

# **TAB 9**

**Temporary Rate Petition**

**RSA 378:27 and RSA 378:29**

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

Docket No. DW 22-032

Pennichuck Water Works, Inc.  
Permanent Rate Proceeding

**PETITION FOR TEMPORARY RATES**

NOW COMES, Pennichuck Water Works, Inc. (PWW 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 in the event the New Hampshire Public Utility Commission (Commission) suspends the taking effect of PWW's permanent rate tariffs, that it approve temporary rates for PWW at the levels noted in the attached temporary rate schedules. PWW requests these temporary rates be effective on a service rendered basis thirty (30) days after the date of this petition. In support of its petition, PWW states as follows:

1. PWW filed its notice of intent to file rate schedules with the Commission on May 20, 2022. By Secretarial Letter dated May 24, 2022, the Commission acknowledged PWW's notice and docketed the notice as DW 22-032. On June 2, 2022, the Department of Energy (Department) filed its appearance.

2. PWW is filing this petition for temporary rates even though the issue is not presently justiciable. PWW presumes that the Commission will suspend PWW's permanent rate tariffs and will not on its own accord order temporary rates. RSA 378:27. For that reason, PWW believes it is proper and reasonable to file this temporary rate petition with its permanent rate filing (Rate Filing) for the Commission's consideration once it suspends the taking effect of

PWW's permanent rate tariffs. See, *Salem Coalition for Caution v. Salem*, 121 N.H. 694, 696 (1981) (an action cannot be based on a hypothetical set of facts.)

3. 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, 659-660 (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 records and reports are the utility's annual reports." "Temporary rates shall be determined expeditiously, without such investigation as might be deemed necessary to a determination of permanent rates.")

4. As is detailed in the accompanying temporary rate testimony as well as in PWW's permanent rate testimony and supporting materials in its Rate Filing, PWW's books and records on file with the Commission, in particular, Schedule A, illustrate PWW has a revenue deficiency. PWW's current revenues are too low to cover all of the cash flow needs of its ongoing operations, including: principal and interest payments on its external debt, principal and interest payments to PWW's parent, Pennichuck Corporation, and to cover PWW's necessary and prudent operating expenses. Using the ratemaking methodology approved in DW19-084 (Order No. 26,383) for the

twelve months ended December 31, 2021, which is the test year used in this docket, PWW's rate of return is 3.00%, based on the test year's weighted average cost of debt and a return on equity of 5.05%. The revenue deficiency under the current ratemaking methodology for the twelve months ended December 31, 2021, was \$4,722,302 and would result in a revenue increase of 13.06%. This revenue deficiency calculation is based on PWW's actual performance during the test period including pro forma adjustments. The pro forma adjustments are explained in detail in Mr. Ware's permanent rate testimony. Based on a pro forma test year, under PWW's modified ratemaking methodology, which includes a 5-year trailing average calculation for certain items of the allowed revenue calculations, PWW would be entitled to a permanent revenue increase of 13.06% based on a revenue deficiency of \$4,722,302, as shown on Schedule A.

5. PWW's requested permanent rate increase would be an overall customer rate increase of 13.06%, although each rate class may have a different percent increase. Regardless of the individual customer class rate changes, because of the size of this needed revenue increase, and its potential impact on customer rates and bills if it were to be implemented as one rate increase, PWW recommends mitigating the potential rate shock by phasing-in the rate increase. As such, PWW requests temporary rates be set at a 7.21% increase over the rates approved in DW 19-084, across all customer classes.

6. The Commission has approved an ongoing Qualified Capital Project Adjustment Charge (QCPAC) program for PWW. As part of that program, the Commission has approved PWW's 2019 and 2020 Qualified Capital Projects (QCP) in Docket No. DW 20-020 (Order No. 26,555 at 3.90%) and Docket No. DW 21-023 (Order No. 26,598 and Order No. 26,605), for a combined total QCPAC surcharge of 5.46%. PWW's request for approval of its 2021 QCPs has

been docketed as DW 22-006 and, when approved would result in an increase of 1.75%. Cumulatively, these QCPAC surcharges would be approximately 7.21%. If, and only if, temporary rates are approved equal to the value of the aggregate QCPAC surcharges already approved, or in the process of being approved, as was done in the Pennichuck East Utility, Inc. permanent rate proceeding in Docket No. DW 20-156, PWW would be willing to consider temporarily suspending collection of the QCPAC surcharge so long as the overall temporary rates approved do not interrupt the timing and value of the collection of these necessary QCPAC cash flows in any manner to service existing debt obligations. PWW would be willing to pursue suspending collection of the QCPAC for the simple reason that, if temporary rates are granted in this manner, it would allow the billing of these monies in a far less confusing manner to customers. PWW believes suspending the QCPAC charge during the time temporary rates are in place will be less confusing to customers because customer bills will not change multiple times during the pendency of PWW's permanent rate proceeding, and the number of "line items" on customer bills would be reduced from four items to one. The incorporation of the approved 5.46% and the sought 1.75% QCPAC increases into the requested temporary rate increase of 7.21% results in temporary rates that are approximately 50% of the revenue increase sought in PWW's Rate Filing.

7. PWW believes suspending the collection of the QCPAC surcharge while temporary rates are in place would balance the interests of PWW and its customers in this rate case, would result in less frequent rate changes experienced by customers during this rate case, would mitigate rate shock from the implementation of the permanent rate, and would result in just and reasonable rates. However, it is vitally important to note that this transference would need to be seamless as to the collection of monies, as they are converted from the QCPAC

surcharges to the temp rates authorized. This is vitally important, as the QCPAC surcharges authorized, or in pendency for approval, are directly tied to the cash flow needs to service already issued debt obligations.

8. Temporary rates are protective of customers because they are reconciled at the conclusion of the rate proceeding. This proposed increase is consistent with the requirements of RSA 378:27, which provides that “temporary rates shall be sufficient to yield not less than a reasonable return on the cost of property of the utility used and useful in the public service less accrued depreciation...”. Additionally, temporary rates are necessary because unless temporary rate relief is granted, and if the Commission suspends PWW’s permanent rate tariffs, continuation of PWW’s inadequate revenues will result in the confiscation of the Company’s property. PWW is proposing to implement the temporary rate increase by increasing all customers’ bills by the same percentage while maintaining the current rate design, and class adjustments authorized in Order No. 26,383 in DW 19-084, during the pendency of the case. A comparison of current rates versus the proposed temporary rates is illustrated on the attached draft track-change and final clean tariff pages.

9. 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.”) See, *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 is filing its rate schedules and tariffs today, and therefore, to provide the thirty (30) days’ notice to customers, PWW has set the temporary rates to be well within the governing statutes and caselaw, for effect on a service-rendered basis on August 1, 2022.

10. 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 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 PWW at its current rate levels, effective August 1, 2022;
- 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,

Pennichuck Water Works, Inc.

By its Attorney,  
NH BROWN LAW, PLLC

Date: June 27, 2022

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: June 27, 2022

*Marcia A. Brown*  
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