

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 20-156

PENNICHUCK EAST UTILITY, INC.

Request for Change in Rates

Order on Temporary Rates

O R D E R N O. 26,508

August 16, 2021

In this order, the Commission authorizes Pennichuck East Utility, Inc. to implement temporary rates set at 14.03 percent above current rates, with the Qualified Capital Project Adjustment Charge re-set to zero, on a service rendered basis, effective December 24, 2020. As a result, the average bill for a metered customer will increase by 11.05 percent until the conclusion of this general rate proceeding. For an average residential customer using 6.5 hundred cubic feet per month, this will result in an increase of \$7.65 per month. The temporary rates will be subject to reconciliation back to December 24, 2020, based on the outcome of the permanent rate case.

I. PROCEDURAL HISTORY

On November 23, 2020, Pennichuck East Utility, Inc. (PEU) filed a petition seeking permanent and temporary rate increases for all customer classes, and further modification to its current ratemaking structure. The Company's petition included supporting testimony and proposed revised tariff pages.

On December 11, 2020, the Office of the Consumer Advocate (OCA) filed a notice of its participation in this proceeding on behalf of residential ratepayers consistent with RSA 363:28.

The Commission issued Order No. 26,436 (December 17, 2020), suspending PEU's proposed tariff for twelve months and scheduling a prehearing conference, which was held on January 27, 2021. Petitions to intervene were filed by Richard Lascelles, Marc Cloutier, Nicole Fordey, Ralph Boehm, Mark Vandendyke, Robert Corcoran, Christopher Burns, Andrew Myers, Richard Husband, Thomas Boutilier, and the Towns of Londonderry, Litchfield, Pelham, and Hooksett in December 2020 and January 2021. On March 23, 2021, the Commission issued a letter granting all petitions to intervene. Nicole Fordey, Marc Cloutier, the Towns of Hooksett and Pelham subsequently withdrew their interventions. Andrew Myers filed a motion for clarification and or reconsideration, seeking clarification that he represents himself as well as 21 other identified residential ratepayers living in the Town of Derry.

On April 27, 2021, PEU filed a settlement agreement (Settlement Agreement) reached between PEU; the Department of Energy; the OCA; the Towns of Londonderry, Litchfield, Pelham, and Hooksett (the Towns); Robert Corcoran; and Richard M. Husband (together, Settling Parties). A hearing on the Company's petition for temporary rates and the Settlement Agreement was held on May 10, 2021, as scheduled.

PEU's request for permanent and temporary rates, and related docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted at

<https://www.puc.nh.gov/Regulatory/Docketbk/2020/20-156.html>.

II. POSITIONS OF THE PARTIES

A. Pre-Settlement Position of Pennichuck East Utility, Inc.

In its petition, PEU requested a permanent increase of \$1,896,331 to its test year earnings of \$ 8,819,088, approximately a 21.05 percent overall increase in its

revenue requirement, for effect on December 24, 2020. As part of its petition for a permanent rate increase and pursuant to RSA 378:27, the Company also requested temporary rates be set at 15 percent above current rates, effective as of December 24, 2020.

B. Settling Parties

The Settling Parties recommend a 14.03 percent temporary rate increase over existing base rates. Settlement Agreement at 4. The Company's current Qualified Capital Project Adjustment Charge (QCPAC), a mechanism designed to assist PEU in maintaining adequate cash flow by compensating it for necessary capital investments between rate cases, would be subsumed in the proposed temporary rates. *Id.*

According to the Settling Parties, this results in a net 11.05 percent increase in overall rates based on the currently effective QCPAC of 2.98 percent as approved by Order No. 26,313 (December 6, 2019). *Id.* Under the terms of the Settlement Agreement, PEU will forgo collection of its proposed 2020 QCPAC surcharge, proposed at 1.22 percent in Docket DW 20-019. *Id.* at 4-5.

The Settling Parties further agreed to a reduction in the in the North Country Capital Recovery Surcharge (NCCRS) to Locke Lake, Birch Hill, and Sunrise Estates customers to reflect a broader customer base. *Id.* at 5. Locke Lake customers' NCCRS would be reduced from \$12.81 to \$12.58; Birch Hill customers' NCCRS would be reduced from \$12.81 to \$12.69, and Sunrise Estates customers' NCCRS would be reduced from \$10.74 to \$10.36. *Id.*

At hearing, PEU requested approval of the temporary rate settlement pursuant to RSA 378:27, noting that the Company's books and records show that the Company is not earning sufficient revenues to cover the costs of operating its system and therefore the temporary rates are reasonable. The Company added that the proposed

effective date of December 24, 2020, had been properly noticed and that temporary rates would be reconciled back to that date at the end of the permanent rate proceeding. The Company confirmed that it had mailed notices to its customers on December 10 and 11, 2020.

The OCA urged approval of the temporary rates settlement, noting that limiting the requested temporary rate to an across-the-board increase of about 14 percent, and resetting the QCPAC to zero, was a reasonable step. OCA observed that rates will be fully reconciled back to the December 24, 2020 effective date requested by the Company for temporary rates.

Energy supported the request for temporary rates, stating the request meets the applicable requirements of RSA 378:27, is reasonable and in the public interest, and appropriate customer rates are expected to result when permanent rates are ultimately approved and the temporary rates are reconciled at the conclusion of this proceeding. Staff noted that the Company had provided adequate notice to its customers of the proposed temporary rate impact.

The Towns of Londonderry, Pelham, Litchfield, and Hooksett collectively noted that, as signatories to the Settlement Agreement, they had agreed to the rates as set forth in the settlement. The Towns reserved the right to challenge the permanent rates in the permanent rate portion of this proceeding.

C. Other Intervenors

Andrew Myers, Esq., on behalf of himself and 21 other residential ratepayers of the Town of Derry, argued that the proposed temporary rate increase of 14 percent constitutes rate shock at a time when the test year inflation rate in the United States was 1.8 percent. Attorney Myers did not sign the Settlement Agreement, but

acknowledged that a significant amount of work had gone into the consideration of the temporary rates calculations.

III. COMMISSION ANALYSIS

Unless precluded by law, informal disposition by stipulation may be made of any contested case at any time prior to the entry of a final decision or order. RSA 541-A:31, V(a). Pursuant to N.H. Admin. R., Puc 203.20(b), the Commission shall approve the disposition of any contested case by stipulation if it determines that the result is just and reasonable and serves the public interest. The Commission encourages parties to settle disagreements through negotiation and compromise because it is an opportunity for creative problem solving, allows parties to reach a result in line with their expectations, and is often a better alternative to litigation. *Hampstead Area Water Company, Inc.*, Order No. 26,131 at 3 (May 3, 2018). Nonetheless, the Commission cannot approve a settlement, even when all parties agree, without independently determining that the result comports with applicable standards. *Id.*

Pursuant to RSA 378:27, the Commission may approve temporary rates for the duration of a rate proceeding if the Commission finds that the public interest so requires and the reports of the public utility filed with the Commission indicate that the proposed temporary rates are reasonable. The standard for approval of temporary rates, which are reconcilable, is less stringent than that for permanent rates. *Appeal of Office of Consumer Advocate*, 134 N.H. 651, 660 (1991) (citing *New Eng. Tel. & Tel. Co. v. State*, 95 N.H. 515, 518 (1949)).

The Settlement Agreement requests that the Commission set temporary rates at 14.03 percent above current rates, with the QCPAC percentage re-set to zero, resulting in a net increase of approximately 11.05 percent over current rates. The Settling Parties agreed that based on the Company's filing as well as its books and records on

file at the Commission, PEU's current revenues are deficient. We find that rectifying the apparent revenue deficiency experienced by the Company would be in the public interest. Taking into account the adjustment mechanism of RSA 378:29, protecting the interests of both the utility and its customers, we find the proposed temporary rates just and reasonable under the circumstances. Accordingly, we find the Settlement Agreement to be just and reasonable and in the public interest, and approve the Settlement Agreement, subject to reconciliation at the conclusion of the permanent rates proceeding in this docket. We also find the proposed effective date of December 24, 2020, to be reasonable and that adequate notice was provided, as shown by PEU's testimony relating to its mailing of notice and publication of the public notice.

Under the Settlement Agreement, we observe that PEU agreed to "forgo" its 2020 QCPAC rate surcharge increase, proposed at 1.22 percent in Docket No. DW 20-019, as a result of temporary rates subsuming and re-setting the QCPAC. Based on the Commission's acceptance of the Settlement Agreement herein, we direct PEU to file an amended petition in Docket No. DW 20-019 with the rate surcharge increase removed, reflecting the settlement agreement. We make no finding in this order that PEU's 2019 capital investments are prudent, used, and useful, rather we base our determination on temporary rates on a limited review of PEU's reports on file with the Commission, pursuant to RSA 378:27, showing an overall revenue deficiency in excess of the proposed 1.22 percent surcharge that is based on 2019 capital costs which are the subject of PEU's 2020 QCPAC filing.

The Commission notes that the size of the rate increase is significant. While the temporary rate increase is appropriate per statute, the amount of the increase points to a need for a high level of scrutiny in the permanent rate case. The Commission will

want to understand the average increase in rates over the last 10 years and the specific actions that PEU is taking to lower costs while providing adequate service to its customers.

Based upon the foregoing, it is hereby

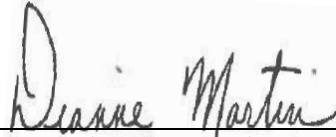
ORDERED, that the Settlement Agreement on temporary rates is APPROVED as set forth herein above; and it is

FURTHER ORDERED, that the temporary rates will be effective for service-rendered on December 24, 2020, subject to reconciliation pursuant to RSA 378:29 at the conclusion of the Pennichuck East Utility, Inc., permanent rate proceeding; and it is

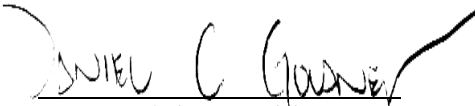
FURTHER ORDERED, PEU shall file an amended petition in Docket No. DW 20-019 with the rate surcharge increase removed; and it is

FURTHER ORDERED, that PEU shall submit with the Commission properly annotated revised tariff pages consistent with this order within 15 days of the date of this order, as required by N.H. Admin. R., Puc 1603.

By order of the Public Utilities Commission of New Hampshire this sixteenth day of August, 2021.



Dianne Martin
Chairwoman



Daniel C. Goldner
Commissioner

Service List - Docket Related

Docket# : 20-156

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