

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DW 16-806**

**PENNICHUCK WATER WORKS, INC.**

**Permanent and Temporary Rate Proceeding**

**Order Approving Temporary Rates**

**ORDER NO. 25,990**

**February 17, 2017**

**APPEARANCES:** Rath, Young and Pignatelli, P.C., by William F. Ardinger Esq., and Richard W. Head, Esq., for Pennichuck Water Works, Inc.; the Office of the Consumer Advocate by D. Maurice Kreis, Esq., on behalf of residential ratepayers; and Staff of the Public Utilities Commission by John S. Clifford, Esq.

In this order, the Commission grants Pennichuck Water Works authority to implement temporary rates at the same level of current rates during the pendency of this proceeding under the terms of a settlement agreement. The temporary rates will be effective on a bills-rendered basis on, and after, December 7, 2016. As a result, the bill for an average metered customer will remain unchanged until the conclusion of this proceeding.

**I. PROCEDURAL HISTORY**

On August 17, 2016, Pennichuck Water Works, Inc. (PWW or the Company), submitted a notice of intent to file a permanent rate filing. PWW indicated it would also be seeking temporary rates to be imposed for the pendency of this proceeding. PWW filed formal petitions for permanent and temporary rates, along with testimony and supporting schedules, on September 26, 2016. PWW also sought approval for certain modifications to the ratemaking protocols established and approved in *Joint Petition of City of Nashua, et. al, for Approval to Acquire Stock in Pennichuck Corp.*, Order No. 25,292 (November 23, 2011). PWW requested an overall increase in its operating revenues of \$4,907,917, or 17.21 percent, over its 2015 test year.

PWW also requested approval of temporary rates in the amount of \$1,771,116, or 6.21 percent, over the 2015 test year, such temporary rates to be effective as of September 23, 2016. On December 8, 2016, Staff filed a Settlement Agreement on Temporary Rates (Settlement Agreement) entered into by PWW, Staff, and the Office of the Consumer Advocate (OCA) (the Settling Parties). A hearing on temporary rates was held January 17, 2017, at which all parties appeared. The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted to the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2016/16-806.html>

## **II. SETTLEMENT AGREEMENT**

The Settlement Agreement provides for temporary rates to be set at existing rates, on a bills-rendered basis on and after December 7, 2016. It also calls for a waiver of N.H. Code Admin. Rules Puc 1203.05 (b), which requires that rate changes be implemented on a service-rendered basis. The waiver was based on the Settling Parties' agreement that PWW met the conditions of Puc 1203.05(c). The Settling Parties' request to waive Puc 1203.05(b) is rooted in PWW's desire to reduce customer confusion. PWW believes that such confusion can arise in the pro-ration of bills when temporary rates are reconciled with permanent rates. PWW testified at the hearing that it is willing to forego some amount of revenue to avoid confusing its customers.

PWW and Staff testified that both PWW's permanent and temporary rate increase requests involve application of the ratemaking modifications for which PWW seeks approval in this proceeding. Staff indicated that it is uncertain whether the modifications are appropriate and wants time to consider them. The Settling Parties thus agreed that it would be more efficient to enter into a settlement on temporary rates, keeping current rates in effect as temporary rates until the conclusion of this proceeding. Further, Staff testified that, based on its preliminary review

and under the currently approved ratemaking methodology, PWW appears to have over-earned in the test year.

### III. COMMISSION ANALYSIS

The parties ask us to approve the Settlement Agreement that calls for temporary rates to be set at the same level as current rates, effective on a bills-rendered basis on, and after, December 7, 2016. N.H. Code of Admin. Rules Puc 203.20(b) provides that the Commission shall approve the disposition of any contested case by settlement “if it determines that the result is just and reasonable and serves the public interest.” *See also* RSA 541-A:31, V(a) (“Unless precluded by law, informal disposition may be made of any contested case ... by stipulation [or] agreed settlement.”). Nonetheless, the Commission cannot approve a settlement agreement, even when all parties agree, “without independently determining that the result comports with applicable standards.” *Unitil Energy System, Inc.*, Order No. 24,677 at 18 (October 6, 2006) (citation omitted).

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 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)).

Because PWW’s rate requests are based on its proposed new ratemaking methodology, we agree with the parties that setting temporary rates at current levels is prudent in order to move forward with a comprehensive review of PWW’s permanent rate proposal. We thus find setting current rates as temporary rates is just and reasonable and comports with applicable standards. We approve them pursuant to RSA 378:27.

We next consider the proposed effective date of December 7, 2016. RSA 378:27 allows the Commission to authorize effective dates as early as the date on which the petition for a permanent rate change is filed. *See Appeal of Pennichuck Water Works*, 120 N.H. 562, 567 (1980) (filing date is earliest date on which PUC may order temporary rates to take effect). The effective date must be the same for all customers and “shall not depend on the vagaries of a utility’s billing procedures.” *Id.* (citation omitted). Although PWW filed its petition on September 26, 2016, the Settlement Agreement proposes temporary rates be effective on December 7, 2016. We find this agreement consistent with RSA 378:27 and approve it.

When requesting a waiver from the requirement of Puc 1203.05 (b) to implement rate changes on a service-rendered basis, Puc 1203.05(c) requires that the request must describe, among other things, how the waiver would reduce customer confusion or cost less to implement. We find that PWW has met the requirements of Puc 1203.05(c) and that, because it will be less confusing to customers to implement the rate change on a bills-rendered basis, the waiver serves the public interest consistent with Puc 201.05. We therefore approve the request of the Settling Parties for a waiver of Puc 1203.05(b) and approve temporary rates to be implemented on a bills-rendered basis on and after December 7, 2016.

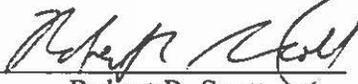
**Based upon the foregoing, it is hereby**

**ORDERED**, that the Settlement Agreement on temporary rates is **APPROVED**; and it is **FURTHER ORDERED**, that the request for a waiver of N.H. Code Admin. Rules Puc 1203.05(b) to implement temporary rates on a bills-rendered basis on and after December 7, 2016, is **APPROVED**; and it is

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

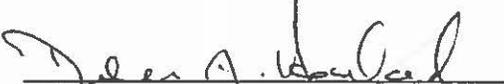
By order of the Public Utilities Commission of New Hampshire this seventeenth day of  
February, 2017.

  
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Martin P. Honigberg  
Chairman

  
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Robert R. Scott  
Commissioner

  
\_\_\_\_\_  
Kathryn M. Bailey  
Commissioner

Attested by:

  
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Debra A. Howland  
Executive Director

**SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED**

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**Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.**

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**INTERESTED PARTIES**

**RECEIVE ORDERS, NOTICES OF HEARINGS ONLY**

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