

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 18-076

PENNICHUCK WATER WORKS, INC.

Petition for Approval of Changes to Rates and Terms for Fire Protection Services

Order *Nisi* Approving Tariff Changes

ORDER NO. 26,200

December 17, 2018

This order approves changes to the non-metered private fire protection rates and terms for customers of Pennichuck Water Works, Inc., and requires refunds to certain customers. This order is being issued on a *nisi* basis to ensure that all interested persons receive notice of the decision and have the opportunity to request a hearing before the order becomes effective.

I. PROCEDURAL HISTORY

On April 30, 2018, Pennichuck Water Works, Inc. (PWW or the Company), filed a petition to change its tariff regarding non-metered private fire protection service to customers currently using smaller diameter connections. Proposed changes related to pricing and installation specificity for those types of connections. PWW submitted its petition in response to a Commission Staff (Staff) investigation. Staff initiated its investigation after receiving consumer billing complaints from customers of Pennichuck East Utility, Inc. (PEU), PWW's affiliate.

The Office of the Consumer Advocate (OCA) filed a notice of participation on May 30, 2018. On October 1, 2018, PWW filed a motion for confidential treatment of customer street addresses that the Company had included in its response to Staff Data Request 1-4 (Confidentiality Motion). Staff filed its recommendation on November 2, 2018. PWW's

petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted on the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2018/18-076.html>.

II. POSITIONS

A. PWW

PWW receives applications for service from building developers installing fire suppression sprinkler systems in newly constructed homes. Although sprinkler systems require non-metered private fire protection service connections, PWW's current tariff does not provide appropriate specificity with regard to either rates or an installation configuration for these types of service connections. The Company expects service requests for sprinkler system connections will increase in the future.

PWW notes two types of installations, which the Company has designated Option 1 and Option 2. In an Option 1 installation, developers install a single service line, 1½" or larger, to provide both domestic and fire suppression flows, and a 1" meter to accommodate the combined flows. PWW applies its monthly charge for a 1" meter of \$52.35. PWW charges a volumetric rate for all usage, including fire suppression flows, and does not charge a separate fire protection service charge. Customers with an Option 1 installation pay \$29.77 more per month for a 1" meter than if a 5/8" meter had been installed.

The Option 1 installation configuration is problematic for several reasons. First, the installation of a 1" meter instead of a 5/8" meter results in higher than normal unaccounted-for or lost water due to the relative sensitivity of the two meter sizes. Second, a 1" meter requires a 2.5-times greater frequency of meter testing compared to a 5/8" meter. Third, the installation of a single service connection providing combined flows makes it impossible for the Company to turn off the fire protection service without also turning off the domestic service, whether

resulting from non-payment for the fire protection service or from a problem with the fire suppression system.

In an Option 2 installation, the developer installs two separate service lines, a 1” service line with a 5/8” meter to provide domestic flows, and a 1½” or larger, non-metered service line to provide fire protection flows. For these installations, PWW currently applies its monthly 5/8” meter charge of \$22.58, in addition to its non-metered private fire protection charge for a 4” or smaller service of \$62.03 per month, for a total monthly fixed charge of \$84.61. PWW also applies volumetric charges for domestic flows. Customers with an Option 2 installation are disadvantaged because the current PWW tariff does not include specific non-metered private fire protection service installation rates for smaller than 4” connections. Thus, customers with a 1½”, 2”, or 3” service connection pay the exact same rate as customers with a 4” service connection.

1. Proposed Tariff Changes Associated with Option 1

The Company proposes prohibiting Option 1 in the future and mandating that new domestic and private fire protection services be installed separately as two services, with separate outside shut-offs. PWW also proposes establishing a grandfathered rate for Option 1 customers whose fire protection was installed and in service prior to December 31, 2018. PWW would charge those customers a combined fixed rate of \$29.09 per month, which is the equivalent charge for a 5/8” meter (\$22.58) plus the proposed charge for a non-metered 1½” private fire protection service (\$6.51). That would reduce the monthly bills of fifteen customers in Nashua by \$23.26 per month.

2. Proposed Tariff Changes Associated with Option 2

PWW proposes establishing additional non-metered rates for smaller diameter connections for private fire protection – non-metered services that are less than 4” – resulting in four different rates for that service:

1½"	\$ 6.51 per month
2"	\$15.50 per month
3"	\$26.02 per month
4"	\$62.03 per month

PWW's proposed rates are based on its last completed cost of service study from its general rate case in Docket No. DW 10-091.

There are five Option 2 customers with a 2" fire protection service who are currently paying a monthly rate of \$62.03. Under the proposed rates, those customers would be charged \$15.50 per month for private non-metered fire protection service, a savings of \$46.53 per month.

3. Other Proposed Tariff Changes

PWW also proposes basing its non-metered fire protection charge on the size of the fire service tap, as opposed to the size of the pipe entering the property. The fire service tap can either be off of the water main in the street or off of the service. Another proposed change would correct an internal paragraph reference within the tariff.

4. Proposed Customer Credits

In response to a Staff data request, PWW proposed providing credits to both Option 1 and Option 2 customers to resolve previous billing inequities. PWW calculated the proposed credits to total \$8,406.85 through October 2018. Each of the fifteen Option 1 customers would receive a credit equal to \$23.26 per month for each month they have been receiving Option 1-type service. The credit would be based on the difference between their current fixed monthly charge of \$52.35 for a 1" meter and the proposed grandfathered fixed monthly charge of \$29.09 discussed above. The total proposed credit for the fifteen Option 1 customers was \$2,372.52 through October 2018.

The five Option 2 customers would receive a credit equal to \$41.92 per month for each month they received Option 2-type service prior to December 2016, the effective date of PWW's

last rate increase. They would also receive \$46.53 per month for each month of service since December 2016. The proposed credit for service prior to December 2016 reflects the difference between the 4” and smaller private fire protection rate, effective at that time, of \$55.88, and the proposed 2” private fire protection rate of \$13.96. The credit for service from December 2016 forward reflects the difference between the current 4” and smaller private fire protection rate of \$62.03, and the proposed 2” private fire protection rate of \$15.50. The total proposed credit for these five customers was \$6,034.33 through October 2018.

5. Education of Municipal Officials Regarding Tariff Changes

PWW agreed to mail a letter to each municipality, and the municipality’s building and/or fire inspector, explaining the approved tariff changes and the technical specifications and design standards for installation of metered and private fire protection services, within 30 days of a Commission order approving the proposed tariff changes. The Company also agreed to meet with officials of the municipalities to discuss the proposed changes, and to file a report by no later than December 31, 2018, describing which municipal officials were contacted and which officials agreed to meet.

6. Confidentiality Motion

PWW filed its Confidentiality Motion seeking protective treatment of certain confidential customer-specific data contained in the Company’s discovery response to Staff Data Request 1-4. The Company’s response includes a schedule identified as Confidential Attachment Staff 1-4-b-c-d which contains the street addresses of various customers who are to receive the proposed billing credits.

The Company relies on RSA 91-A:5, IV, which exempts from public disclosure “files whose disclosure would constitute an invasion of privacy.” PWW argues that there is a recognized privacy interest in individually identifiable customer information, particularly where that information is tied to

financial information. PWW states that its discovery response includes street addresses, which can be used to identify specific residential customers. PWW further contends that the customer-specific street addresses are not necessary to inform the public of the conduct and activities of the Commission, because PWW has provided other information which should be sufficient to inform the public that Commission approval of credits to certain customer groups is just and reasonable.

B. Staff

Staff believes that the tariff changes proposed by PWW will result in just and reasonable rates to all affected customers. Staff recommends that the Commission approve the tariff changes proposed by the Company.

Staff reviewed the basis for the Company's proposed credits as well as the underlying calculations of each. Staff believes that the customer credits proposed by the Company provide an equitable solution to resolve a previous regulatory oversight of an emerging issue. Staff believes that the proposed customer credits are just and reasonable and recommends that the Commission approve them. Staff further recommends that PWW be prohibited from any future recovery of the customer credits through a future general rate increase.

Staff believes that outreach and educational efforts undertaken by the Company will prove beneficial to all parties concerned, including the individual municipalities, PWW's customers, and the Company. Staff, therefore, recommends the Commission approve this requirement.

C. OCA

The OCA supported the Company's proposed tariff changes, customer credits, and customer outreach described in Staff's recommendation.

III. COMMISSION ANALYSIS

Unless precluded by law, informal disposition by stipulation may be made of any contested case at any time prior to the entry of a final decision or order. RSA 541-A:31, V(a). Pursuant to N.H. Code Admin. Rules Puc 203.20(b), the Commission shall approve the disposition of any contested case by stipulation “if it determines that the result is just and reasonable and serves the public interest.” The Commission encourages parties to settle disagreements through negotiation and compromise because it is an opportunity for creative problem solving, allows parties to reach a result in line with their expectations, and is often a better alternative to litigation. *Pennichuck East Utility, Inc.*, Order No. 26,179 at 13 (October 4, 2018). Nonetheless, the Commission cannot approve a settlement, even when all parties agree, without independently determining that the result comports with applicable standards. *Id.* at 13-14.

In determining whether rates are just and reasonable, the Commission must balance the customers’ interest in paying no higher rates than are required against the investors’ interest in obtaining a reasonable return on their investment. *Appeal of Eastman Sewer Company, Inc.*, 138 N.H. 221, 225 (1994). In this way, the Commission fulfills its duties as an arbiter between the interests of customers and those of a utility’s owners. RSA 363:17-a. The Commission exercises its discretion and judgment in striking this balance. *Appeal of Conservation Law Foundation of New England, Inc.*, 127 N.H. 606, 634-36 (1986).

The Company has reached an agreement with Staff and the OCA concerning tariff changes designed to make its fire protection rates and terms reasonable and equitable to residential customers. PWW also proposed customer credits to correct past billing inequities. We find the new tariff terms and charges, and the customer credits, just and reasonable pursuant to RSA 378:7, and we approve them. Because the inequities resulted from apparent oversight of

the issue by PWW, we find that the Company should be prohibited from any recovery of the customer credits through a future general rate increase.

Regarding determinations of whether information is subject to public disclosure, the New Hampshire Supreme Court and the Commission apply a three-step test. *Lambert v. Belknap County Convention*, 157 N.H. 375, 382-83 (2008); *Aquarion Water Company of New Hampshire, Inc.*, Order No. 25,863 at 2 (February 1, 2016). Under the test, the Commission first inquires whether the information involves a privacy interest, and then asks if there is a public interest in disclosure. *Id.* at 2. Finally, the Commission balances those competing interests and decides whether disclosure is appropriate. *Id.* When the information involves a privacy interest, disclosure should inform the public of the conduct and activities of its government; if the information does not serve that purpose, disclosure is not warranted. *Id.*

The New Hampshire Supreme Court has held “that the names and addresses of residential customers are entitled to confidential treatment under RSA 91-A:5, IV.” *Public Service of New Hampshire*, Order No. 25,059 at 13 (December 31, 2009) (citing *Lamy v. New Hampshire Public Utilities Commission*, 152 N.H. 106, 113 (2005)). In this case, the customer identities do not assist the public in understanding our decisions regarding the proposed tariff changes. Therefore, we determine that customer identities, including addresses, should be kept confidential and should not be disclosed to the public pursuant to RSA 91-A:5, IV.

Last, we address the proposal that PWW provide a report of contacts with municipal officials. We are not as concerned whether a municipal official has agreed to meet as we are with making sure that the building inspectors and fire inspectors in PWW’s service territory understand the installation configuration that will now be required. We will therefore direct PWW to file a report no later than April 1, 2019, that details the Company’s outreach efforts, the

meetings held, and the Company's plans to inform such officials with whom the Company has not yet met.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that subject to the effective date below, PWW's request for changes to its fire protection tariff are APPROVED; and it is

FURTHER ORDERED, that PWW shall undertake the outreach to customers and municipalities in its service territory, as described in this order; and it is

FURTHER ORDERED, that PWW shall file a report with the Commission, by no later than April 1, 2019, describing in detail the Company's outreach efforts to municipal building and fire inspectors and its plan to inform such officials with whom the Company has not yet met of the Company's fire protection rates and installation configuration requirements; and it is

FURTHER ORDERED, that PWW shall submit updated schedules showing customer credits revised to reflect the additional time and charges accrued from October 2018, within 30 days of the effective date of this order; and it is

FURTHER ORDERED, that PWW pay the customer credits to those customers taking fire protection service, as described in this order and pursuant to the updated schedules required in the previous ordering clause; and it is

FURTHER ORDERED, that PWW's motion for confidential treatment is GRANTED; and it is

FURTHER ORDERED, that within 20 days of the effective date of this order, PWW shall file tariff pages in conformance with the changes approved in this order; and it is

FURTHER ORDERED, that PWW shall cause a summary of this order to be published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to be no later than December 27, 2018,

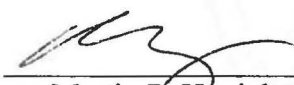
and to be documented by affidavit filed with this office on or before December 31, 2018; and it is

FURTHER ORDERED, that all persons interested in responding to this order be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than January 8, 2019, for the Commission's consideration; and it is

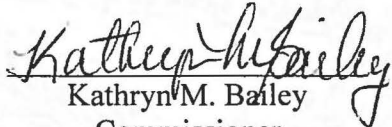
FURTHER ORDERED, that any person interested in responding to such comments or request for hearing shall do so no later than January 14, 2019; and it is

FURTHER ORDERED, that this order shall be effective January 16, 2019, unless PWW fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date.

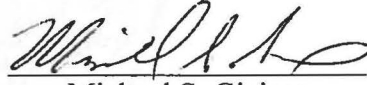
By order of the Public Utilities Commission of New Hampshire this seventeenth day of December, 2018.



Martin R. Honigberg
Chairman

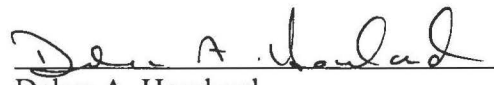


Kathryn M. Bailey
Commissioner



Michael S. Giaimo
Commissioner

Attested by:



Debra A. Howland
Executive Director