

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 10-090

PITTSFIELD AQUEDUCT COMPANY, INC.

Permanent and Temporary Rate Increase

Order Approving Temporary Rates

ORDER NO. 25,154

October 8, 2010

APPEARANCES: McLane, Graf, Raulerson & Middleton, P.A. by Sarah B. Knowlton, Esq., for Pittsfield Aqueduct Company, Inc.; Mitchell Municipal Group, P.A. by Laura A. Spector, Esq., for Town of Pittsfield; Office of the Consumer Advocate by Meredith A. Hatfield, Esq., on behalf of residential ratepayers; and Staff of the Public Utilities Commission by Marcia A. B. Thunberg, Esq.

I. PROCEDURAL HISTORY

Pittsfield Aqueduct Company, Inc. (PAC) provides water service to approximately 650 customers in the Town of Pittsfield. On April 6, 2010, PAC filed a notice of intent to file rate schedules increasing its rates. On May 6, 2010, PAC filed revised tariff pages that were designed to increase its annual revenues by \$121,328, or 19.98%. PAC also filed for a step increase to its revenue requirement by \$32,230, to recover plant additions placed in service during 2010. Combined, the revenue increases sought by PAC total 25.29%. PAC further requested a Water Infrastructure and Conservation Adjustment (WICA) surcharge to cover the replacement and rehabilitation of water main, water services, water gate valves, fire hydrants, and water meters. This WICA charge, if approved, would allow PAC to increase its rates annually between 5% and 7.5% between rate cases. Lastly, PAC sought a temporary increase to its revenue requirement of \$115,355, or an overall increase of 19%, to take effect with service rendered on and after June 6, 2010.

On April 23, 2010, the Office of Consumer Advocate (OCA) filed a letter stating that it would be participating on behalf of residential ratepayers. On June 21, 2010, the Town of Pittsfield filed a Petition to Intervene. On June 4, 2010, the Commission issued Order No. 25,106, suspending PAC's proposed tariffs and scheduling a prehearing conference for July 14, 2010. On June 24, 2010, PAC filed affidavits of publication verifying that the Commission's order was published in the *Concord Monitor* on June 15, 2010 and in the *Suncook Valley Sun* on June 16, 2010.

The prehearing conference was held as scheduled and the Commission granted intervenor status to the Town of Pittsfield. After the conclusion of the prehearing conference, PAC, the OCA, Staff, and the Town of Pittsfield participated in a technical session and developed a proposed procedural schedule to govern the remainder of the proceeding, which the Commission approved on July 19, 2010. After an initial round of discovery, on September 8, 2010, Staff and PAC filed a settlement agreement on temporary rates and presented the agreement at the hearing held on September 15, 2010.

II. POSITIONS OF THE PARTIES AND STAFF

A. Pittsfield Aqueduct Company, Inc. and Staff

The positions of PAC and Staff are embodied in the settlement agreement set forth below.

B. Town of Pittsfield

The Town of Pittsfield noted that, while it did not sign the settlement agreement, it had no objection to the agreement.

C. Office of the Consumer Advocate

The OCA took no position on the settlement agreement. The OCA stated that it was pleased that Staff and PAC deferred the issue of rate design until the permanent rate phase of the case. OCA also stated it appreciated Staff and PAC agreeing to strike a provision in the settlement agreement that would have allowed PAC to recover revenues it would be entitled to receive but did not actually bill customers for the period June 16, 2010 to the date temporary rates are approved.

III. SETTLEMENT AGREEMENT

A. REVENUE REQUIREMENT

Staff and PAC recommend that the Commission authorize a temporary increase in PAC's revenue requirement by \$60,713, or 10%, to \$667,846 and to raise customer rates currently in effect by 10%.

B. RATE DESIGN

Staff and PAC recommend no changes to PAC's current rate design.

C. EFFECTIVE DATE AND RECOUPMENT

Staff and PAC recommend the proposed temporary rates be effective for service rendered on and after June 16, 2010, and that any difference between the temporary rates and permanent rates ultimately determined by the Commission be reconciled pursuant to RSA 378:29.

IV. COMMISSION ANALYSIS

Pursuant to RSA 378:27, the Commission may approve reasonable temporary rates for the duration of the proceeding if, in its opinion, the public interest so requires and the reports of the public utility on file with the Commission indicate it is not earning a reasonable return on its

property used and useful in the public service. The standard for approval of temporary rates is less stringent than that for permanent rates. *Appeal of Office of Consumer Advocate*, 134 N.H. 651, 660 (1991). RSA 378:27 also contemplates that, in fixing temporary rates, the necessary allocation of costs shall be made by reasonably practical and expeditious means, without such investigation as might be deemed necessary to a determination of permanent rates. *New England Telephone & Telegraph Co. v. State*, 95 N.H. 515, 518 (1949). Neither the method of allocation nor its result needs to be adopted in the final establishment of permanent rates. *Id.*

The temporary rate request before us includes a proposal for an increase in PAC's revenue requirement by a total of \$60,713. The purpose of this temporary increase is to allow PAC to earn a reasonable rate of return until permanent rates are set. Exh. 1 at 7 and 3. Staff testified that the temporary increase would not cause PAC to over-earn. 9/15/10 Tr. at 20. PAC's temporary rate filing supports the conclusion that it is not earning a reasonable return on its property used and useful in the public service. PAC's last authorized rate of return on net plant in service was 8.07%. According to PAC, the pro forma test year reflects a 3.86% overall rate of return. Exh. 1 at 7. As of the end of February 2010, PAC's calculated actual rate of return was 2.95%. *Id.* at 8. We understand that much of the decline in the rate of return is due to mandated capital improvements, replacement of aging infrastructure, increased property taxes, increased liability insurance for two reservoir dams, and decreased revenue from declining sales. Exh. 1 at 9. The extent to which such investments are deemed prudent, used and useful in the public service, and therefore allowed into rate base, will be fully examined as part of our review of permanent rates. At this time, we find that a temporary increase in PAC's revenue requirement is warranted and in the public interest.

If temporary rates are approved as proposed in the settlement, PAC calculated that the bill for an average residential customer in Pittsfield would rise by \$57.30 from \$571.15 to \$628.45 annually or by \$4.77 from \$47.60 to \$52.37 monthly. Exh. 2 at 8. PAC noted that the average usage per customer has declined from 7.3 hundred cubic feet to 5.37 hundred cubic feet. 9/15/10 Tr. at 16. As a result of this decline in usage, temporary monthly rates for PAC's non-metered customers would decline from \$54.29 to \$52.38. Exh. 2 at 12.¹ The temporary rate increase approved herein is approximately half of the permanent increase sought by PAC, 19.98%, and is less than the combined permanent and step increase amount sought by PAC of 25.29%. The OCA and Town of Pittsfield do not object to the temporary rates proposed by Staff and PAC.

Temporary rates serve to mitigate potential rate shock to customers and reduce the magnitude of any recoupment between temporary rates and permanent rates at the conclusion of a proceeding. PAC and its customers are protected because, pursuant to RSA 378:29, the temporary and permanent revenue requirements and rates will be fully reconciled upon final disposition of the issues involved in this proceeding. This reconciliation provision protects both PAC and its customers because PAC will only recover the revenue requirement finally determined and customers will pay net rates no higher than those authorized. We find, therefore, that the proposed temporary rate increase is appropriate, just, and reasonable although we recognize that the percentage increase in customer rates may ultimately change as we consider PAC's proposed allocation of its revenue requirement among the customer classes in the permanent rate phase of this proceeding.

¹ PAC currently has no non-metered customers but maintains the rate class for customers who are awaiting meter installation. Exh. 2 at 7.

Staff and PAC recommend that the temporary rates go into effect for service taken on or after June 16, 2010. At hearing, PAC testified that June 16, 2010 was the date PAC published notices of the proposed rate increases in area newspapers and was also the date PAC mailed each customer a copy of the suspension order identifying the proposed rate increases. 9/15/10 Tr. at 20. Thus, customers have been put on notice of the proposed changes in rates and have had an opportunity to adjust their consumption or adjust to the proposed increased rate. We find this effective date to be reasonable and consistent with *Appeal of Pennichuck Water Works, Inc.*, 120 N.H. 562, 567 (1980) in which the Court held that the earliest date on which temporary rates may take effect is, on a service-rendered basis, the date on which the utility files its underlying request for a change in its permanent rates. Also, the effective date for temporary rates shall be the same for all customers and shall not depend upon the vagaries of a utility's billing procedures.

In conclusion, having reviewed the proposed revenue requirement and customer rates and positions of the parties relative to those issues, we find it in the public interest to approve an increase of \$60,713, or 10%, to PAC's revenue requirement on a temporary basis for a total test year revenue requirement of \$667,846. We also find it just and reasonable to raise customer rates by 10%. We will approve these changes in customer rates effective for service taken on or after June 16, 2010.

Based upon the foregoing, it is hereby

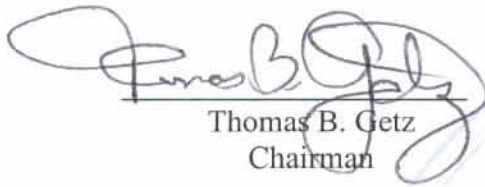
ORDERED, PAC's request to increase its revenue requirement by \$60,713, or 10%, to \$667,846 on a temporary basis is **GRANTED**; and it is


FURTHER ORDERED, that PAC is authorized to raise customer rates by 10% as indicated in the attachments to the settlement agreement; and it is

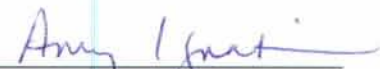
FURTHER ORDERED, that this temporary increase in PAC's revenue requirement and customer rates is effective for service rendered on or after June 16, 2010; and it is

FURTHER ORDERED, that PAC shall submit tariff pages in compliance with this order within 15 days of the date of this order.

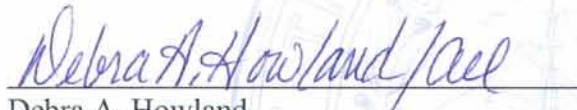
By order of the Public Utilities Commission of New Hampshire this eighth day of October, 2010.


Thomas B. Getz
Chairman


Clifton C. Below
Commissioner


Amy L. Ignatius
Commissioner

Attested by:


Debra A. Howland
Executive Director

