

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Docket No. DW 19-084

Pennichuck Water Works, Inc.
Request for Change in Rates

SETTLEMENT AGREEMENT ON TEMPORARY RATES

I. INTRODUCTION

This settlement agreement (“Agreement”) is entered into by and between Pennichuck Water Works, Inc. (“PWW”), Staff of the New Hampshire Public Utilities Commission (“Staff”), the City of Nashua (“City”), and the Office of the Consumer Advocate (“OCA”) (together, “Settling Parties”).

II. BACKGROUND

This docket concerns noticed permanent rate schedules filed by PWW on July 1, 2019 for effect August 1, 2019. Relevant procedural events are that on July 31, 2019, the Commission issued Order No. 26,279 suspending PWW’s proposed rate schedules and opening an investigation into the rates. As part of the suspension order, the Commission required PWW to notify the public and its customers of the Commission’s investigation and of PWW’s proposed rate increase.

PWW published the Commission’s suspension order in The Telegraph on August 4, 2019. On August 9, 2019, PWW mailed notices to each of its customers. That direct mailing included information regarding the Commission’s prehearing conference and technical session set for October 3, 2019. PWW also posted a notice on its website on August 12, 2019.

The Commission held its prehearing conference October 3, 2019 and granted the intervention request of the City of Nashua. Staff and the parties met in a technical session following the prehearing and developed a proposed procedural schedule to govern the proceeding. On October 16, 2019, the Commission approved the procedural schedule. Pursuant to that schedule, the Settling Parties conducted numerous rounds of discovery and held technical sessions and settlement conferences.

One of the issues discussed was PWW's need for temporary rates during the pendency of the Commission's investigation even though in its original filing PWW stated that it was not seeking temporary rates in this proceeding because of its ongoing Qualified Capital Project Adjustment Charge (QCPAC) program. As the rate case progressed, PWW learned of: 1) Staff and the OCA's insistence that recoupment of the difference in PWW's currently billed revenues and the resulting permanent revenues approved by the Commission in this rate proceeding exists only pursuant to the temporary rate mechanism, per RSA 378:27 and RSA 378:29; and 2) as the Company's cash position further deteriorated, its reliance on QCPAC revenues were insufficient to address its liquidity issues. To that end, on March 16, 2020, PWW filed a partially assented to motion requesting that the Commission set PWW's current rates as temporary rates for the duration of the rate proceeding. In support of the motion, PWW filed testimony of Larry D. Goodhue and Donald L. Ware, along with temporary rate tariff pages with a March 16, 2020 effective date. Messrs. Goodhue and Ware explained that PWW's operating revenues were insufficient to meet required expenditures under the ratemaking mechanism approved in Commission Order No. 26,070 (November 7, 2017) in Docket DW 16-806.¹

¹ Commission Order No. 26,070 approved a ratemaking mechanism for PWW based on the Company's cash flow needs rather than net earnings, as is the case under traditional ratemaking. PWW's unique

In its motion, PWW referenced having negative net earnings in 2018 of \$30,861. That figure, however, was incorrect as it actually represented the decrease in net earnings experienced by the Company during 2018 when compared to the previous year. For correction, in 2018, PWW reported net earnings of \$459,068, however, under the ratemaking mechanism approved by the Commission in DW 16-806, the Company experienced a revenue deficiency of \$890,466, as follows:

	Computation of 2018 Net Income	Elimination of Items Not Included in DW 16-806 Ratemaking Mechanism	Calculation of Revenue Deficiency Under DW 16-806 Ratemaking Mechanism
INCOME:			
Operating Revenues	\$32,390,671		\$32,390,671
Other Income	<u>59,384</u>	<u>(59,384)</u>	<u>-</u>
TOTAL INCOME	<u>32,450,055</u>	<u>(59,384)</u>	<u>32,390,671</u>
EXPENSES:			
O & M Expenses	13,992,692		13,992,692
Depreciation/Amortization Expense	5,072,486	(5,072,486)	-
Amortization Expense – MARA	1,830,666	(1,830,666)	-
Amortization Expense – Other	134,666		134,666
Tax Expense – Other	5,136,862		5,136,862
Net Interest Expense	3,437,384	(3,437,384)	-
Income Tax Expense	<u>2,386,231</u>	<u>(2,386,231)</u>	<u>-</u>
TOTAL EXPENSES	<u>31,990,987</u>	<u>(12,726,767)</u>	<u>19,264,220</u>
NET INCOME	<u>\$ 459,068</u>	<u>\$12,667,383</u>	<u>\$13,126,451</u>
LESS: CITY BOND FIXED REVENUE REQUIREMENT			(7,729,032)
DEBT SERVICE - 2018			<u>(6,287,885)</u>
REVENUE DEFICIENCY			<u>\$ (890,466)</u>

capital structure, consisting of all debt, necessitated this change in rate structure in order to attract debt financing at favorable interest rates for the Company's capital investments and operations. PWW's revenue requirement consists of its share of the payment on the City of Nashua's bond obligation used to purchase the Company and its affiliates. It further consists of cash operating expenses and debt service obligations.

The Company further contends that it is experiencing continued revenue deficiencies which have depleted its rate stabilization fund, prompting PWW to file for additional financing in Docket No. DW 20-055. On March 26, 2020, the OCA partially objected to PWW's temporary rate request. Citing RSA 378:27 and the requirement that customers be given reasonable notice prior to the Commission setting temporary rates, the OCA argued that reasonable notice set the effective date, not the filing of the rate schedules. The OCA did not object to setting existing rates as temporary rates.

On April 14, 2020, the Commission issued Order No. 26,348 suspending the taking effect of PWW's temporary rate tariffs. The Company filed its report of customer notice on April 16, 2020, verifying that all of its customers had been mailed notification at that time. The Commission scheduled a hearing for May 13, 2020.

III. TERMS OF SETTLEMENT

A. The Settling Parties agree that, in accordance with RSA 378:27, current rates under the current revenue requirement methodology approved in Commission Order No. 26,070, should be made effective on a temporary basis for the pendency of this proceeding. The Settling Parties agree that such rates are just and reasonable and that given the recoupment mechanism afforded under RSA 378:29, the rates will yield operating revenues sufficient to enable the Company to pay its operating expenses, debt service requirements, and its share of the City of Nashua's bond obligation to purchase the Company and its affiliates. The Settling Parties recommend that the Commission approve the temporary rates at current rates.

B. Staff, PWW, and the City, but not the OCA, further agree and recommend that the Commission set the temporary rates for effect for service rendered on and after March 16, 2020, which is the date PWW filed its temporary rate tariffs.

C. The Settling Parties agree and recommend that the Commission address this temporary rate settlement issue at the hearing on the merits scheduled for May 13, 2020. In light of the difficulties of holding hearings during the State's COVID-19 emergency and that a hearing is already scheduled for May 13th, the Settling Parties believe it would promote the orderly and efficient conduct of the proceeding to add this issue to the May 13th hearing. The Settling Parties further agree the only issue to be litigated at the May 13th hearing is the issue of the temporary rate's effective date. All other matters regarding temporary rates contained in the Settlement Agreement will be presented as an agreement between all parties and not be subject to litigation.

D. The Settling Parties further agree that the Company will file for temporary rates in all future rate cases if PWW's annual report indicates that the Company is in the same or a similar revenue deficiency situation as it experienced at the filing of the instant rate case.

IV. CONDITIONS

This Agreement is expressly conditioned upon the Commission's acceptance of all its provisions, without change or condition. If the Commission does not accept this Agreement in its entirety, any party hereto, at its sole option exercised within fifteen (15) days of such Commission order, may withdraw from this Agreement, in which event it shall be deemed to be null and void and without effect and shall not be relied upon by the Company, Staff, the OCA, or any party to this proceeding or the Commission for any purpose.

The Commission's acceptance of this Agreement shall not constitute continuing approval of, or precedent regarding, any particular principle or issue in this proceeding.

The discussions that produced this Agreement have conducted on the explicit understanding that all offers of settlement relating thereto are and shall be confidential, shall be without prejudice to the position of any party or participant representing any such offer or participating in any such discussion, and are not to be used in connection with any future proceeding or otherwise.

The Settling Parties agree that all testimony and supporting documentation should be admitted as full exhibits for purposes of reviewing this Agreement. The Settling Parties' agreement to admit all testimony without challenge does not constitute agreement by the Settling Parties that the content of the written testimony is accurate or what weight, if any, should be given to the views of any witness, except as may be specifically provided in this Agreement.

The identification of the resolution of any specific issue in this Agreement does not indicate any of the Settling Parties' agreement to that resolution for purposes of any future proceeding, nor does the reference to any other document bind the Settling Parties to the contents of, or recommendations in, that document for purposes of any future proceeding. The Commission's approval of the recommendations in this Agreement shall not constitute a determination or precedent with regard to any specific adjustments, but rather shall constitute only a determination that the rates resulting from the agreement, and other specific conditions stated in this Agreement are just and reasonable and otherwise consistent with the law.

This Agreement may be executed by facsimile and in counterparts, each of which shall be deemed to be an original, and all of which, taken together, shall constitute one agreement binding on all Settling Parties.

IN WITNESS WHEREOF, the Settling Parties to this Agreement have caused the Agreement to be duly executed in their respective names by their fully authorized agents.

Pennichuck Water Works, Inc.

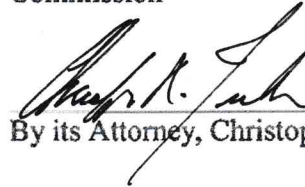
Dated: May 8, 2020



By its Attorney, Marcia A. Brown

Dated: May 8, 2020

Staff of the New Hampshire Public Utilities
Commission



By its Attorney, Christopher Tuomala

Dated: May 8, 2020

Office of the Consumer Advocate



By its Attorney, Christa Shute

Dated: May 8, 2020

City of Nashua



By its Attorney, Steven A. Bolton