

TAB 5

Petition and Proposed Tariff Pages for Temporary Rates

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Docket No. DW 20-156

Pennichuck East Utility, Inc.
Permanent Rate Proceeding

PETITION FOR TEMPORARY RATES

NOW COMES, Pennichuck East Utility, Inc. (“PEU” 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”) approve temporary rates for PEU at the levels noted in the attached temporary rate schedules. PEU requests these temporary rates be effective on a service rendered basis thirty (30) days after the date of this filing. In support of its petition, PEU states as follows:

1. PEU filed its notice of intent to file rate schedules with the Commission on September 23, 2020, which the Commission acknowledged by Secretarial Letter dated September 25, 2020. PEU 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, 659-660 (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.”)

3. As is detailed in the accompanying testimony, PEU’s books and records on file with the Commission as well as its Rate Filing demonstrate that it needs rate relief. As shown on Puc 1604.06 Schedule A and Schedule 1 of the Rate Filing, and based on the rate-making methodology approved in Docket No. DW 17-128 and inclusive of the North Country Capital Recovery Surcharge (“NCCRS”) and Qualified Capital Project Adjustment Charge (QCPAC), PEU’s 2019 pro formed test year revenue needs were \$10,715,419 while its actual revenues were \$8,819,088. The computation of the revenue deficiency results in a needed revenue increase of 21.05%. To the extent necessary to support this petition, PEU incorporates by reference the testimony and supporting materials filed in support of its permanent Rate Filing.

4. PEU’s current revenues are too low to cover principal and interest payments to PEU’s parent, Pennichuck Corporation, and cover PEU’s operating expenses. As stated above, PEU is seeking an overall revenue increase of 21.05%. This translates into an overall customer rate increase of 21.05%, although each rate class may have a different percent increase at the conclusion of PEU’s permanent rate proceeding. 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, PEU recommends mitigating the potential rate shock by phasing-in the rate increase. As such, PEU requests temporary rates be set at a 15% increase over the rates approved in DW 17-128, across all customer classes. The QCPAC approved for 2018 QCP's granted in DW 19-035 at 2.98% and the QCPAC sought for 2019 QCP's in DW 20-019 at 1.97% will be eliminated if temporary rates are granted. PEU believes eliminating the QCPAC charge will be less confusing to customers because customer bills will not change multiple times during the pendency of this rate proceeding. As noted in the attached joint testimony, stripping away the impact of the 1.97% and 2.98% QCPAC increases, the increase solely attributed to temporary rates is approximately 10%; or less than half of the revenue increase sought in PEU's Rate Filing. PEU believes approving a temporary rate increase balances the interests of PEU and its customers, will result in less frequent rate changes on account of removal of the QCPAC increase and will result in just and reasonable rates. Temporary rates are protective of customers because they are reconciled at the conclusion of the rate proceeding even if there are rate changes due to a cost of service study. 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, PEU's inadequate revenues will result in the confiscation of the Company's property. PEU is proposing to implement the temporary rate increase by increasing all customers' bills by the same percentage while maintaining the current rate design during the pendency of the case. A comparison of current rates versus the proposed temporary rates is illustrated on the attached draft, track-change, tariff pages.

5. This request to establish temporary rates (as opposed to some other rate level) is not presently a justiciable issue but PEU presumes that the Commission will suspend PEU's permanent rate tariffs and will not on its own accord order temporary rates. Therefore, PEU believes it is proper and reasonable to file its temporary rate request with its Rate Filing.

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.”) 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, PEU is filing its rate schedules and tariffs today, and therefore, to provide the thirty (30) day’s notice, PEU has set the temporary rates to be effective December 24, 2020.

7. In conclusion, based on the books and records on file with the Commission, including the testimony attached hereto, PEU 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 PEU at its current rate levels, effective December 24, 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 23, 2020 By: *Marcia A. Brown*
Marcia A. Brown, Esq.
20 Noble Street
Somersworth, NH 03878
(603) 219-4911
mab@nhbrownlaw.com

CLIFFORD LAW OFFICES, PLLC

Date: November 23, 2020 By: 
John S.G. Clifford, Esq.
4 Little Rabbit Lane
Kiawah Island, SC 29455
(914) 584-1628
profilelaw@gmail.com

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 23, 2020 *Marcia A. Brown*
Marcia A. Brown, Esq.