

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Docket No. DW 19-084

Pennichuck Water Works, Inc.
Permanent Rate Proceeding

PARTIALLY ASSENTED-TO MOTION FOR TEMPORARY RATES

NOW COMES, Pennichuck Water Works, Inc. (“PWW” or “Company”), in accordance with N.H. Admin. Rule Puc 203.07, and hereby requests the Commission set PWW’s current rates as temporary rates. In support of its motion, PWW states as follows:

1. PWW filed its new tariffs on July 1, 2019. The tariffs sought to increase PWW’s revenues by an overall 11.91% rate increase. The tariffs filed with the Commission provided for an effective date of August 1, 2019. *See* Rate Filings at p. 193-201. Any increase would have otherwise taken effect for service rendered on or after the effective date of those tariffs. N.H. Admin. Rule Puc 1203.05(b). By Order No. 26,279, dated July 31, 2019, the Commission suspended the taking effect of PWW’s rates for a period of 12 months.

2. RSA 378:27 authorizes the Commission to grant temporary rates if, in its opinion, the public interest so requires and the records of the utility on file with the Commission indicate it is not earning a reasonable return on its property used and useful in the public service.

“Further, the analysis and investigation conducted by the Commission in a temporary rate case need not be as intensive as that deemed necessary in a permanent rate proceeding.” *Pennichuck Water Works, Inc.*, Docket No. DW 01-081, Order No. 23,770 at 5 (Aug. 31, 2001) (citation omitted). The Commission may rely on books and records already on file with the Commission. *Appeal of Office of Consumer Advocate*, 134 N.H. 651, 659 (1991) (“New Hampshire law allows

the PUC in a rate case to rely on records and reports that a utility is required to file with it.”

“Included among those record and reports are the utility’s annual reports.”)

3. As is detailed in the accompanying testimony, PWW’s books and records on file with the Commission document that it needs rate relief. PWW’s annual report documents that in 2018, PWW experienced a net loss of \$30,861. Annual Report at 19.¹ The Annual Report is subjected to a desk audit by the Commission’s Audit Staff. As shown on PWW’s Puc 1604.06 Sch A and Sch 1 schedules, PWW’s 2018 test year revenue needs were \$36,439,395 while its actual revenue was \$32,390,671 (including Qualified Capital Projects Adjustment Clause revenues). See PWW Rate Filing at 123 and 125. These books and records demonstrate an earnings deficiency for PWW.

4. Notwithstanding the fact that PWW’s records and reports demonstrate a material revenue deficiency, PWW requests that the Commission fix and determine, pursuant to RSA 378:27, temporary rates at its current rate levels. Given recent developments in the rate case, PWW believes circumstances now warrant temporary rates. This request to establish current rates as temporary rates (as opposed to some other rate level) will promote efficiency in this proceeding by avoiding the need for material proceedings related to any change in current rates.

5. As to an effective date for temporary rates, PWW has been in conversation with Staff and the Office of the Consumer Advocate (“OCA”). PWW remains hopeful that an agreed-upon effective date can be reached so as to present that date to the Commission for approval. Until such an effective date can be agreed upon among PWW, Staff, and the parties, and so as to make PWW’s position known, PWW seeks to have temporary rates made effective for service

¹ PWW’s 2018 Annual Report is located on the Commission’s web site at: <https://www.puc.nh.gov/Water-Sewer/Annual%20Reports/2018/2018-Water-Annual-Report-Pennichuck-Water-Works-20190404.pdf>

rendered on and after the date of today's filing, March 16, 2020. As to support for this position, PWW directs the Commission's attention to the Commission's authority to establish just and reasonable rates as set forth in RSA Chapter 378. Also, pursuant to RSA 378:3 "[u]nless the commission otherwise orders, no change shall be made in any rate, fare, charge or price, which shall have been filed or published by a public utility in compliance with the requirements hereof, except after 30 days' notice to the commission and such notice to the public as the commission shall direct.); *Appeal of Pennichuck Water Works*, 120 N.H. 562, 567 (1980) wherein the Court held that "[a]ccordingly, we hold that the earliest date on which the Commission can order temporary rates to take effect is the date on which the utility files its underlying request for a change in permanent rates." "In no event may temporary rates be made effective as to services rendered before the date on which the permanent rate request is filed."; and *Pennichuck Water Works, Inc.*, Docket No. DW 04-056, Order No. 24,377 (Sept. 30, 2004). In this case, PWW filed its rate schedules and tariffs on July 1, 2019, and it set the new rates to be effective August 1, 2019. The suspension order in this docket noticed that whether PWW should or should not have temporary rates was an issue in this docket. In response to the concern that customers may have perceived PWW's statement that it would rely on the Qualified Capital Project Adjustment Charge program in lieu of temporary rates, PWW requests temporary rates be made effective as of the date it is notifying the Commission that it now seeks temporary rates, March 16, 2020, which is analogous to the effective date in *Appeal of Pennichuck* that the date be triggered by the filing of a tariff. The March 16, 2020 date is well after the date PWW filed its tariffs and well after the date the Commission noticed this proceeding and the issues therein. Again, PWW remains hopeful that it can reach agreement on this issue with Staff and the parties to this docket and present to the Commission an agreed-upon effective date as soon as possible.

6. The OCA assents to the relief of temporary rates but not to the effective date requested by PWW. Staff was unable to provide PWW with a position at the time of this filing. The City of Nashua assents to the relief and effective date PWW seeks.

7. In conclusion, based on the books and records on file with the Commission, including the testimony attached hereto, PWW believes it has demonstrated that it is under-earning and eligible for the temporary rate relief requested herein.

WHEREFORE, the Company respectfully requests that the Commission:

- A. Fix, determine, and prescribe, pursuant to RSA 378:27, temporary rates for PWW at its current rate levels, effective March 16, 2020; and
- B. Grant such other relief as is just and equitable.

Respectfully submitted,

Pennichuck Water Works, Inc.

By its Attorney,
NH BROWN LAW, PLLC

Date: March 16, 2020 By: Marcia A. Brown
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Certificate of Service

I hereby certify that on this day, a copy of this motion has been emailed to the official service list for this proceeding.

Date: March 16, 2020 Marcia A. Brown
Marcia A. Brown, Esq.