

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DW 13-128**

**PITTSFIELD AQUEDUCT COMPANY, INC.**

**Permanent and Temporary Rate Increase Proceeding**

**Order on Temporary Rates**

**ORDER NO. 25,599**

**November 22, 2013**

**APPEARANCES:** Devine, Millimet & Branch, PA, by Thomas Getz, Esq., for Pittsfield Aqueduct Company, Inc.; Office of the Consumer Advocate on behalf of residential ratepayers, by Rorie Hollenberg, Esq.; and Marcia Brown, Esq. and Michael Sheehan, Esq., of the Staff of the Public Utilities Commission.

**I. PROCEDURAL HISTORY**

Pittsfield Aqueduct Company, Inc. (PAC) provides water service to about 626 customers in the Town of Pittsfield. On April 29, 2013, PAC filed with the New Hampshire Public Utilities Commission (Commission) a notice of intent to increase its annual revenues by \$63,909, a permanent rate increase of 9.34 percent, effective July 1, 2013. *See* Exhibit 1 at 22, 24. The factors driving the proposed rate increase are less water use per customer, fewer customers, and a rise in property taxes. Transcript of October 22, 2013 Public Hearing (Tr.) at 41-42. PAC was required to file this full rate case by the Settlement Agreement in Docket No. DW 11-026. Order No. 25,292 (Nov. 23, 2011).<sup>1</sup>

On May 31, 2013 PAC filed proposed tariff pages, supporting testimony and schedules, and the petition addressed in this order for a 7 percent temporary rate increase to yield additional

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<sup>1</sup> Order No. 25, 292 approved the City of Nashua's acquisition of Pennichuck Corporation, which is the parent company of three regulated water utilities including PAC. Paragraph III.B.5 of the Settlement Agreement required the three regulated utilities to simultaneously file their first post-acquisition full rate cases no later than June 1, 2013.

revenues of \$47,878. Exhibit 1 at 11-12; Tr. at 11, 15. PAC projected that the temporary rate increase will cause the average residential customer's bill to increase from \$693.12 to \$734.28 per year, or \$3.47 per month. Exhibit 1 at 132; *see* Attachment B to the *Settlement Agreement – Temporary Rates* (Settlement Agreement), Exhibit 2 (revising these figures to an increase from \$686.26 to \$734.50 per year, or \$4.02 per month).

The Office of Consumer Advocate (OCA) participated on behalf of PAC's residential ratepayers pursuant to RSA 363:28, II. No other party intervened.

Staff filed the Settlement Agreement on October 9, 2013. Exhibit 2. The Settlement Agreement contains the following operative paragraph:

The Company and Staff agree that the Company should be authorized, in accordance with RSA 378:27, to implement temporary rates sufficient to yield an increase of \$47,878, or 7%, in annual revenues, which will be spread uniformly across the various customer classes. [ ] The temporary rates contemplated by this Agreement shall be effective for service rendered on and after July 1, 2013. Any difference between the temporary rates agreed to herein and the permanent rates ultimately approved by the Commission in this docket is subject to reconciliation back to July 1, 2013, upon the implementation of new permanent rates.

Exhibit 2. The Settlement Agreement is conditioned on Commission approval. *Id.*

## **II. POSITIONS OF THE PARTIES AND STAFF**

### **A. Staff and Pittsfield Aqueduct Company, Inc.**

Staff and PAC support the Settlement Agreement and its call for a temporary 7 percent rate increase while the permanent rate case is pending. Tr. at 8, 16-17. PAC testified that the 7 percent increase is necessary to prevent PAC from under-earning, to allow PAC to cover its operating costs without having to borrow, to mitigate rate shock, and PAC noted that a 7 percent increase will bring PAC's revenue to the level approved in its 2010 rate case, Docket No. DW 10-090. Exhibit 1 at 17-18; Tr. at 18. PAC testified that the permanent rates finally determined

by the Commission will be reconciled with these temporary rates as of July 1, 2013, Exhibit 1 at 20-21, and that the proposed temporary rates are just and reasonable. Tr. at 18.

Staff testified that it reviewed the rate case filing along with other books and records on file with the Commission, and concluded that setting temporary rates 7 percent above existing rates was appropriate because PAC currently shows an earnings deficiency. Staff noted that a temporary increase will likely mitigate rate shock when permanent rates are approved, and that customers are protected through the reconciliation process. Tr. at 20. Further, Staff considered the temporary rate level to be just and reasonable. Tr. at 23. Staff supported approval of the Settlement Agreement. Tr. at 19-20, 23, 56.

PAC presented evidence that customers received notice of the rate increase prior to the proposed effective date of July 1, 2013. On April 29, 2013 PAC filed its notice of intent to seek a rate increase effective July 1, 2013. PAC filed rate schedules and supporting documents on May 31, 2013. Exhibit 1. PAC published a notice of the proposed rate increase in the *Concord Monitor* on June 26, 2013 and in the *Suncook Valley Sun* on July 3, 2013, Tr. at 17, which notified the public of PAC's rate case filing, the effective date of the proposed increase, proposed tariffs, date of the Commission's prehearing conference, and the ability to intervene in this proceeding, *see* Customer Notice, Exhibit 1 at 6. PAC also mailed copies of the notice with the June 6, 2013 customer bills. Tr. at 17.

#### **B. OCA**

OCA did not object to the terms of the Settlement Agreement. Tr. at 56.

### **III. COMMISSION ANALYSIS**

PAC and Staff ask us to approve the Settlement Agreement regarding temporary rates, the material terms of which are quoted above. Exhibit 2. 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, 91 NH PUC 416, 425-426 (2006) (citation omitted).

Pursuant to RSA 378:27, the Commission may approve temporary rates for the duration of the 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).

We have reviewed the evidence presented regarding temporary rates and the terms of the Settlement Agreement. Both PAC and Staff testified that PAC’s proposed temporary rates are necessary to prevent PAC from under earning and from having to borrow to cover operating costs. Accordingly, we find that the temporary increase of 7 percent to PAC’s revenue requirement appropriately balances the interests of customers with the interests of shareholders and we will approve it. We also find that the resulting rates, which will reflect an overall 7 percent increase, are just and reasonable as required by RSA 378:7 and RSA 378:27.

We next consider the proposed effective date of July 1, 2013. 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 NH 562, 567

(1980). The evidence demonstrates that customers and the public were notified through publication and billing notices prior to July 1, 2013. In light of this notice, we find that setting the above temporary rates for service on or after July 1, 2013 is just and reasonable and consistent with our statutory authority.

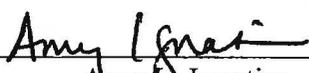
The remaining terms of the Settlement Agreement, that the rate increase will be spread among all customer classes and that any difference between temporary and permanent rates will be reconciled, are also approved as just and reasonable.

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

**ORDERED**, that the *Settlement Agreement – Temporary Rates*, Exhibit 2, is hereby APPROVED; and it is

**FURTHER ORDERED**, that that Pittsfield Aqueduct Company, Inc., 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 twenty-second day of November, 2013.

  
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Amy D. Ignatius  
Chairman

  
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Michael D. Harrington  
Commissioner

  
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Robert R. Scott  
Commissioner

Attested by:

  
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Kimberly Molin Smith  
Assistant Secretary