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STATE OF NEW HAMPSHIRE



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February 8, 2019

NHPUC 8FEB19PM1:34

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

Re: DW 17-128: Pennichuck East Utilities, Inc.
Staff Recommendations regarding Rate Case Expense Recovery and Temporary to Permanent
Rate Revenue Recoupment

Dear Ms. Howland:

The purpose of this letter is to provide Staff recommendations relative to the requests filed by Pennichuck East Utilities, Inc. (PEU or Company) for recovery of rate case expenses as well as recoupment of the revenue difference between temporary and permanent rates. Staff recommends the Commission approve a total of \$55,402 in rate case expenses to be recovered over a twelve-month period via a monthly surcharge of \$0.57 per customer. Staff further recommends the Commission approve a rate recoupment amount totaling \$577,594. Staff finally recommends the Commission grant approval of PEU'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 November 5, 2018, PEU submitted its request seeking recovery of rate case expenses incurred relative to DW 17-128 pursuant to Commission Order No. 26,179 (October 4, 2018). Recovery of rate case expenses is governed by NH Code Admin. Rules Puc 1900 *et seq.* PEU's submission requested recovery of \$53,864.82 in rate case expenses to be recovered over a twelve-month period via a surcharge of \$0.559 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. On January 3, 2019, PEU filed for recovery an additional \$1,537.50. PEU explained the additional expenses were for legal services and official copies as well as retaining a third party vendor to assist with the coding of the calculation of the individual customer recoupment amount. These additional expenses increased PEU's request for rate case expense recovery to \$55,402.32 and the proposed customer charge amount to \$0.57 per month.

In accordance with Puc 1905.03 (a) through (d), PEU's submission included the documentation necessary to support its request for rate case expense recovery including copies of invoices, schedules, and computations. PEU also submitted documentation referencing Commission Order No. 26,013 (April 28, 2017) granting among other things, PEU's request for a waiver regarding procurement of legal services through a competitive bid process. Additionally, PEU made available its general procurement policies as well as provided statements 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) when the current legal counsel was originally obtained.

Finally, pursuant to Puc 203.08, PEU 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 PEU's attorneys and could potentially have a detrimental effect on the Company's future competitive bidding efforts. Accompanying the motion, PEU provided redacted as well as confidential copies of the relevant billing information in accordance with Puc 201.04.

Staff reviewed PEU's rate case expense filing and, in turn, propounded discovery relative to such on November 20, 2018 to which PEU provided responses on December 3, 2018. Staff reviewed the responses and the request for recovery with specific attention focused on the filing and the subsequent re-filing of the DW 17-128 Petition to which Staff noted there were no specific invoices or charges submitted for recovery that directly correspond to the re-filing.

The Commission has historically treated prudently-incurred rate case expenses as a legitimate cost of service appropriate for recovery through rates. *West Swanzey Water Company, Inc.*, Order No. 26,146 at 2 (June 14, 2018). After reviewing PEU's rate case expense submission, and in light of Puc 1900, Staff recommends the Commission approve the recovery of the requested rate case expenses of \$55,402. Staff further recommends that this amount should be recovered as requested from PEU's customers over a twelve-month period via a surcharge of \$0.57 per customer per month, and that the Commission find this surcharge just and reasonable pursuant to RSA 378:7.

Staff also supports and recommends the Commission grant PEU'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 PEU's attorneys, and could 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 November 5, 2018, PEU submitted its calculation of the difference between temporary and permanent rates in accordance with Commission Order No. 26,179 (October 4, 2018) and pursuant to RSA 378:29. The Commission is required to allow utilities to amortize and recover the difference between the temporary and permanent rates over the effective period of the temporary rates if, upon final disposition of the rate proceeding, the rates ultimately approved exceed the earlier-imposed temporary rates. *Hampstead Area Water Company, Inc.*, Order No. 26,185 at 4-5 (October 30, 2018). In conjunction with its filing, PEU also submitted Tariff Supplement No. 11 relative to the recovery of

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the calculated difference between temporary and permanent rates. On November 27, 2018, the Commission issued Order No. 26,194 suspending PEU's tariff amendment for a period of three months from the issuance of that order.

PEU's submission requested a net recovery amount of \$577,594, consisting of both customer charges and credits, which it would recoup / refund over a twelve-month period. PEU indicated the charges / credits would be determined on a customer class basis as explained in the proposed Tariff Page. Specifically, PEU calculated the following recoupment / refund per customer class:

<u>Customer Class</u>	<u>Total Recoupment</u>
General Metered	\$517,947
Private Fire Protection	\$26,271
Public Fire Protection	\$5,750
Municipal Fire Protection	\$75,236
Capital Recovery Surcharge	<u>\$(47,610)</u>
Grand Total	<u>\$577,594</u>

According to PEU, it would recoup a total of \$5.51 per month for 12 months from an average General Metered Customer.

On November 20, 2018, Staff conducted discovery relative to PEU's submission which PEU provided responses on December 3, 2018. Staff reviewed the Company's responses and as a result it supports PEU's proposed revenue recoupment / refund amounts and recommends the Commission approve them along with the Company's methodologies used in the determination of the proposed amounts. The approval of 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. 26,136. As such, Staff recommends the Commission find PEU's request just and reasonable, pursuant to 378:7. Prior to filing this letter with the Commission, Staff provided a final draft to the OCA. The OCA took no position on the recommendation.

Thank you for your assistance and attention regarding this matter. If you have any questions, do not hesitate to contact me.

Respectfully,



Anthony J. Leone
Utility Analyst

cc: Service List

SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED

Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.

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FILING INSTRUCTIONS:

- a) Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with:
- DEBRA A HOWLAND
EXECUTIVE DIRECTOR
NHPUC
21 S. FRUIT ST, SUITE 10
CONCORD NH 03301-2429
- b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.
- c) Serve a written copy on each person on the service list not able to receive electronic mail.