

# **TAB 5**

## **Petition for Temporary Rates**

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

Docket No. DW 20-153

Pittsfield Aqueduct Company, Inc.

Permanent Rate Proceeding

**PETITION FOR TEMPORARY RATES**

NOW COMES, Pittsfield Aqueduct Company, Inc. (“PAC” or the “Company”), pursuant to RSA 378:27 and 378:29 and in accordance with N.H. Admin. Rule Puc 203.07, hereby requests that the New Hampshire Public Utility Commission (the “Commission”) set PAC’s current rates, effective on a service rendered basis thirty days after the date of this filing, as temporary rates. In support of its petition, PAC states as follows:

1. PAC filed its notice of intent to file rate schedules with the Commission on September 17, 2020, which the Commission acknowledged by Secretarial Letter dated September 21, 2020. PAC is filing its rate schedules (“Rate Filing”) to change its permanent rates contemporaneously with this petition.

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. Moreover, RSA 378:27 allows the Commission to authorize effective dates as early as the date on which the petition for a permanent rate change is filed. *Pennichuck Water Works, Inc.*, Order No. 24,377 at 7 (September 30, 2004), citing *Appeal of Pennichuck Water Works*, 120 NH 562, 567 (1980). “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, and as measured under a conventional rate of return model, PAC’s rate of return was 1.44 % for the Test Year (Adjusted Net Operating Income from 1604.06 Schedule 1 of \$46,620 divided by Consolidated Rate Base of \$3,234,472 derived on 1604.06 Schedule 3) as evidenced in 1604.06 Schedule A, Perm-Conventional filed with its permanent rate case schedules with no pro forma. This rate of return is far too low to cover principal and interest payments to PAC’s parent, Pennichuck Corporation, as well as being far below the allowed Test Year Rate of Return of 3.74% as detailed on 1604.06 Schedule 1A. Moreover, as described in his testimony before the Commission in DW 19-084, (Pennichuck Water Works, Inc.) Mr. Larry Goodhue explained that the expense statements on file with the Commission don’t reflect long-term debt owed to the parent. As Mr. Goodhue noted, the Statement of Income and Expense on file with the Commission is formulated around an investor owned utility that has a return on equity and depreciation expense in its revenue requirement. The income statement on file with the Commission does not accurately reflect the company’s cash position. See Hearing Transcript May 13, 2020, DW 19-084 at pp. 23 -26. Similarly, PAC’s books and records on file with the Commission don’t accurately reflect the rate relief it needs.

4. As shown on PAC's Puc 1604.06 Schedules, Schedule A Perm-Conventional, PAC's 2019 test year revenue needs were \$820,029 after *pro formas* to the test year to allow for the rate making methodology approved in DW11-026. PAC's actual 2019 TY revenues, accounting for the City Bond Fixed Revenue Requirement ("CBFRR"), were \$771,874, exclusive of other Operating Revenue. Based on the rate-making methodology approved in DW 19-084, Schedule A Proposed, which PAC seeks, its revenue needs are \$862,927, exclusive of other Operating Revenues and actual revenues were \$771,874 exclusive of other Operating Revenues. These books and records clearly demonstrate an earnings deficiency for PAC, regardless of which ratemaking structure is used. Because PAC seeks to modify its ratemaking structure to that of its affiliate PWW, as approved in DW 19-084, the computation of the revenue deficiency results in a proposed revenue increase of 11.18%

5. Notwithstanding the fact that PAC's records and reports demonstrate a material revenue deficiency, PAC requests that the Commission fix and determine, pursuant to RSA 378:27, temporary rates at its current rate levels. See attached tariffs. The decision to accept current rates as temporary rates is in light of the economic developments of 2020 and are predicated on full recoupment at the conclusion of the rate case. This request to establish current rates as temporary rates (as opposed to some other rate level) is not presently a justiciable issue but PAC presumes that the Commission will suspend PAC's permanent rate tariffs before they go into effect and that the Commission will not on its own accord, pursuant to RSA 378:27, order temporary rates. PAC believes the instant petition and request that temporary rates be set at current rates will promote efficiency in this proceeding by avoiding the need for material proceedings related to any change in current rates.

6. As to an effective date for temporary rates, 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, PAC is filing its rate schedules and tariffs today, and it set the temporary rates to be effective thirty (30) days from today, December 17, 2020.

7. In conclusion, based on the books and records on file with the Commission, including the testimony attached hereto, PAC believes it has demonstrated that it is 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 and 378:29, temporary rates for PAC at its current rate levels, effective December 17, 2020;
- B. Order that temporary rates remain in effect until such time as the Commission issues a final order establishing permanent rates;
- C. Grant such other relief as is just and equitable.

Respectfully submitted,

Pittsfield Aqueduct Company, Inc.

By its Attorney,  
NH BROWN LAW, PLLC

Date: November 16, 2020 By:



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Certificate of Service

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

Date: November 16, 2020



Marcia A. Brown, Esq.