

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Docket No. DW 19-084

Pennichuck Water Works, Inc.
General Rate Proceeding

REPLY TO OBJECTION OF OFFICE OF THE CONSUMER ADVOCATE
AND MODIFICATION OF WAIVER REQUEST

NOW COMES, Pennichuck Water Works, Inc. (“PWW”), and hereby respectfully requests leave to reply to the objection filed by the Office of the Consumer Advocate (“OCA”) to PWW’s motion to waive certain provisions of the Commission’s general rate case rules, N.H. Code Admin. Rule PART Puc 1604. In support of this reply, PWW states as follows:

1. On April 30, 2019, the OCA filed an objection to PWW’s motion to waive certain contents of a full rate case and filing requirement schedules, which was filed on April 26, 2019.

2. In its motion, PWW stated that it no longer produced the information described in the following rules:

- a. Puc 1604.01(a)(2) relative to Annual Reports to stockholders;
- b. Puc 1604.01(a)(6) relative to a list of advertising charged in the test year;
- c. Puc 1604.01(a)(9) relative to a Chart of Accounts, if different;
- d. Puc 1604.01(a)(10) relative to a utility’s Securities and Exchange Commission 10K forms and 10Q forms;
- e. Puc 1604.01(a)(12) relative to a utility’s most recent depreciation study;
- f. Puc 1604.01(a)(15) relative to officer and executive incentive plans; and
- g. Puc 1604.01(a)(16) relative to voting stock of Officers and Directors of a utility.

3. The OCA objects to PWW’s request and argument concerning these rules by stating that PWW “should simply state that fact in its rate case filing.” Objection at 2, para. 4.

This may be true, however, PWW approached its waiver request conservatively and included the

requests to waive these portions of Puc 1604.01(a) to the extent such a waiver is necessary. This over cautious approach does not appear to be “illogical” to the Commission because in Docket No. DW 13-130, the Commission granted PWW’s waiver based on the same reasoning. See, *Pennichuck Water Works, Inc.*, Order No. 25,524 (June 20, 2013). Furthermore, several of the requested items of waiver, do not and have not existed at PWW since its parent corporation ceased to be a publicly-traded investor owned utility as authorized in Docket No. DW 11-026, including all items of reporting relating to a publicly-traded company, and any incentive or stock purchase plans that would be consistent with an entity of that nature. To facilitate and inform the reader, where these schedules would otherwise fall in the filing, PWW plans to insert a sheet stating that the material does not exist.

4. PWW also requested waiver based on the fact that the following material was already provided to the Commission:
- a. Puc 1604.01(a)(1) relative to internal financial reports;
 - b. Puc 1604.01(a)(18) relative to the amount of assets and costs allocated to non-utility operations;
 - c. Puc 1604.01(a)(19) relative to balance sheets and income statements for the previous two years if they have not previously been filed with the Commission; and
 - d. Puc 1604.01(a)(20) relative to quarterly income statements for the previous two years if they have not previously been filed with the Commission.
- See, Motion at para. 3, 4, 5, and 6.

The OCA objects stating that “there is convenience and efficiency in assembling key information within the rate case filing itself” and that it does not receive the monthly reports cited by PWW. PWW notes that in the past, the OCA has assented to such a request. See Docket No. DW 13-130 and Order No. 25,524 at p. 1 concerning a similar motion by PWW. The Commission found PWW’s requests in that docket to be reasonable “because Staff and the parties will have an opportunity to explore those matters in the discovery phase.” Order at p. 2. In this case,

however, to facilitate intervenors access to the materials, PWW will include this information in its rate case filing. Accordingly, PWW withdraws the waiver request as to these rules..

5. PWW also requested waiver based on the fact that the following schedules were no longer applicable because of PWW's modified revenue requirement structure:

- a. Puc 1604.07(a)(11) "Schedule 3 - Rate Base";
- b. Puc 1604.07(a)(12) "Schedule 3A - Working Capital"; and
- c. Puc 1604.07(a)(13) "Schedule 3 Attachment - Pro Forma Adjustment Rate Base".

See, Motion at para. 8(a), 8(b), and 8(c).

The OCA objects and states that departure from traditional cost-of-service ratemaking principles "does not mean that schedules relevant to the traditional approach cannot provide useful benchmarks as the Commission seeks to determine what rates are just and reasonable for this utility." Objection at p. 2, para. 5. It is this objection which most concerns PWW. PWW seeks to make clear to the OCA and Commission that Schedules 3, 3A, and 3 Attachment in no way provide a meaningful "benchmark".

6. As noted by the Commission in its approval of PWW's new ratemaking methodology, PWW "is unlike any other utility that the Commission regulates." Order No. 26,070 at p. 16. PWW faces difficulties due to the mismatch between depreciation expense and the debt associated with those assets. *Id.* The revised ratemaking methodology was necessary to address PWW's specific and unique needs. *Id.* As Staff and PWW testified, the new ratemaking methodology recognized PWW's lack of access to equity and shifted the rate-setting process to a cash flow basis to service debt. *Id.* at 15. Without such modifications and protections, PWW would have been forced to violate its tax-exempt and taxable bond and line-of-credit covenants

and would therefore have been in default under its existing debt obligations and would not have the ability to access additional debt for infrastructure replacement and capital needs. *Id.* at 16.

7. The modified schedules include calculation of a test year using a five-year average test period to compute PWW's revenue deficiency instead of a traditional 12-month test year. The schedules contain a modified revenue requirement consisting of: (1) the City Bond Fixed Revenue Requirement ("CBFRR"); (2) the Operating Expense Revenue Requirement ("OERR"), which is further composed of the following: (a) Material Operating Expense Revenue Requirement ("MOERR"); and (b) Non-Material Operating Expense Revenue Requirement ("NOERR"); and (3) Debt Service Revenue Requirement ("DSRR"), which is composed of all debt service payments plus ten percent. No other utility has such revenue requirement components. Because these schedules depart so significantly from the traditional regulated utility schedules, there is simply no comparative benefit, or useful "benchmark" that can be derived from requiring PWW to create the Puc 1604.01(a)(11), (12), and (13) schedules. PWW, respectfully, seeks to make that point clear to the OCA and Commission.

8. Lastly, in Order No. 26,070, Docket No. DW 16-806, the Commission ordered: "[w]e expect that future rate case proceedings will follow the procedures and methodologies outlined in the Settlement Agreement". PWW's requested waiver of the above Puc 1604.01(a) rules is intended to effectuate "following the procedures and methodologies outlined in the Settlement Agreement".

WHEREFORE, PWW respectfully requests that the Commission:

- A. Grant PWW leave to reply to OCA's objection;
- B. Grant PWW's motion for waiver as revised herein; and
- C. Provide such other relief as is just and equitable.

Respectfully submitted,

PENNICHUCK WATER WORKS, INC.

By its Attorney,

NH Brown Law, PLLC

Date: May 1, 2019

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Certificate of Service

I hereby certify that on this 1st day of May, 2019, a copy of this motion has been emailed and sent by first class mail to the Office of the Consumer Advocate.

Marcia A. Brown
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