

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 17-128

PENNICHUCK EAST UTILITY, INC.

Petition for Change in Rates

Order Suspending Tariff and Establishing Prehearing Conference

ORDER NO. 26,074

November 16, 2017

This order suspends a proposed tariff filed by Pennichuck East Utility, Inc., that, if approved, would increase the Company's rates by approximately 20 percent; and schedules a prehearing conference.

On August 16, 2017, Pennichuck East Utility, Inc. (PEU or Company), a water utility serving communities in central and southern New Hampshire, filed a notice of intent to file rate schedules seeking an increase in permanent rates, along with temporary rates. The Office of Consumer Advocate (OCA) filed a notice of participation pursuant to RSA 363:28 on August 29, 2017. On September 26, 2017, the Company filed with the Commission a petition for a permanent increase and step adjustment pursuant to RSA 378:3 and 378:27-28, and for temporary rates pursuant to RSA 378:27.

On October 16, 2017, after identifying errors in its petition, PEU filed a motion to withdraw its original September 26 petition and replace it with a new filing, which was made on October 18, 2017. In the October 18 filing, PEU included a request to waive N.H. Code Admin. Rules Puc1604.05(c)(1), which requires that a rate case be filed no more than 60 days from the original notice of intent. On October 25, 2017, the Commission issued a secretarial letter granting the requested waiver pursuant to Puc 201.05 and accepting the withdrawal of the

September 26 petition. The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted to the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2017/17-128.html>.

PEU seeks an overall permanent increase in its annual water revenues of approximately \$1.3 million, or 20 percent, and proposes a step adjustment of an additional approximately \$80,000, or 1 percent. The step adjustment is to account for the Company's asset additions made in 2017.

From the perspective of ratemaking under the standards of RSA 378, PEU has a unique ownership and capital structure that was approved by the Commission in Docket No. DW 11-026, Order No. 25,292 (November 23, 2011). Under this structure, PEU's ultimate owner is the City of Nashua, a municipal government, and, for purposes of ratemaking, the Company has no equity funding in its capital structure. Instead, its operations and capital requirements are almost completely funded through debt.

In the instant petition, PEU requests certain technical modifications to its ratemaking treatment to better suit its current business structure.¹ Specifically, PEU asserts that a new ratemaking structure is needed because it currently has lender covenants in place that it cannot satisfy and still cover its cash flow obligations. According to the Company, the cash flow generated from depreciation does not fully cover the principal repayments of its debt.

PEU proposes to use a five-year trailing average to develop its test year for the 12 months ending December 31, 2016. Because the impact of moving to the five-year trailing average is significant in this case, PEU also proposes to phase in the full effect of the five-year test year revenue by implementing 50 percent of the impact of that change in this rate case and the full

¹ See *Pennichuck Water Works, Inc.*, Order No. 26,070 (November 7, 2017) for Commission approval of a similar ratemaking methodology for Pennichuck Water Works, Inc.

impact in the next rate case. In addition, PEU seeks approval for the establishment of three Rate Stabilization Funds (RSFs) to be used as necessary to ensure adequate cash flow for the three components of PEU's revenue requirement going forward: operating expenses; debt service; and PEU's share of the debt service on the City of Nashua's acquisition debt. Those RSFs are to be funded out of the original \$5 million RSF established in Docket No. DW 11-026.

PEU states that the requested permanent rate increase is necessary due to continued infrastructure improvements (of over \$7.5 million) made to its physical plant since its last rate case, and because current rates are not adequate to fund the repayment of the associated debt. In addition, the Company argues that its operating expenses, which include increases in property taxes, have increased at rates at or above the general prevailing rate of inflation.

PEU also proposes to modify the North Country Capital Recovery Surcharge (CRS), approved in 2009 and intended to recover the acquisition and improvement costs for systems in North Conway, Middleton, and Barnstead. Order No. 25,051 (December 11, 2009) in DW 08-052. PEU intends to refinance two issues of intercompany debt on a 30-year term, providing a reduction in the CRS for its North Conway and Barnstead customers.

PEU proposes a temporary rate increase to its annual operating revenues of approximately \$1 million, or 16 percent, an amount that represents approximately 80 percent of its requested \$1.3 million permanent rate increase. The Company states that the approval of temporary rates will allow PEU to collect sufficient revenues to satisfy its principal and interest obligations, and its debt covenant requirements, during the pendency of the proceeding. The Company also states that the approval of temporary rates will serve to mitigate rate shock should the Commission ultimately approve permanent rates and their requested step adjustments. If

temporary rates are approved, customer bills will be reconciled with the permanent rates approved by the Commission at the conclusion of this proceeding.

This filing raises, *inter alia*, issues related to: modifications of the ratemaking methodology approved by Order No. 25,292 in Docket No. DW 11-026; whether the proposed ratemaking modifications are consistent with Order No. 25,292; what standards would apply to the modification; whether the rates are just and reasonable pursuant to RSA 374:2 and RSA 378 including all ratemaking sub-components and the accuracy of all rate petition schedules; and the justness and reasonableness of proposed modifications to ratemaking methodologies related to PEU's "North Country surcharge" currently charged to customers located in North Conway, Middleton, and Barnstead.

The increases requested by PEU require a full investigation, and thus suspension of the tariff under RSA 378:6, I(a) is appropriate. Each party has the right to have an attorney represent the party at the party's own expense.

Based upon the foregoing, it is hereby

ORDERED, that Pennichuck East Utility's proposed revised tariff pages, for temporary and permanent rates, presented on Bates Pages 308 through 370 of its October 18, 2017, revised rate filing, are hereby SUSPENDED pursuant to RSA 378:6, I(a), pending an investigation and an order of the Commission; and it is

FURTHER ORDERED, that a Prehearing Conference pursuant to N.H. Code Admin. Rules Puc 203.15 be held before the Commission located at 21 S. Fruit Street, Suite 10, Concord New Hampshire on December 20, 2017, at 1:30 PM at which each party will provide a preliminary statement of its position with regard to the petition and any of the issues set forth in N.H. Code Admin. Rules Puc 203.15 shall be considered; and it is

FURTHER ORDERED, that immediately following the Prehearing Conference, Pennichuck East Utility, Inc., the Staff of the Commission, the OCA, and any Intervenors hold a Technical Session to review the petition and to allow Pennichuck East Utility, Inc. to provide any amendments or updates to its filing and to consider a proposed procedural schedule to govern the remainder of the proceedings in this docket; and it is

FURTHER ORDERED, that pursuant to N.H. Code Admin Rules Puc 203.12, Pennichuck East Utility, Inc., shall notify all persons desiring to be heard at this hearing by publishing a copy of this Order no later than December 6, 2017, in a newspaper with general circulation in those portions of the state in which operations are conducted, publication to be documented by affidavit filed with the Commission on or before December 20, 2017; and it is

FURTHER ORDERED, that pursuant to N.H. Code Admin. Rules Puc 203.12, Pennichuck East Utility, Inc. shall notify all persons desiring to be heard at this hearing by mailing a copy of this Order to the Clerks of the Towns of Atkinson, Barnstead, Bow, Chester, Conway, Derry, Exeter, Hooksett, Lee, Litchfield, Londonderry, Middleton, Pelham, Plaistow, Raymond, Sandown, Tilton, Weare, and Windham by first-class U.S. mail, postmarked no later than December 6, 2017, and documented by affidavit filed with the Commission on or before December 20, 2017; and it is

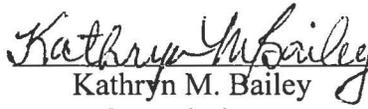
FURTHER ORDERED, that pursuant to N.H. Code Admin. Rules Puc 203.17, any party seeking to intervene in the proceeding shall submit to the Commission seven copies of a petition to intervene with copies sent to Pennichuck East Utility, Inc., and the OCA, on or before December 18, 2017, such petition stating the facts demonstrating how its rights, duties, privileges, immunities or other substantial interests may be affected by this proceeding; and it is

FURTHER ORDERED, that any party objecting to a petition to intervene make said objection on or before December 20, 2017.

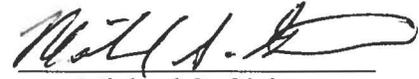
By order of the Public Utilities Commission of New Hampshire this



Martin P. Honigberg
Chairman



Kathryn M. Bailey
Commissioner



Michael S. Giaimo
Commissioner

Attested by:



Debra A. Howland
Executive Director