

DW 01-081

PENNICHUCK WATER WORKS, INC.

Petition for Permanent and Temporary Rate Increase

Order Approving Temporary Rates

O R D E R N O. 23,770

August 31, 2001

APPEARANCES: McLane, Graf, Raulerson and Middleton by Steven V. Camerino, Esq. on behalf of Pennichuck Water Works, Inc. and Marcia A. B. Thunberg, Esq., on behalf of Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY AND BACKGROUND

Pennichuck Water Works, Inc. (Pennichuck or the Petitioner) filed with the New Hampshire Public Utilities Commission (Commission), on April 17, 2001, a notice of intent to file rate schedules. On June 8, 2001, Pennichuck filed a petition for a 20.09% increase in permanent rates attributable to an overall increase in annual revenues of \$2,506,131, to be effective on July 8, 2001. The Petition was accompanied by testimony from Messrs. Maurice L. Arel, Stephen J. Densberger, Charles J. Staab, Henry G. Mulle, Donald L. Ware, and Ms. Bonalyn J. Hartley. Pennichuck also filed on June 8, 2001, a Petition for Temporary Rates in the amount of \$1,137,610, or 9.12% over current rates.

Pennichuck serves the southern New Hampshire area, operating a core system that serves Nashua, Amherst, Merrimack, and portions of Milford, Hollis and Bedford, as well as a number of

independent community systems serving portions of Epping, Derry, Bedford, Milford, Plaistow, Newmarket, and Salem.

By Commission Order No. 23,736 (June 29, 2001), a Prehearing Conference was held on July 12, 2001 and a hearing on Pennichuck's request for temporary rates was scheduled for July 31, 2001. The Commission received a petition to intervene from Mr. Fred Teeboom, which was granted.

A prehearing conference was held July 12, 2001, and the Commission approved the parties proposed procedural schedule on July 30, 2001. A hearing on temporary rates was held on July 31, 2001.

II. POSITIONS OF THE PARTIES AND STAFF

A. Pennichuck Water Works

In its Petition, Pennichuck asserts that the increase in revenues is required because it is not earning a return adequate to cover its cost of capital or a reasonable return on the actual cost of its property used and useful in the public service. The Petitioner contends that its overall rate of return was 7.08% for the test year ending December 31, 2000, which is 126 basis points below the Petitioner's currently allowed rate of return of 8.34%. Similarly, the company's return on equity for the test year was 6.88%, or 347 basis points below the allowed return on equity of 10.35%.

The Company initially requested a temporary rate increase

of 9.12%. After reviewing testimony filed by Staff, the Company adjusted its request to 8.52% prior to the temporary rate hearing. In support of its request for a rate increase, the Company cited the long term construction projects associated with the City of Nashua's combined sewer overflow project improvements pursuant to the Safe Drinking Water Act upgrades, other rate base additions, increased labor costs, and increases in operation and maintenance.

The Company increased its actual test year revenue deficiency from 6.45% to 8.52% based on certain pro forma adjustments to reflect annualization, or normalization, of known changes in conditions occurring during and after the test year.

B. Staff

Staff recommended the Commission increase rates by 6.45%, the actual proposed revenue increase calculated on the twelve month test year ending December 31, 2000. Staff distinguished the Company's request for an increase of 8.52% as based on selected pro forma adjustments to the actual test year results. Acknowledging the Commission's discretion in setting rates pursuant to RSA 378:27, Staff argued such adjustments, however, were more appropriate for a permanent rate hearing when formal discovery would allow staff time to review the just and reasonableness of the rate adjustment. Since no discovery provisions are established for setting temporary rates, Staff urged the Commission to adopt the actual revenue deficiency

since it complies with Commission accounting rules and is based upon reports of the Company filed with the Commission.

Staff recommended the Commission not grant the Company's request for waiver of Puc 1203.05, which requires rate changes be implemented on a service rendered basis. Staff noted that the Order of Notice, putting the public on notice of the rate increase was issued June 29, 2001 and, thus, did not put the public on notice of a rate increase effective prior to that date. The Company's proposal to implement the rate increase on a bills rendered basis would result in customers being charged the higher rate prior to their being noticed and given the opportunity to adjust their water consumption.

III. COMMISSION ANALYSIS

RSA 378:27 authorizes this Commission to grant temporary rates if, in its opinion, the public interest so requires and the records of the Company on file with the Commission indicate it is not earning a reasonable return on its property used and useful in the public service. 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. See New England Telephone & Telegraph v. State, 95 N.H. 515, 518 (1949).

Having reviewed the evidence presented regarding temporary rates, we find Pennichuck Water Works is entitled to an increase in rates on a temporary basis, subject to reconciliation at the

conclusion of the permanent rate case. Pennichuck Water Works demonstrated that it is currently underearning and that this underearning would disadvantage both the Company and its ratepayers.

Neither the Commission Staff nor the Company believed that the ultimate permanent rate would be below the Company's requested temporary rate. Allowing the Company to set temporary rates at a level lower than the requested permanent rate, but higher than the current rates, may have the benefit of rate gradualism for customers. In addition, the Commission notes that the Company calculated its requested 8.52% temporary rate increase in a manner consistent with its prior temporary rate filing. Accordingly, for all of the aforesaid reasons, we will allow an increase of 8.52% which is slightly less than half of the requested permanent rate increase.

With respect to the effective date of the temporary rate increase, we note that the earliest date on which the Commission can order such increase is the date on which the petition for a permanent rate change is filed. Appeal of Pennichuck Water Works, 120 NH 562, 567 (1980). "In no event may temporary rates be made effective as to *services rendered* before the date on which the permanent rate request is filed." Id.

In this case, approval of a September 8, 2001 bills rendered implementation date would result in the higher rate being applied to usage since June 8, 2001, the date on which the Petition

was filed. Pennichuck produced evidence that customers had notice of the proposed rate increase by virtue of various newspaper articles, the earliest of which was published on April 17, 2001. In light of this notice, customers have had the opportunity to adjust their usage prior to the earliest date on which a temporary rate increase could become effective. Accordingly, we find that the September 8, 2001 bills rendered effective date to be just, reasonable and consistent with applicable case law.

Based on the foregoing, it is hereby

ORDERED, that Pennichuck Water Works' petition for temporary rates is GRANTED on a bills rendered basis effective September 8, 2001; and it is

FURTHER ORDERED, that Pennichuck Water Works shall submit tariff pages in compliance with this order within 15 days.

By order of the Public Utilities Commission of New
Hampshire this thirty-first day of August, 2001.

Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Claire D. DiCicco
Assistant Secretary