temporary rates?

A. The Company contends that it has not achieved its last found rate of return of 8.42% as authorized in Commission Order No. 24,261 in Docket DW 03-107. As of December

1 31st, 2007 PAC testified that its overall rate of return was negative 4% or 1,242 basis
2 points below the currently allowed rate of 8.42%.

3
4 **Q. What areas are served by PAC?**

5 **A.** PAC has a total of approximately 1,755 customers in 4 water systems. One area served
6 has approximately 646 customers in a limited area in the town of Pittsfield. There are also
7 approximately 1,109 customers in three systems in the North Country Division. PAC's
8 North Country Division is comprised of three systems of which approximately 824
9 customers are located in a limited area of Barnstead known as Locke Lake;
10 approximately 79 customers in a limited area of the town of Middleton known as Sunrise
11 Estates; and approximately 206 customers located in limited area of North Conway,
12 know as Birch Hill.

13
14 **Q. Are all four systems currently paying the same rates for water service?**

15 **A.** Yes. Since PAC acquired the North Country systems of Birch Hill, Locke Lake and
16 Sunrise in the spring of 2006, all four systems have been charged a fixed monthly rate of
17 \$10.27 and a usage or volumetric rate of \$3.30 per hundred cubic feet.

18
19 **Q. Is the Company proposing to maintain one rate to be applied to all four systems for
20 the purposes of seeking permanent and temporary rate increases in this proceeding?**

21 **A.** No. The Company is proposing that the Commission establish two separate general
22 metered rate classes for the purposes of permanent and temporary rates. Specifically, the

1 Company is requesting a permanent increase in revenues of \$200,503 from those
2 customers served in the Town of Pittsfield which would constitute a 44% increase.
3 Similarly the Company is requesting a permanent increase in revenues of \$757,138 from
4 those customers served in the Birch Hill, Locke Lake and Sunrise Estates systems (the
5 “North Country” water systems) which would constitute a 239.52 % increase. PAC is
6 also requesting that the Commission grant a step increase in rates in the amount of
7 \$228,836 for those customers served by the North Country water systems only, based on
8 additional capital improvements that are expected to be used and useful in late 2008. The
9 step adjustment for the North Country systems would be an additional 72% increase in
10 addition to the 239.52% permanent rate increase. For the purpose of implementing
11 temporary rates, the Company is proposing to establish separate revenue requirements
12 and rates for the Pittsfield as well as the North Country water systems. For temporary
13 rate purposes, PAC is requesting that the Commission grant it a \$567,854 or a 179.64%
14 revenue increase from the customers served by the North Country water systems on an
15 annual basis. PAC’s temporary rate request for its Pittsfield customers would increase
16 revenues by \$150,377, or 33.01%. The Company has requested an effective date of June
17 1, 2008 or the date customers were first noticed of the increase, whichever is earlier.

18
19 **Q. How will customers’ bills be affected by the proposed temporary rate increase?**

20 **A.** For the Pittsfield customers, the proposed temporary rate will result in an increase
21 from \$412 to \$549 annually for the average residential customer using 7.3 hundred cubic
22 feet of water per month. Pittsfield’s customer charge, if approved, will increase to \$13.66

1 per month and the volumetric charge will increase to \$4.39 per 100 cubic feet. The North
2 Country's proposed temporary rate, if approved, will result in an increase from \$282 to
3 \$788 annually for the average residential customer using 4 hundred cubic feet of water
4 per month. The North Country systems' customer charge if approved will increase to
5 \$28.72 per month and the volumetric charge will increase to \$9.23 per 100 cubic feet.

6
7 **Q, What justification has PAC provided for such significant increases in revenues**
8 **sought in this proceeding?**

9 **A.** The Company contends that they have experienced a significant erosion of the
10 Company's return on investment. The Company's last allowed rate of return of 8.42%
11 has not been achieved and it has further testified that its actual rate of return for the test
12 year ending December 31, 2007 is a negative 4% or 1,242 basis points below the 8.42%.

13 The Company attributes this poor earnings position in large part because of the
14 Company's net investment of approximately \$2.3 million in the North Country systems
15 and \$0.5 million in net investments in the Pittsfield water system since the last rate filing
16 in 2003. The majority of the investments, according to PAC witnesses, have been
17 necessary to bring the systems in compliance with the provisions of the Safe Drinking
18 Water Act combined with system repairs and upgrades. This downward pressure on
19 earnings on the expenditure side has been exacerbated by less than anticipated revenue
20 generated by the North Country systems. The Company contends these systems produced
21 significantly less revenue than projected due in part to unreliable consumption data
22 provided at the time of acquisition.

1 **Q. What was the rationale provided by the Company as to a departure from charging a**
2 **single rate to the four systems to establishing two rates; one of which for Pittsfield**
3 **and a second rate to be applied to the three North Country systems?**

4
5 **A.** According to PAC witnesses, it was appropriate in this proceeding to establish and
6 propose separate rates for the Pittsfield water system and the North Country water
7 systems due to concerns of possible subsidization that the Town of Pittsfield raised
8 during the acquisition docket DW 05-132. To address this concern, the Commission
9 required PAC to “track revenues, expenses and capital investments on an individual
10 system basis to determine if undue subsidization occurs.” The Commission further stated
11 in Order No. 24,606 that this information would provide “a basis for analysis at the time
12 of PAC’s next rate case of whether it is appropriate to keep one tariff or separate tariffs.”
13 Direct Prefiled Testimony of PAC witness Bonalyn J. Hartley in Support of Permanent
14 Rates, page 5. lines 5 thru 12.

15
16 **Q. In support of the Company’s proposal to establish a separate tariff for the Pittsfield**
17 **system and a separate tariff for the North Country Systems, has the Company**
18 **provided a detailed analysis as to how it established the revenue requirements for**
19 **the two proposed rates?**

20
21 **A.** Yes. As part of its filing for permanent rates, PAC, after contracting with AUS
22 Consultants, submitted on May 12, 2008 a comprehensive cost of service study which

1 consists of one analysis of service allocation and rate design study for Pittsfield Aqueduct
2 Company, Inc. which combines Pittsfield and the three North Country systems. AUS also
3 conducted a cost of service allocation and rate design for the Pittsfield Division of PAC
4 alone and a cost of service allocation and rate design study for the North Country
5 Divisions consisting of the Locke Lake, Birch Hill and Sunrise Estates systems. As
6 referenced in her testimony in support of permanent rates, Ms. Hartley stated on page 9
7 lines 9 thru 12, “.....the company is not recommending a uniform rate given the
8 substantial disparity in systems costs associated with the North Country water systems and
9 the Pittsfield system”.

10

11 **Q. For the purpose of a temporary rate proceeding, what is Staffs’ recommendation as**
12 **to whether or not the Company is entitled to temporary rates as provided in RSA**
13 **378:27 and RSA 378:29.**

14

15 **A.** Based on the Company’s submission of its PUC annual report for the year ending
16 December 31st, 2007 the Company’s rate of return is calculated to be a negative 4% and
17 therefore far less than a reasonable return on plant used and useful in the provision of
18 utility service. Therefore, staff would recommend to the Commission that the Company
19 is entitled to temporary rates.

20

21 **Q. What is Staff’s position as to the revenue level as well as establishing one tariff for**
22 **Pittsfield and one for the North Country division?**

1 **A.** For the purpose of implementing temporary rates, Staff recommends that the Commission
2 approve the Company’s proposal as submitted with one exception concerning the date
3 temporary rates, should they be approved by the Commission, become effective. The
4 Company had requested an effective date “as of June 1st or at the time customers are
5 notified of the pending increase, *which ever is sooner.*” according to Ms Hartly’s
6 temporary rate testimony on page 11. Staff is recommending an effective date no earlier
7 than the date all customers have been noticed of the requested increase. Staff’s
8 recommendation includes allowing the Company to recover revenue deficiencies
9 identified in its temporary rate testimony as well as separating the Pittsfield system from
10 the North Country systems and establishing separate rates to be applied to the two
11 divisions. Staff recognizes and is cognizant that this proceeding brings a multitude of
12 issues before the Commission not only as to the levels of revenue increases resulting from
13 the Company’s capital expenditures and cost increases, but also issues relating to how the
14 Commission will ultimately determine which systems if any are to be combined for the
15 purpose of establishing revenues and permanent rates. After attending a number of
16 evening hearings held in local communities as a result of his proceeding, Staff is also
17 aware of the issues relating to system specific impacts that result from a significant
18 number of customers taking service on less than a 12 month basis. Such a situation has a
19 direct impact on consumption patterns and thus may require a departure from traditional
20 rate setting methodologies to assure equitable rate setting and revenue responsibility for
21 all customers.

22 **Q.** **How should Staffs recommendation on temporary rates be interpreted for the**

1 **purpose of a recommendation regarding permanent rates?**

2

3 **A.** Staff's recommendation for the purpose of implementing temporary rates should not be
4 construed as adopting any or all positions set forth by the Company for the purpose of
5 establishing rates on a permanent basis, and recognizes that when permanent rates are
6 established they will then be reconciled with rates set by the Commission on a temporary
7 basis. Based on the books and records on file with the Commission, Staff agrees the
8 Company is clearly in a serious earnings deficiency situation and it is Staff's
9 recommendation that temporary rate relief is warranted at this time. Staff has not offered
10 a specific alternative temporary rate level amount or revenue allocation for rate setting
11 purposes given the time constraint prior to a temporary rate hearing, and the number and
12 complexity of issues in this proceeding identified above. During the discovery process
13 for permanent rates, Staff will fully investigate all of these issues and offer its
14 recommendations at the time prescribed by the schedule governing this proceeding.

15

16 **Q.** **Does this conclude your testimony?**

17 **A.** Yes.

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