

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

DW 22-002

Pennichuck Water Works, Inc., Pennichuck East Utility, Inc., and  
Pittsfield Aqueduct Company, Inc.

Miscellaneous Utility Service Fees

**OBJECTION TO DEPARTMENT MOTION TO SUSPEND**

NOW COMES, Pennichuck Water Works, Inc. (PWW), Pennichuck East Utility, Inc. (PEU), and Pittsfield Aqueduct Company, Inc. (PAC) (together Companies), pursuant to Puc 203.04 and Puc 203.07(e), and hereby respectfully objects to the Department of Energy's (Department) request that the Commission suspend the taking effect of the Companies' rate schedules for up to 12 months. In support of this request, the Companies state as follows:

1. On January 18, 2022, the Companies filed tariff rate schedules to effectuate an increase in the Miscellaneous Utility Service Fees charged by the Companies for: Initiation of Service, Service Pipe Connections, Service Connections and Disconnections, Returned Check Fees, and Design Review/Inspection Fees. These rate schedules are not to effectuate a general increase in the rates of the Companies' customer classes, which, for example, include the Companies' General Metered, Municipal Fire Protection, Public Fire Protection, and Private Fire Protection customer classes. As explained in the petition and testimony, the Miscellaneous Utility Service Fees are cost-based, customer-specific, and do not affect the revenue requirement. The rate schedules would take effect February 18, 2022.

2. On February 14, 2022, the Department filed a letter motion requesting the Commission suspend said tariffs under the authorities of RSA 365:5 and 378:6 so that the Department could conduct an investigation. RSA 365:5 authorizes the Commission and

Department to conduct investigations and the Companies do not dispute that authority. RSA 378:6, however, authorizes suspension of rate schedules for a period “not to exceed 12 months” and, importantly, applies to instances of “general increases in rates”. Here, the Miscellaneous Utility Service Fee rate schedules do not concern a general rate increase to the Companies’ customer classes nor an increase in the Company’s revenue requirement.

3. RSA 541-A:29 expressly states that an “agency shall: 1. “[w]ithin 30 days of receipt, examine the application, petition, or request, notify the applicant of any apparent errors or omissions, request any additional information that the agency is permitted by law to require...”. Next, “[w]ithin a reasonable time, not to exceed 60 days, after receipt of the application, petition or request...the agency shall...approve or deny the application...on the basis of nonadjudicative processes...or...commence an adjudicative proceeding in accordance with this chapter.”

4. While the Commission’s plenary power under RSA 378:7 authorizes the fixing or denying of rates schedules and could be involved to prevent the taking effect of the Companies’ rate schedules, the time period for conducting its examination in this instance is governed by RSA 541-A:29.

5. It is because the Department’s suspension request is open-ended and invokes up to 12 months of investigative time for non-general rate increases, the Companies aver that the Department’s motion fails. Setting aside the issue of whether the Commission can suspend the instant rate schedules under RSA 378:6, the Companies instead seek to address the lack of a path forward and to address compliance with the timely due process review requirement of RSA 541-A:29.

6. The Companies understand that the Department needs time to conduct its investigation, however the intent of RSA 541-A:29 is to not let requests before agencies wallow with no procedural structure. Therefore, the Companies respectfully recommend that the Commission condition any granting of the motion on the Department: (1) timely notifying the Commission and Companies of “any apparent errors or omissions” in the filing; and (2) advising the Commission of its position on the rate schedules prior to the expiration of the 60-day review (Saturday, March 19<sup>th</sup>) such that the Commission can, pursuant to RSA 541-A:29, II, either “approve or deny” the rate schedules or “commence an adjudicative proceeding”.

7. The last time the Companies updated their Miscellaneous Utility Service Fees was in Docket No. 09-102. In that docket, the then-Commission Staff and the Office of the Consumer Advocate (OCA) accomplished their review of the rate schedules and cost calculations within the 30-day notice period, or *nisi* period in the case of OCA. Both Staff and the OCA recommended that the Commission let the tariffs go into effect. That review was conducted under the 30-day and 60-day review provisions of RSA 541-A:29 for nonadjudicative proceedings.

8. Prior to filing this objection, the Companies reached out to the Department to discuss a potential procedural schedule for its review, however, no schedule could be developed this week.

WHEREFORE, the Companies respectfully request the Commission:

- A. Deny the Department's letter motion for lack of specificity; or
- B. Conditionally grant the motion under RSA 378:7 and RSA 541-A:29 with the above suggested conditions concerning timely review and notification of a position; and
- C. Grant such other relief as is just and equitable.

Respectfully submitted,

Pennichuck Water Works, Inc.  
Pennichuck East Utility, Inc.  
Pittsfield Aqueduct Company, Inc.

By its Attorney,  
NH BROWN LAW, PLLC

Dated: February 16, 2022

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Certificate of Service

I hereby certify that a copy of the foregoing pleading has been emailed this day to the docket-related service list for this docket.

Marcia A. Brown  
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