

THE STATE OF NEW HAMPSHIRE

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PUBLIC UTILITIES COMMISSION

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February 23, 2018

NHPUC 23FEB'18 10:46

Debra A. Howland
Executive Director
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, New Hampshire 03301

Re: DW 16-806: Pennichuck Water Works, Inc.
Staff Recommendations regarding Rate Case Expense Recovery and Permanent Rate
Revenue Recoupment: **PUBLIC VERSION**

Dear Ms. Howland:

The purpose of this letter is to provide Staff's recommendations relative to the requests recently filed by Pennichuck Water Works, Inc. ("PWW" or "Company") in this case for recovery of rate case expenses as well as recoupment of the revenue difference between temporary and permanent rates. Staff recommends that the Commission approve a total of \$145,366 in rate case expenses for PWW to be recovered over a twelve-month period via a monthly surcharge of \$0.43 per customer. Staff further recommends that the Commission approve a permanent rate recoupment amount for PWW's Core Water System ("Core") customers totaling \$37,363.27 to be recovered over a one-month period and for PWW's Community Water System ("CWS") customers totaling \$62,452.31 to be recovered over a twelve-month period. Staff finally recommends that the Commission grant approval of PWW's Motion for Confidential Treatment relative to certain information contained in copies of legal invoices included in its rate case expense filing.

Rate Case Expenses

On December 7, 2017, PWW submitted a filing seeking recovery of its rate case expenses incurred relative to DW 16-806 pursuant to Commission Order No. 26,070 (November 7, 2017). PWW's original submission requested recovery of a total of \$148,248.68 in rate case expenses to be recovered from its 28,354 customers over a twelve-month period via a surcharge calculated at \$0.44 per customer per month. The nature of the expenses being sought for recovery consists of legal services, filing preparation services, publication notices, customer mailings, and stenographer services.

In accordance with Puc 1905.03 (a) through (d), PWW's submission included the documentation necessary to support its request for rate case expense recovery including copies of

invoices, schedules, and computations. PWW also submitted documentation showing that the legal services it obtained for the rate proceeding was procured through a competitive bid process consistent with Puc 1905.03 (g) and (h). Additionally, PWW submitted documentation detailing its general procurement policies as well as provided statements indicating that the requests for qualifications and fee proposals for legal services were consistent with those procurement policies in accordance with Puc 1905.03 (e) and (f).

Finally, pursuant to Puc 203.08, PWW submitted a Motion for Confidential Treatment relative to the hourly billing rate information for legal services performed for the Company. The motion averred that disclosure of this information will cause competitive harm to PWW's attorneys and could potentially have a detrimental effect on the Company's future competitive bidding efforts. Accompanying the motion, PWW provided redacted as well as confidential copies of the relevant billing information in accordance with Puc 201.04.

Staff reviewed PWW's rate case expense filing and, in turn, propounded discovery relative to such on December 18, 2017. PWW provided responses to Staff's discovery on January 3, 2018. A redacted copy of PWW's data responses is attached to this PUBLIC VERSION correspondence. (A copy of this letter with the UNREDACTED CONFIDENTIAL material attached, will be filed, and provided to the OCA and the Company, separately). As a result of its responses to Staff discovery, PWW amended its request for rate case expense recovery to an amount of \$147,975.50; a reduction of \$273.18.¹

Based on its review of the filing, Staff is proposing two further reductions in PWW's proposed rate case expenses. First, Staff is proposing the elimination of a legal charge in the amount of \$109.50 related to the NHPUC's audit of the Company.² The Commission has historically excluded expenses related to NHPUC Staff audits from rate case expense surcharge recovery because it deems that all such costs have already been included in the determination of customer rates. Second, Staff is proposing a reduction of \$2,500 in legal expenses relative to the subsequent filing of certain rate case schedules which were erroneously missing from the Company's original rate case filing. Specifically, PWW filed its formal petitions for temporary and permanent rates, including testimony and supporting schedules, on September 26, 2016. Staff performed a detailed review of the Company's submissions and determined that a number of necessary schedules were missing from the original rate filing. Staff informed the Company of this on November 8, 2016. As a result, PWW submitted the schedules missing from its original filing on November 22, 2016. However, Staff believes that the legal charges incurred relative to the review and subsequent correction of this oversight by the Company should be deemed as inappropriate for rate case expense recovery, and thus should be excluded from such. Based on its analysis, Staff estimated this cost to be approximately \$2,500.³

¹ Specifically, per its response to Staff 4-2, PWW reduced the cost of envelopes purchased for customer mailings by \$68.29; and, per its response to Staff 4-7, PWW eliminated the cost of a newspaper legal notice relative Pennichuck East Utility in the amount of \$204.89 which had been erroneously charged to PWW.

² See Rath, Young, and Pignatelli PC Invoice # 73679, dated January 20, 2017. (Bates PWW000022)

³ Staff based its determination on Rath, Young, and Pignatelli PC Invoice # 73380, dated December 19, 2016, which was provided in PWW's response to Staff 4-4. Specifically, Staff analyzed the legal charges which occurred between 11/9/16 and 11/21/16.

As a result of the Company's and Staff's adjustments, Staff is recommending that the Commission approve a total rate case expense recovery amount of \$145,366.00 (\$147,975.50 - \$109.50 - \$2,500.00). Staff further recommends that this amount should be recovered from PWW's customers over a twelve-month period via a surcharge which amounts to \$0.43 per customer per month ($\$145,366.00 \div 28,354 \text{ customers} \div 12 \text{ months}$).

Staff also supports and recommends that the Commission grant PWW's Motion for Confidential Treatment. Staff agrees with the Company's concerns that disclosure of the hourly billing rate information related to its legal expenses will cause competitive harm to PWW's attorneys, and would potentially have a future detrimental effect on the Company and its customers. The Commission has granted confidential treatment to similar information in the past. See, e.g., *Aquarion Water Company of New Hampshire, Inc.*, Order No. 25,586 (October 22, 2013) (granting confidential treatment to billing rates of its outside attorneys and cost-of-service consultant).

Revenue Recoupment

On December 7, 2017, PWW submitted its calculation and reconciliation of temporary and permanent rates in accordance with Commission Order No. 26,070 (November 7, 2017). For purposes of the revenue recoupment calculation, the Settlement Agreement approved by that order made a distinction between the Company's Core customers, ie, those in the City of Nashua, and its CWS customers. This distinction was based on the fact that the Core customers had been assessed a Water Infrastructure and Conservation Adjustment (WICA) charge during the recoupment period while the CWS customers had not. Thus, the recovery period for Core customers will be one billing-month while the recovery period for CWS customers will be a twelve billing-month period.⁴

Specifically, PWW proposed recovery of a total of \$37,363.27 from its Core customers via a one-time surcharge, as follows by customer class:

<u>Customer Class</u>	<u>Total Recoupment</u>
General Metered	\$29,817.33
Anheuser Busch	625.69
Town of Milford	111.55
Town of Hudson	454.14
Town of Tyngsborough	448.39
Total:	\$31,457.10

(Average recoupment for Residential Customers is \$1.01 ($\$23,326.28 \div 23,155 \text{ customers}$))

Private Fire Protection	\$ 1,597.20
Public Fire Protection:	
City of Nashua	\$ 3,900.58
Town of Merrimack	122.95

⁴ See Commission Order No. 26,070 at 12.

Town of Amherst	285.44
Grand Total	<u>\$37,263.27</u>

For PWW's CWS customers, the Company proposed recovery of a total \$62,452.31 to be collected over a twelve-month period, as follows by customer class:

<u>Customer Class</u>	<u>Total Recoupment</u>
General Metered	\$55,355.13

(Average recoupment for Residential Customers is \$20.10 ($\$52,558.59 \div 2,616$ customers) or \$1.68 per month)

Private Fire Protection	\$ 417.35
Public Fire Protection:	
Town of Merrimack	\$ 5,482.35
Town of Amherst	<u>1,197.48</u>
Grand Total	<u>\$62,452.31</u>

PWW provided Staff with the computations of its proposed surcharges for each customer class, which Staff verified. Staff also submitted a data request to PWW on December 18, 2017 to which the Company responded on January 3, 2018. PWW's response is attached to this correspondence.

As a result of its review, Staff supports PWW's proposed revenue recoupment amounts and recommends that the Commission approve them along with the Company's proposed surcharges for each customer class. The recovery of the difference between temporary and permanent rates is consistent with the Commission's ratemaking authority and the just and reasonable rates set by Order No. 26,070.

Positions of the Parties

Prior to filing this letter with the Commission, the Staff provided a final draft to the Company as well as the OCA. In response, the Company stated that it was in agreement with Staff's recommendations. Relative to the OCA's position, it stated that it concurs with Staff's recommended allowance of \$145,366.00 for prudently incurred rate case expenses, as well as the amount and methodology for recoupment of the difference between temporary and permanent rates. Thank you for your attention to and assistance with this matter. If you have any questions, please do not hesitate to contact me.

Very truly yours,

/s/ Jayson P. Laflamme

Jayson P. Laflamme
Staff Analyst, Gas-Water Division

Attachment
cc: Service List

Pennichuck Water Works, Inc.
DW 16-806

Request for Change in Rates
Responses to Staff Data Requests – Set 4

Date Request Received: 12/18/17
Request No. Staff 4-1

Date of Response: 1/3/18
Witness: Larry D. Goodhue

REQUEST: Re: Rath, Young and Pignatelli (RYP) Invoice # 72618 / September 23, 2016 - \$13,236.00 (Bates 5): This invoice contains an entry for services performed by MAB on 08/09/2016 along with a note stating "NO CHARGE". However, it appears that a charge related to these services was, in fact, included in this invoice. Please explain.

RESPONSE:

The charge on August 9, 2016 for \$56.00 was properly billed – the "no charge" reference in the description should have been stricken at the time it was billed. The \$56.00 charge was paid by PWW.

Pennichuck Water Works, Inc.
DW 16-806

Request for Change in Rates
Responses to Staff Data Requests – Set 4

Date Request Received: 12/18/17
Request No. Staff 4-2

Date of Response: 1/3/18
Witness: Larry D. Goodhue

REQUEST: Re: Curtis 1000 Invoice # 4678973 / 09/27/2016 - \$1,029.00 (Bates 8): This invoice pertains to the purchase of 30,000 envelopes.

- a) Please explain the purpose of this cost relative to the rate proceeding.
- b) Were all 30,000 envelopes used relative to the rate proceeding? If no, please indicate the number of envelopes that were used in relation to the rate proceeding.
- c) Curtis 1000 Invoice # 4727508 / 11/07/2016 in the amount of \$7,002.26 (Bates 13) relates to a 28,009 rate case letter mailing.
 - i. Please explain the purpose of this cost relative to the rate proceeding.
 - ii. Was this letter mailing related to the 30,000 envelopes that were previously purchased? Please explain.
 - iii. Is the 28,009 amount indicative of the actual number of envelopes used relative to the rate proceeding? Please explain.

RESPONSE:

- a) This cost is related to the envelopes required for mailing a notice to customers of "Petition for Rate Increase and Scheduled Pre-Hearing Conference Date". The envelopes were ordered in September to be ready for the mailing at which time we did not know the exact count for the mailing.
- b) Of the 30,000 envelopes ordered, 28,009 were actually used. The original envelope invoice for 30,000 envelopes should have been adjusted after the actual mailing was completed. Based on this, a proration of the cost related to the unused envelopes (1,991) for a total of \$68.29 should have been reclassified to Billing and Accounting. This has been adjusted in the Revised Attachment A which is provided with this response.
- c) These costs relate to the same mailing as discussed in a) and b) above. These represent the costs of preparation of the mailing (i.e. printing and stuffing of envelopes). The envelope and postage costs are billed separately.

Pennichuck Water Works, Inc.
DW 16-806

Request for Change in Rates
Responses to Staff Data Requests – Set 4

Date Request Received: 12/18/17
Request No. Staff 4-3

Date of Response: 1/3/18
Witness: Donald L. Ware

REQUEST: Re: 11/07/2016 Postage Charge - \$10,539.59 (Bates 43): Please provide a breakdown of this charge in terms of the following:

- a) Total number of envelopes mailed.
- b) Charge per envelope.

RESPONSE:

- a) The total postage charge of \$10,539.59 represented a piece count (envelopes mailed of 28,009).
- b) With this mailing, every piece was the same in content and weight. The charge per envelope is \$.376293.

Pennichuck Water Works, Inc.
DW 16-806

Request for Change in Rates
Responses to Staff Data Requests – Set 4

Date Request Received: 12/18/17
Request No. Staff 4-4

Date of Response: 1/3/18
Witness: Larry D. Goodhue

REQUEST: Re: RYP Invoice # 73680 / January 18, 2017 - \$32,000.32 (Bates 18): This invoice contains a balance forward charge in the amount of \$13,439.11 from an invoice dated December 19, 2016. However, it does not appear that a copy of the December 19 invoice was included in the Company's filing. Please provide a copy of this invoice.

RESPONSE:

A copy of RYP Invoice #73380 dated December 19, 2016 is attached.

Pennichuck Water Works, Inc.
DW 16-806

Request for Change in Rates
Responses to Staff Data Requests – Set 4

Date Request Received: 12/18/17
Request No. Staff 4-5

Date of Response: 1/3/18
Witness: Larry D. Goodhue

REQUEST: Re: RYP Invoice # 73679 / January 20, 2017 - \$109.50 (Bates 22): This invoice pertains to a charge relative to the NHPUC Audit. Please explain and justify the inclusion of this charge relative to PWW's request for rate case expense recovery.

RESPONSE:

During the course of the PUC's audit of Pennichuck Water Works related to PWW's rate case DW 16-806, the auditor sought copies of the minutes of non-public meetings of Pennichuck Corporation. Although the Corporation's sole shareholder is the City of Nashua, the State's right-to-know law, RSA 91-A, does not apply. Nevertheless, the Corporation's by-laws incorporate elements of the right-to-know law into Pennichuck Corporation's meeting requirements. As such, when the auditor sought copies of non-public minutes, legal counsel was consulted in order to ensure full compliance with the requirements of the by-laws and to work with the auditor to ensure that she had access to the requested documents.

Pennichuck Water Works, Inc.
DW 16-806

Request for Change in Rates
Responses to Staff Data Requests – Set 4

Date Request Received: 12/18/17
Request No. Staff 4-6

Date of Response: 1/3/18
Witness: Larry D. Goodhue

REQUEST: Re: RYP Invoice # 73972 / February 27, 2017 - \$11,055.24 (Bates 23): This invoice contains an entry for services performed by RWH on 01/04/2017 pertaining to the PFAS issue. Please explain and justify the inclusion of this charge relative to PWV's request for rate case expense recovery.

RESPONSE:

The entry pertaining to PFAS on January 4, 2017 related to an email that was received by counsel from Rorie Patterson, Assistant Director of Consumer Services and External Affairs at the PUC, on January 4th. That email and subsequent email exchanges with Ms. Patterson, staff and staff legal counsel are attached to this response. Ms. Patterson's email was a request for information so that she could respond to three comments that were filed in Docket DW 16-806. Because the charge was in response to comments filed in DW 16-806, they were included with the Request for Rate Case Expenses.

Pennichuck Water Works, Inc.
DW 16-806

Request for Change in Rates
Responses to Staff Data Requests – Set 4

Date Request Received: 12/18/17
Request No. Staff 4-7

Date of Response: 1/3/18
Witness: Larry D. Goodhue

REQUEST: Re: RYP Invoice # 74693 / May 16, 2017 - \$6,258.89 (Bates 34) and RYP Invoice # 74905 / June 15, 2017 - \$4,426.18 (Bates 37): RYP Invoice # 74693 contains a charge by Union Leader Corporation in the amount of \$1,304.89 for a publication on 4/27/17. However, RYP Invoice # 74905 included a \$1,100.00 refund relative to the prior invoice's publication charge as the cost should have been only \$204.89.

- a) Please explain the purpose of the publication appearing on 4/27/17.
- b) Please provide a copy of the 4/27/17 publication.

RESPONSE:

The publication related to the legal notice that was filed in Docket DW 17-055, Pennichuck East Utility, Inc. and was inadvertently invoiced on Docket DW 16-806. The \$204.89 invoiced after refund has been deducted from the Revised Attachment A provided with this Response.

Pennichuck Water Works, Inc.
DW 16-806

Request for Change in Rates
Responses to Staff Data Requests – Set 4

Date Request Received: 12/18/17
Request No. Staff 4-8

Date of Response: 1/3/18
Witness: Donald L. Ware

REQUEST: Re: Tyngsborough Special Contract (Bates 5 and Bates 10):

- a) Bates 5 indicates that the rates pertaining to the Tyngsborough Special contract are subject to a 1.37% permanent increase. However, Exhibit 2 – Permanent Rates (Bates 28) of the DW 16-806 Settlement Agreement approved by Commission Order No. 26,070 (November 7, 2017) indicates that the Tyngsborough Special Contract charges are subject to a 3.18% permanent increase. Please explain.
- b) Bates 5 and 10 indicate that the Monthly Base Charge under the Tyngsborough Special Contract and prior to the permanent rate increase was \$21,358.76 per month. However, Commission Order No. 25,800 (July 28, 2015) in DW 15-133 approved a base monthly fixed fee of \$21,287.60; a difference of \$71.16 per month. Please explain.

RESPONSE:

- a) The correct increase to Tyngsborough is 1.37%, not 3.18%. The increase for Tyngsborough is lower because the PWW-Tyngsborough contract did not become effective until August 28, 2015 and the initial permanent rate billed to Tyngsborough was inclusive of the cumulative WICA surcharge in effect at the time of 1.81% (0.67% WICA surcharge effective June 1, 2014 and 1.15% effective June 1, 2015). Therefore since Tyngsborough's initial contract rate included the 1.81% in the base instead of as a WICA surcharge the increase to Tyngsborough's base rate is the difference between the permanent rate increase of 3.18% and the 1.81% WICA surcharge that was included in the initial based rate for Tyngsborough, or 1.37%.
- b) The Commission order points to the staff settlement as the basis of the special contract. The Company - Staff settlement that formed the context for the final order in this petition corrected the per CCF charge from \$2.094/CCF to \$2.101 per CCF based on a correction to the Cost of Service Study. The Monthly base charge is based on a guaranteed purchase of 250,000 gallons of water per day at the current approved CCF charge. The \$21,287.60 was based on a rate of \$2.094/CCF. The \$21,358.76 is based on the final corrected and approved rate per CCF of \$2.101 per CCF. The final order, which referenced the Company-Staff settlement agreement, did not correct the base monthly fee to reflect the corrected and agreed upon rate per CCF of \$2.101.

RATH, YOUNG AND PIGNATELLI PC

P.O. BOX 1500
CONCORD, NH 03302-1500
TELEPHONE: 603-226-2600
FEDERAL ID # 02-0410400

December 19, 2016

Pennichuck Water Works
Attn: Accounts Payable
P.O. Box 1947
Merrimack, NH 03054

Invoice# 73380
Account Number PENCHU - 48997
Billed through 11/30/2016

PWW 2016 Rate Case

Balance forward as of invoice dated	November 16, 2016	\$2,186.00
Payments received since last invoice		2,186.00
Net balance forward		<u>\$0.00</u>

FOR PROFESSIONAL SERVICES RENDERED

11/01/2016	MAB	Telephone call with client regarding content of display ad.	0.20 hrs.
11/07/2016	WFA	Meeting with Attorney Brown and Attorney Head.	0.90 hrs.
11/07/2016	MAB	Briefing with Attornecys Ardinger and Head regarding legal issues; prepared for prehearing/technical session.	0.90 hrs.
11/07/2016	RWH	Office meeting with Attorney Ardinger regarding task to complete prior to November 21 hearing and meeting with PUC staff.	2.00 hrs.
11/08/2016	WFA	Review and revise proposed procedural schedule; deliver to client.	0.50 hrs.
11/08/2016	MAB	Responded to client inquiries regarding transmitting affidavits of publication; conference with Attorney Head.	0.20 hrs.
11/08/2016	RWH	Analysis of PUC Order No. 25,957 and initial work on strategy for prehearing conference regarding modification of settlement agreement from prior docket.	1.80 hrs.
11/08/2016	RWH	Conference with Attorney Brown and analysis of notice and return requirements to ensure compliance with PUC Order.	0.50 hrs.
11/09/2016	RWH	Analysis of deadlines and review compliance with filing requirements; Analysis of Mr. Laflamme's email request for schedules not included in	5.30 hrs.

PENNICHUCK CORPORATION
 ACCOUNT NUMBER

PENCHU - 48997

		rate filing; analysis of legal issues regarding modification of rate-making mechanism included in prior PUC docket settlement agreement; analysis of issues that should be raised in Preliminary Statement at November 21 hearing; analysis of legal standard PUC should apply when considering modification to prior rate settlement order.	
11/10/2016	WFA	Telephone conference with Mr. Ware and Mr. Kerrigan regarding excluded schedules; office conference with Attorney Head regarding same; office conference with Attorney Head regarding rate case expenses; telephone conference with Attorney Clifford regarding procedural schedule and other matters.	1.50 hrs.
11/10/2016	MAB	Discussed filing requirements and discovery issues with Attorney Head.	0.30 hrs.
11/10/2016	RWH	Draft letter to PUC regarding schedules not attached to filing; Review petition to ensure all the scheduled requested in PUC email are incorporated into filing; conference with Attorney Ardinger regarding strategy for missing schedules and outstanding items that need to be completed prior to Prehearing Conference; review billings to client as of date the rate case was filed with PUC and finalize draft initial case expense letter and email same to Mr. Ware for approval; conference with Attorney Brown regarding strategy for responding to filing schedules with the PUC.	5.80 hrs.
11/16/2016	RWH	Analysis of missing schedules provided by PWV; draft supplement to rate case Petition for submission of missing schedules to PUC.	1.50 hrs.
11/17/2016	WFA	Prepare for pre-hearing and technical session; review all schedules; office conferences with Attorney Head regarding same.	3.00 hrs.
11/18/2016	WFA	Continue preparation for pre-hearing.	2.60 hrs.

PENNICHUCK CORPORATION

ACCOUNT NUMBER PENCHU - 48997

11/18/2016	RWH	Prepare supplemental filing of missing schedules; conference call with Attorney Brown to prepare for preliminary hearing	1.50 hrs.
11/21/2016	WFA	Attend pre-hearing and technical session; attend preparation session with client regarding same; prepare position statement; debrief with client and Attorney Head.	4.50 hrs.
11/21/2016	RWH	Preparation of schedules for filing; preparation for initial hearing and technical session; prehearing meeting with Attorney Ardinger and clients; attendance at PUC initial hearing and technical session; follow-up email to PUC staff and OCA with draft procedural order and confirmation of follow up technical meeting on November 28.	7.40 hrs.
11/22/2016	WFA	Telephone conferences regarding technical session issues and strategy.	1.50 hrs.
11/22/2016	RWH	Analysis of Excel spreadsheets for filing with PUC; Conference call with PWW to discuss Excel spreadsheets and strategy for technical session to discuss temporary rates.	1.50 hrs.
11/23/2016	RWH	Analysis of issues that need to be addressed for technical session.	0.70 hrs.
11/30/2016	WFA	Telephone conference with client team and Attorney Head regarding legal analysis of traditional ratemaking and unique city owned case; research regarding same; prepare for technical session.	1.50 hrs.
11/30/2016	RWH	Conference call with Mr. Goodhuc and Attorney Ardinger regarding strategy for upcoming Technical Session with PUC staff and OCA.	1.00 hrs.

TOTAL FEES FOR THIS MATTER

\$13,368.00

DISBURSEMENTS AND COSTS

Capital Deli, luncheon meeting in Concord office 11/21/16

71.11

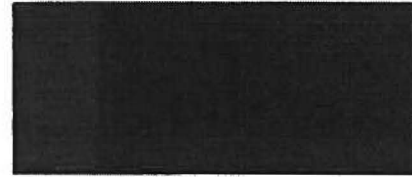
TOTAL DISBURSEMENTS AND COSTS

\$71.11

BILLING SUMMARY

PENNICHUCK CORPORATION
ACCOUNT NUMBER PENCHU - 48997

Ardinger, William F. J.	16.00 hrs
Head, Richard W.	29.00 hrs
Brown, Marcia A.	1.60 hrs



TOTAL FEES	\$13,368.00
TOTAL DISBURSEMENTS AND COSTS	\$71.11
TOTAL CHARGES FOR THIS BILL	<hr/> \$13,439.11
TOTAL BALANCE DUE	<hr/> <u>\$13,439.11</u>

Net payment is due upon receipt of invoice. A late fee of 1% per month will be assessed on any balance outstanding at the time of our next monthly billing.