

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Docket No. DW 18-076

Pennichuck Water Works, Inc.

Petition for Approval of Change in Rates and Terms for Fire Protection Service

MOTION FOR REHEARING OR RECONSIDERATION

NOW COMES, Pennichuck WaterWorks, Inc. (“PWW” or “Company”) pursuant to RSA 541:3, and hereby respectfully requests the Commission rehear or reconsider its Order No. 26,200, dated December 17, 2018. In support of this motion, PWW states as follows:

1. RSA 541:3 provides that the Commission may grant a motion for rehearing if good reason for the rehearing is stated in the motion. The purpose of a rehearing is to provide consideration of matters that were either overlooked or “mistakenly conceived” in the original decision. *Dumais v. State*, 118 N.H. 309, 311 (1978). PWW believes the Commission mistakenly conceived PWW’s goodwill gesture of agreeing to customer credits as being credits associated with reparations, thereby mistakenly concluding that PWW was issuing the credits as part of a penalty. PWW offers the following reasons in support of that belief.

2. First, PWW would like to summarize the docket. PWW petitioned the Commission for approval of:

a) new fire protection groups (meter sizes less than four inches) within its private fire protection customer class (tariff page 45);

- b) rates for these new fire protection groups (the proposed rates were calculated based on a $\frac{1}{4}$ factor that had been used in PWW's last cost of service study) (tariff page 45);
- c) constraints on how service lines may be installed (tariff pages 32 and 32-A); and
- d) a new rate group and rates for customers who receive combined domestic and private fire protection service through a 1-inch meter (tariff page 43). For the latter, PWW estimated there could be 30 customers by the end of 2018.

PWW did not propose a credit to customers for past usage.

3. During discovery with Staff, there were many instances where Staff referred to customer credits.

- a) In Staff 1-4(e), Staff asked for a calculation of amounts not recovered. PWW explained that there were none, "all revenue was (sic) recovered from both Option 1 and Option 2 customers have been in accordance with PWW's existing tariff." See Staff Recommendation at page 14-18.
- b) In Staff 1-8, Staff asked PWW to quantify overcharges and under-collections. PWW again clarified that there were no such overcharges or under-collections. See Staff Recommendation at page 51.
- c) Notwithstanding the above, in Staff 1-4(f) Staff requested that PWW calculate a credit back to certain customers. See Staff Recommendation at pages 16-17. PWW complied and calculated that there were fifteen (15) customers with so-called Option 1 service configurations and five (5) with Option 2 configurations. See Staff Recommendation at pages 14-18.

PWW believes Staff 1-4(f) was the genesis of the issue of credits.

4. PWW believes the Commission has mistakenly conceived PWW's agreement and gesture of goodwill to offer a credit with a reparation under RSA 365:29. On pages 7 and 8 of Order No. 26,200, the Commission states "PWW also proposed customer credits to *correct past billing inequities*" and "...the inequities resulted from *apparent oversight of the issue by PWW...*" (emphasis added). The Commission then implies that it is imposing a punishment to PWW for a billing "oversight". PWW does not

believe the record supports that it committed an “oversight”, that it committed a billing error, or misapplied its tariff. Nowhere in the record does Staff accuse PWW of improperly billing customers or state that customer charges were unlawful. Instead, Staff stated that “[t]he purpose of these credits is in order to further resolve the previous billing inequities experienced by these customers *relative to PWW’s current tariff.*” (Emphasis added.) See Staff Recommendation at 6. The billing inequity referred to by Staff was caused by the current tariff not having additional small-diameter private fire protection rate groups and allowing contractors to install cheaper service configurations that, in turn, placed customers in a higher rate group. The record supports that the credit was not the result of a billing error on the part of PWW or as a reparation under RSA 365:29.

5. When a utility changes its rates or adds rate groups, such rate changes do not usually involve a credit to customers for past usage. The utility files rate schedules and charges those rates until other schedules on file with the Commission supersede those schedules. See, e.g., RSA 378:1; RSA 378:3, and RSA 378:14. Accordingly, PWW filed its tariff changes and did not propose a credit in its petition.

6. PWW also suspects that its equity arguments in support of the new rate groups and rates became confused when the issue of customer credits was introduced. PWW directs the Commission’s attention to its petition, paragraph 5, wherein the Company explained its reasoning for seeking additional rate groups for meter sizes less than four inches for small-diameter private fire protection service. PWW explained that establishing additional rate groups is beneficial because, at present, without such rate groups, some customers are paying more than is necessary. Paying more than is necessary occurs when contractors and developers install larger meters on single services to accommodate both the domestic and fire protection flows. That installation configuration

places those customers in higher-cost rate groups than had the contractor installed a 5/8-inch meter on the domestic service line. Thus, the “inequity” PWW sought to eliminate is not a “billing inequity” resulting from PWW misapplying its tariff, but rather it is a fairness argument that customers with similar usage ought to pay similar rates and not be placed in a higher-cost rate group just because their contractor chose an installation configuration that used a larger meter. PWW’s fairness arguments were repeated in response to Staff 1-12. See Staff Recommendation at page 55. It appears that these fairness arguments fueled Staff’s early misunderstanding in discovery (see Staff 1-4 and Staff 1-8) and then the Commission’s mistaken conception on pages 7 and 8 that the customer credit was intended to compensate for actual billing inequities suffered by certain customers. As noted above, the record does not indicate that customers suffered actual inequities. Instead, the record supports that the credits were a gesture of goodwill by PWW at the request of Staff.

7. The closest comparable authority for a credit for past usage is the temporary-permanent rate reconciliation mechanism under RSA 378:29 but this proceeding is not a general rate case. This proceeding is also not a reparations proceeding because, if so, the credits would only go back two years.

8. Because the record shows that PWW has charged its authorized rates, has followed the procedure set forth in RSA Chapter 378 to amend its rate schedules, and the record does not support that PWW has committed wrongdoing, PWW believes it has proffered good reason for its motion and for its argument that the Commission has mistakenly conceived PWW’s compliance with its tariff.

WHEREFORE, Pennichuck Water Works, Inc. respectfully requests the
Commission:

- A. Grant this motion for rehearing or reconsideration;
 - B. Amend its findings and Order No. 26,200 to conclude that PWW complied with its approved tariff; and
 - B. Grant such other relief as is just and equitable.
- Respectfully submitted,

PENNICHUCK WATER WORKS, INC.

By Its Attorney,

Date: December 21, 2018

By: Marcia A. Brown
Marcia A. Brown, NH Bar #11249
NH Brown Law, P.L.L.C.
P.O. Box 1623
Concord, NH 03302-1623
(603) 219-4911
mab@nhbrownlaw.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of this motion for rehearing has been forwarded this day by electronic transmission to the Office of the Consumer Advocate and Docket-Related Service List for DW 18-076.

Dated: December 21, 2018

Marcia A. Brown
Marcia A. Brown