

DW 01-025

PENNICHUCK WATER WORKS

Petition for System Upgrade Fee

Order Granting Fee

O R D E R N O. 23,780

September 21, 2001

APPEARANCES: McLane, Graf, Raulerson & Middleton, Sarah Knowlton, Esq., on behalf of Pennichuck Water Works, Inc., Kenneth Traum, Office of the Consumer Advocate, on behalf of Residential Ratepayers and Lynmarie Cusack, Esq., for the Staff of the New Hampshire Public Utilities Commission.

I. BACKGROUND

Pennichuck Water Works, Inc. and Pennichuck East Utility, subsidiaries of Pennichuck Corporation (Pennichuck) filed a letter with the New Hampshire Public Utilities Commission (Commission) on February 6, 2001, indicating a desire to implement a system upgrade fee for new water customers in certain parts of its water system.

The letter indicated the purpose of the fee was to recover costs incurred by Pennichuck for improvements to the system which were required to provide service to new customers, to allow expansion of the system in lieu of private wells, and to allow for the development of a regional water system.

The Commission opened a docket and issued an

Order of Notice providing for a prehearing conference on April 9, 2001. Subsequent to the hearing the Commission issued Order No. 23,683, dated April 20, 2001, which provides further detail on the background of the case. After the issuance of the Order, the Office of the Consumer Advocate (OCA) notified the Commission of its desire to participate in the docket on behalf of residential ratepayers. Thereafter the OCA participated as a full intervenor in the docket.

In August, 2001, the Parties and Staff reached an agreement with regard to the application of a system upgrade fee. Pennichuck presented the Stipulation and Settlement Agreement to the Commission at a public hearing on August 28, 2001.

II. SETTLEMENT AGREEMENT

The Settlement Agreement provides a joint recommendation regarding the imposition of a system upgrade fee by Pennichuck. This proposal is included in the amended draft tariff pages attached to the Agreement.

Under this proposal, Pennichuck will not submit a request for payment of a system upgrade fee to the end-user customers. The fee will be charged to the developer

of the subdivision or other project. Moreover, Pennichuck will only be allowed to recover the embedded cost of the system improvement. If any cost savings are associated with a project an analysis would be conducted to determine necessary fee reductions. The Settlement Agreement also provides that before any fee is charged the Commission will be notified of the proposed system improvement and that a prudency review may be undertaken at any appropriate time.

Under the Agreement, the system upgrade fee is allocated to customers based on the customers' receipt of benefits from the upgrade. For example, if only new customers received the benefit of a system improvement, then the cost of the improvement is divided on a pro-rata basis by the number of new customers. If the proposed improvement resulted in improved service to existing customers as well, then the cost of the improvement is divided between the new and existing customers. The cost for new customers would be recovered through the system upgrade fee, and the cost to the existing customers incorporated as part of the Company's rate base. The customers' pro rata share of the fee would be based on the equivalent meter size as defined in the American

Water Works Association Manual M-6. The Parties and Staff also agreed that the standards for determining whether improvements benefited existing customers should be explicit and based on increasing water pressure, updating fire protection, and improving water quality.

III. COMMISSION ANALYSIS

Under RSA 378:5 and 378:7 the Commission may approve proposed rates and charges only after we find them to be just, reasonable and lawful.

In determining if the system upgrade fee is just, reasonable and lawful, consideration should be given to whether, (1) the proposed fee is calculated correctly based on costs, (2) collection of the fee in advance of construction is permissible, and (3) the rate structure equitably recovers the revenues from the affected class of users. *See Re Pembroke Water Works*, 73 NH PUC 449 (1988) (granting approval of a municipal water utility's request to implement a service connection fee for new water connections).

The Stipulation reached by the Company, OCA and Staff addresses each of the factors we must evaluate. First, paragraph 11 of the stipulation provides that any fee to be assessed must be a "direct function of the

costs of the capital improvement." Moreover, the stipulation at paragraph 9 states that prior to the commencement of the project the Company is required to file a Form E-22 with the Commission detailing the improvement and the associated costs of the improvement.

The stipulation and the proposed tariff also discuss how customers will be assessed their pro-rata share of the cost. These provisions assure that the fee will be calculated correctly based on costs.

Second, the fee is to be primarily collected from a developer. As such, the fees will be treated as contribution in aid of construction and accounted for as such. This accounting allows for collection of the fee in advance of construction. Third, the stipulation addresses how the revenue will be collected from the affected class of users. If existing customers benefit from any system improvement those customers would be assessed their share of the project with that share being incorporated into rate base and recovered once rates are set as a result of the next base rate case. This proposal equitably allocates the costs of the system upgrades.

In conclusion, we find that the Settlement

Agreement's proposal of a system upgrade fee satisfies the three prong test set forth in Pembroke Water Works.

Accordingly, after reviewing the stipulation, proposed tariffs and the testimony of Mr. Donald Ware, Pennichuck Chief Engineer, we believe that the system upgrade fee is just reasonable and consistent with the public good.

We, therefore, accept the Stipulation and Agreement without modification.

Based upon the foregoing, it is hereby

ORDERED, that the Stipulation and Agreement among Pennichuck Water Works, the Office of the Consumer Advocate and Staff is hereby approved; and it is

FURTHER ORDERED, that Pennichuck Water Works submit revised tariffs for both Pennichuck Water Works and Pennichuck East Utility, with an effective date of October 1, 2001.

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

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary