

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 13-358

PENNICHUCK WATER WORKS, INC.

**Water Infrastructure and Conservation Adjustment 2014-16 Capital Projects
and 2014 Surcharge**

Order *Nisi* Granting Petition

ORDER NO. 25,661

May 5, 2014

In this order *nisi*, the Commission approves a 0.67% WICA surcharge on customer bills for capital improvements completed and placed in service in 2013. The Commission also approves a budget for WICA projects proposed for construction in 2014. This order is being issued on a *nisi* basis to ensure that all interested parties receive notice of the Commission's determination and have the opportunity to request a hearing prior to the effective date of the order.

I. BACKGROUND

Pennichuck Water Works, Inc. (PWW), is a regulated public utility as defined by RSA 362:2 and 362:4. PWW provides water service through its core system to approximately 24,600 customers in the City of Nashua and in the Towns of Amherst, Hollis, Merrimack, and Milford. PWW also serves approximately 2,150 customers in the Towns of Bedford, Derry, Epping, Plaistow, Newmarket, and Salem. The Commission first approved a Water Infrastructure and Conservation Adjustment (WICA) pilot program for PWW in 2011. *See Pennichuck Water Works, Inc.*, Order No. 25,230 (June 9, 2011). The WICA program is intended to accelerate replacement of aging infrastructure and provides a recovery mechanism in

the form of a rate surcharge. It applies only to PWW's core water system and covers replacement of mains, valves, services, and hydrants.

On December 23, 2013, PWW filed budgets for WICA projects proposed for construction in 2014, 2015, and 2016. PWW also sought approval of a 0.59% rate surcharge to recover \$1,567,382 for WICA projects constructed in 2013. On January 2, 2014, the Office of the Consumer Advocate (OCA) filed a notice that it would be participating in the docket on behalf of residential ratepayers pursuant to RSA 363:28. The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, is posted to the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2013-13-358.html>.

The 2013 WICA projects consist of \$1,492,375 for water main replacements, \$30,716 for hydrants, and \$44,291 for replacement of service lines. PWW calculated that recovery of those costs, plus associated depreciation expense and taxes, would increase its annual revenue requirement by \$159,718, or 0.59%. Prefiled Testimony of Donald L. Ware, December 2013, Attachment C. PWW used that percentage to calculate the increase to customer rates. *Id.*

For 2014, PWW proposed a total WICA budget of \$2,486,400. *Id.* PWW estimated that the surcharge associated with these projects would be 0.93%. PWW intends to place this surcharge on customer bills in the spring of 2015. *Id.* The 2014 WICA projects consist of \$1,903,000 for water main replacements. *Id.* at Attachment B at 2. PWW set aside \$380,600 as a planning contingency to give it flexibility to coordinate WICA-eligible construction projects with municipal projects. *Id.* PWW will spend the remaining amount on paving and valve and service line replacements. *Id.* For 2015, PWW sought preliminary approval for proposed projects estimated to cost \$2,503,600. *Id.* at Attachment B at 3. PWW also provided a list of

proposed projects for 2016 for advisory purposes. *Id.* at 4. PWW later updated the projects and capital budgets during discovery.

On February 21, 2014, PWW filed a motion to modify its tariff and change future WICA filing deadlines. PWW proposed to move the deadline for its annual WICA filing from December 31st to January 31st of each year. PWW stated that the additional time would be beneficial because it would enable it to include its actual costs for the month of December in its filings. Motion at 2. The additional time would also allow PWW to review upcoming fiscal year municipal capital projects for opportunities to coordinate projects. Coordination with municipal projects would help reduce PWW's paving and other construction costs associated with the WICA projects. PWW also proposed moving the effective date of the associated WICA surcharges from April 1st to May 1st.

In addition, PWW proposed clarifications to tariff provisions governing notices to customers in advance of its WICA filings. *Id.* Currently, PWW notifies customers thirty days in advance of its WICA filings and provides a bill insert with the first bill following any change in the surcharge. PWW proposed to simplify this notice by placing a message on customer bills thirty days in advance of a WICA filing. Pursuant to the current tariff, PWW will still notify customers of any subsequent changes to the WICA filing by including appropriate information on the first bill customers receive following any change.

On March 14, 2014, Commission Staff (Staff) filed a letter recommending that the Commission approve: (1) a 0.67% surcharge, (2) a 2014 WICA capital budget of \$3,268,138, (3) PWW's 2015 proposed WICA budget of \$2,506,536, and (4) changes to PWW's tariff. Staff explained that PWW provided an updated list of 2013 project costs in response to discovery. Staff Recommendation at 29. PWW initially calculated the surcharge based on \$1,554,581 in net

plant additions, but due to the WICA filing deadline, PWW did not include December 2013 costs. Including those final costs, PWW's net plant additions totaled \$1,726,168. *Id.* PWW also calculated adjustments for property tax expense and depreciation. Including the December costs increased PWW's overall revenue requirement to \$181,151 and the surcharge to 0.67%. *Id.* The 2013 costs were reviewed for accuracy by the Commission's Audit Division. *Id.* at 1.

During its review, Staff learned that PWW did not construct some of the projects that the Commission previously approved for 2013. *Id.* at 2. Staff stated that PWW substituted projects when opportunities to coordinate with municipal street openings for sewer and storm drain work arose in 2013. *Id.* According to the Commission's Audit Division, PWW completed a total of fifteen projects in 2013. Staff Recommendation at 65, Audit Issue #1. It eliminated six projects from its Commission-approved list and added three projects that were not approved. *Id.* Staff's consulting engineer explained that PWW closely coordinates with municipal projects to reduce paving and other costs. *Id.* at 48. PWW's WICA program operates on a calendar year basis while municipal projects are based on a fiscal year beginning on July 1st. *Id.* at 49. Staff's consulting engineer stated that this timing difference nearly guarantees that changes to PWW's project list will occur. *Id.* Staff's consulting engineer stated that Staff and the parties explored possible changes to the pilot program to accommodate some of the timing issues. Staff and the parties, however, recommended no structural changes to the WICA program. *Id.* at 50. Instead, they recommended that PWW add a notice provision to its tariff that would inform the Commission and parties of proposed substitutions. Staff's consulting engineer concluded that the projects actually completed in 2013 were reasonable, in service, and used and useful. *Id.* at 49. Staff recommended the Commission approve recovery of the 2013 costs.

Staff recommended that the Commission approve a total 2014 WICA capital budget of \$3,268,138. *Id.* at 2. Staff stated that the vast majority of the budget was dedicated to water main replacement and that the projects appeared reasonable. *Id.* at 51. Staff's consulting engineer explained that the 2014 projects were based solely on municipal projects and that the proposed 2014 projects were different than those previously approved by the Commission. *Id.* at 49. Staff stated that PWW has a rating system for evaluating infrastructure replacement projects, but the rating system is only one factor in PWW's decision-making process, as coordination with municipal projects can bump PWW's rated projects to a subsequent year. *Id.* Staff's consulting engineer stated that PWW's water main rating system was in a developmental stage and that it will not be fully functional until PWW completes its Asset Management Program. *Id.* at 50. Staff's consulting engineer opined that the municipal projects may have a less dominant impact on PWW's WICA program in the future, once the Asset Management Program is completed,. *Id.* In conclusion, Staff calculated that the 2014 WICA budget would result in a 2015 surcharge impact of an additional 1.12%. *Id.* at 2. The two-year cumulative surcharge would be 1.79%. *Id.*

Staff stated that PWW updated its 2015 WICA budget and now seeks preliminary approval of \$2,506,536. Staff Recommendation at 41. Staff stated that the budget and proposed projects appear to be reasonable. *Id.* at 51. Staff recommended that the Commission approve the 2015 WICA projects and capital budget on a preliminary basis.

Staff recommended the Commission approve PWW's proposed tariff changes regarding timing of filings and the effective date of future surcharges. In addition, Staff requested that PWW amend its WICA tariff to provide notice when PWW seeks to substitute Commission-approved projects. According to Staff, the parties are in agreement that PWW should provide

notice to the Commission as soon as it becomes aware that a project substitution may be prudent. *Id.* at 2. Staff recommended that PWW provide a new provision to Part III on page 50 of its tariff, entitled “Notice of Project Substitution.” Staff recommended that PWW provide this recommended language at the time it files its compliance tariff for its 2014 approved surcharge. *Id.* at 3. Staff further stated that it did not consider such notices to constitute implied approval of the substitution. PWW will still need to demonstrate in its next WICA filing that the construction projects were prudent.

Last, Staff reported that the OCA took no position on the technical aspects of PWW’s filing but that it otherwise agreed with Staff’s recommendations. Staff Recommendation at 3. The OCA appreciated PWW’s efforts to realize cost savings by coordinating WICA projects with municipalities. The OCA also appreciated PWW’s agreement to notify the Commission and parties in the event it seeks to substitute or eliminate pre-approved WICA projects. *Id.*

II. COMMISSION ANALYSIS

Pursuant to RSA 378:7, the Commission is authorized to determine the just and reasonable rates to be charged by PWW. As stated above, the Commission first approved the WICA rate mechanism in 2011 as a pilot to encourage PWW to accelerate replacement of aging infrastructure. Each year, the Commission reviews PWW’s proposed capital budget for WICA-eligible projects. This is the first year that PWW has proposed a surcharge to recover its investment in WICA projects. Thus, we will review that surcharge to determine whether it is just and reasonable pursuant to RSA 378:7.

PWW requests a surcharge of 0.67% for effect on or after April 1, 2014. Some of the projects forming the basis of the surcharge were not approved by the Commission. We note that the WICA mechanism is intended to yield a systematic approach to replacing aging

infrastructure that includes Staff, party, and Commission review prior to construction of eligible projects. While a project may be eligible for inclusion in the WICA program, Staff, the parties, and the Commission must still vet its priority in the WICA construction cycle. PWW's substitution of projects in 2013 occurred outside of that priority vetting. We understand PWW and Staff's arguments as to why the substituted projects ought to be recovered in the 2014 surcharge, but the goal of the WICA program is thwarted when we review prudence after a project has been constructed. It appears that Staff and the parties recognize this concern and believe it can be addressed by tariff language requiring Commission notification in advance of a substitution. While the initial pilot did not contemplate substituting projects, we encourage coordination where it is cost-effective. Under these circumstances, we find the notice to be a reasonable modification to the pilot. There is no evidence that PWW circumvented Commission review for some nefarious reason. The projects were eligible for inclusion in the WICA program. PWW was able to take advantage of cost savings and those savings are passed through to customers. Staff has corroborated the costs and believes that the constructed projects are in service and are used and useful. For these reasons, we find the plant additions constructed in 2013 to be prudent and used and useful pursuant to RSA 378:28. We further find that PWW's recovery of these plant additions through a 0.67% surcharge to be just and reasonable pursuant to RSA 378:7.

PWW filed its 2014 WICA projects and \$3,268,138 capital budget for preliminary approval. We find the projects and budget to be reasonable and consistent with the intent of the WICA pilot program. The projects are based solely on municipal projects and are mostly water main replacements. Water main replacements are within the type of projects eligible for recovery under the WICA rate mechanism. Coordination with municipal projects will help lower

the cost of the projects and, as with the 2013 coordination, the cost savings will be passed along to customers. The construction budget is more than one million dollars over what PWW spent on WICA projects in 2013. This is consistent with the intent of the WICA pilot to encourage accelerated replacement of aging infrastructure. Staff and the OCA recommend that we approve the projects and associated budget. Assuming PWW constructs the 2014 projects within the proposed budget, the resulting surcharge imposed on customer bills in the spring of 2015 would be approximately 1.12%. The 1.12% increase is within the WICA pilot's annual cap of 2%. The cumulative surcharge would be 1.79%, which is within the 7.5% cap allowed between general rate cases. For the foregoing reasons, we find that the 2014 projects and associated capital budget are reasonable and that the projects fulfill the objective of the WICA program to accelerate the replacement of aging infrastructure.

We next consider PWW's proposed 2015 WICA projects and \$2,506,536 budget. The projects involve replacing steel and unlined, cast iron water mains. PWW has budgeted a modest amount for valve and hydrant replacements. All of these projects are eligible for recovery under the WICA pilot and are consistent with the intent of the program. Staff and the OCA recommend that the Commission approve the 2015 projects and budget. If PWW constructs the projects within the proposed budget, the surcharge would increase by 0.84%. This is also within the WICA pilot's annual cap of 2%. The cumulative surcharge would be 2.63%, which is within the 7.5% cap allowed between general rate cases. Accordingly, we approve the 2015 WICA projects and the associated budget on a preliminary basis. We will review them again in PWW's next WICA filing.

Last, PWW, Staff, and the OCA recommend changes to PWW's tariff and we will approve them. PWW seeks to change its filing deadlines December 31st to January 31st, effective

for 2015. PWW also seeks to notify customers of filings thirty days in advance of WICA filings and to change the surcharge effective date from April 1st to May 1st. PWW has offered reasonable reasons for the changes. Staff and the OCA agree that the new filing deadline will enable PWW to provide more accurate year-end cost figures. The delay in the filing will also provide PWW with additional time to review upcoming fiscal year municipal budgets. For these reasons, we find the proposed changes to PWW's tariff to be reasonable.

Staff and the OCA also recommend that PWW modify its tariff to provide for notification to the Commission in the event of substitutions. PWW agrees with Staff and the OCA's recommendation. Notwithstanding the concerns stated above, we find this recommendation to be reasonable. The changes are intended to address the substitution problem that arose with respect to the 2013 project year. Staff has suggested that PWW place this notice in section three of its tariff and entitle it "Notice of Project Substitution." Staff suggested that PWW provide recommended language at the time it files its compliance tariff incorporating the approved surcharge. PWW agrees with these suggestions. Accordingly, we find these tariff changes to be reasonable, and we approve them.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that subject to the effective date below, PWW's 2014 WICA surcharge of 0.67% is APPROVED for service rendered on and after April 1, 2014; and it is

FURTHER ORDERED, that PWW's schedule of 2014 capital projects and associated budget, as amended in discovery and detailed in Staff's recommendation letter, is APPROVED; and it is

FURTHER ORDERED, that PWW's schedule of 2015 capital projects as detailed in Staff's recommendation letter is APPROVED on a preliminary basis, subject to further review when PWW makes its 2015 filing; and it is

FURTHER ORDERED, that PWW's motion to modify its WICA tariff is hereby GRANTED; and it is

FURTHER ORDERED, that PWW shall file a compliance tariff with the Commission on or before June 3, 2014, in accordance with N.H. Code Admin. Rules Puc 1603.02(b); and it is

FURTHER ORDERED, that PWW shall include in its compliance tariff proposed language to address the issue of providing notice in the event of substitutions of projects as discussed above; and it is

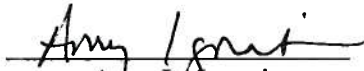
FURTHER ORDERED, that PWW shall cause a summary of this Order *Nisi* to be published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to be no later than May 15, 2014, and to be documented by affidavit filed with this office on or before May 20, 2014; and it is

FURTHER ORDERED, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than May 21, 2014, for the Commission's consideration; and it is

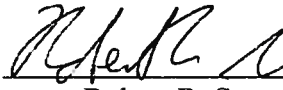
FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than May 27, 2014; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective May 28, 2014, unless PWW fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date.

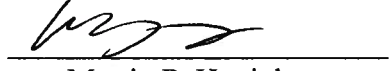
By order of the Public Utilities Commission of New Hampshire this fifth day of May,
2014.



Amy L. Ignatius
Chairman

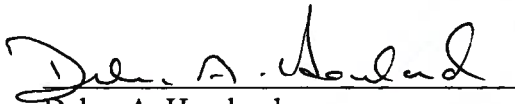


Robert R. Scott
Commissioner



Martin P. Honigberg
Commissioner

Attested by:



Debra A. Howland
Executive Director