

**STATE OF NEW HAMPSHIRE**  
**BEFORE THE**  
**PUBLIC UTILITIES COMMISSION**

Pennichuck Water Works, Inc.  
Request for Change in Rates

Docket No. DW 19-084

**Objection of the Office of the Consumer Advocate to  
an Effective Date for Temporary Rates of March 16, 2020**

NOW COMES the Office of the Consumer Advocate (“OCA”), a party in this docket, and interposes its objection to the motion for temporary rates filed by Pennichuck Water Works, Inc. (“PWW” or “Company”) on March, 16, 2020. In support of this objection the OCA states as follows:

1. PWW filed for temporary rates as current rates to be effective March 16<sup>th</sup> or a date agreed to by the parties. The OCA does not object to the establishment of current rates as temporary rates. The OCA does object to the use of March 16<sup>th</sup> as the applicable effective date for such temporary rates and therefore as the date of recoupment for permanent rates. This motion provides the OCA’s position and reasoning concerning the appropriate date for temporary rates to take effect.
2. On July 1, 2019 PWW filed a full rate case seeking an overall rate increase of 11.91 percent. The Company stated in testimony that it would “not be seeking a temporary rate increase in this filing.” (Goodhue Testimony, Bates page 45). The company filed a tariff effective August 1<sup>st</sup>, 2019. Pursuant to the Commission’s right to investigate higher rates under RSA 378:5 and to forbid the collecting of the higher rates under RSA 378:6 I.(a), the Commission suspended the tariff in Order No. 26,279 on July 31<sup>st</sup> so that it could

proceed with an investigation of the higher rates to “determine the just and reasonable or lawful rates, fares and charges *to be thereafter observed.*” RSA 378:7 (emphasis added).

In the Order the Commission also specifically noted that “PWW is not seeking temporary rates in light of its ongoing QCPAC program.” Order No. 26,279 at 2. The Order (which explicitly indicates there would be no temporary rates) was printed in newspapers on August 4<sup>th</sup>. Parties seeking to intervene were given until September 30, 2019 under N.H. Code Admin. Rules Puc 203.17. *Id.* at 5.

3. Ratepayers have a due process right under the Administrative Procedure Act, codified in New Hampshire as RSA 541-A. They are also provided these rights in the temporary rate statute itself. Section 378:27 gives the Commission authority to set temporary rates.

“(T)he commission may, *after reasonable notice* and hearing, ... immediately fix, determine, and prescribe for the duration of said proceeding reasonable temporary rates.” RSA 378:27 (emphasis added). The statute is clear that it is *after reasonable notice* that the rates can be fixed. Therefore, “reasonable notice” establishes the effective date.

4. N.H. Code Admin. Rules Chapter Puc 1600 Tariffs and Special Contracts provides guidance on notice to the public in Rule Puc 1604.03(a): “A utility shall notify the public of a proposed rate change by publishing an order of notice issued by the commission.” Regardless of whether the temporary rate includes an increase in the actual rate, the temporary rate is a change because under RSA 378:29 it is the point in time after which the company may recoup funds up to the amount of the final approved rates. Therefore, notice occurs once an order of notice from the Commission regarding the petition for temporary rates is published. Notice is provided on Commission order and in accordance with N.H. Code Admin. Rules Puc 203.12.

5. In conclusion, the OCA supports the Company request for temporary rates. However, the effective date of the temporary rates must provide notice to ratepayers. Under N.H. Code Admin. Rules and pursuant to statute the earliest effective date is the publication of an order of notice issued by this Commission in regards to the temporary rates motion filed on March 16, 2020. Such a date will provide the requisite notice for New Hampshire rate payers.

WHEREFORE, the OCA respectfully request that this honorable Commission:

- A. In issuance of an order regarding temporary rates designate an effective date for the temporary rates that is the publication date of the order of notice prescribed by the Commission to the company in said order.
- A. Grant any other such relief as it deems appropriate.

Sincerely,



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March 26, 2020

Certificate of Service

I hereby certify that a copy of this Objection was provided via electronic mail to the individuals included on the Commission's service list for this docket.



Christa B. Shute