

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 10-091

PENNICHUCK WATER WORKS, INC

Permanent and Temporary Rate Proceeding

Order Approving Temporary Rates

ORDER NO. 25,153

October 8, 2010

APPEARANCES: McLane, Graf, Raulerson & Middleton, P.A. by Sarah B. Knowlton, Esq., for Pennichuck Water Works, Inc.; Ransmeier & Spellman, P.C. by John T. Alexander, Esq. for Anheuser-Busch; 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

Pennichuck Water Works, Inc. (PWW) provides water service to approximately 26,125 customers in the City of Nashua and the towns of Amherst, Bedford, Derry, Epping, Hollis, Merrimack, Milford, Newmarket, Plaistow, and Salem. On April 6, 2010, PWW filed a notice of intent to file rate schedules increasing its rates. On May 7, 2010, PWW filed revised tariff pages, with an effective date of June 6, 2010, that were designed to increase its annual revenues by \$3,915,175, or 16.23%. PWW also filed for a step increase to its revenue requirement by \$886,638, to recover plant additions placed in service during 2010. Combined, the revenue increases sought by PWW total 19.91%. PWW 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 PWW to increase its rates annually up to a maximum of 2% per year, and no more than 7.5% between rate cases. Lastly, PWW sought a temporary increase to its revenue

requirement of \$2,604,524, or an overall increase of 10.80%, 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 in this docket on behalf of residential ratepayers. On May 25, 2010, Anheuser-Busch, Inc. filed a Petition to Intervene. On May 17, 2010, PWW filed the testimony of Mr. Donald L. Ware to replace Mr. Ware's testimony that had been included in PWW's May 7, 2010 filing. On June 4, 2010, the Commission issued Order No. 25,107 suspending PWW's permanent rate filing and scheduling a prehearing conference for July 14, 2010. On June 17, 2010, PWW filed affidavits of publication verifying that the Commission's order was published in the *New Hampshire Union Leader* and the *Nashua Telegraph* on June 14, 2010.

The prehearing conference was held as scheduled and the Commission granted intervenor status to Anheuser-Busch, Inc. After the conclusion of the prehearing conference, PWW, OCA, Staff, and Anheuser-Busch, Inc. participated in a technical session and developed a proposed procedural schedule to govern the remainder of the proceeding, which the Commission approved on July 20, 2010. After an initial round of discovery, on September 8, 2010, Staff and PWW 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. Pennichuck Water Works, Inc. and Staff

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

B. Anheuser-Busch, Inc.

Anheuser-Busch, Inc. took no position on the temporary rate issue.

C. Office of the Consumer Advocate

The OCA took no position on the amount of the temporary rate increase proposed by the settlement agreement. The OCA stated it was pleased that the issue of rate design was deferred until the permanent rate phase of the case. OCA also stated it agreed with Staff and PWW striking of a provision in the settlement agreement that would have allowed PWW 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 PWW recommend that the Commission authorize a temporary increase in PWW's revenue requirement by \$2,604,524, or 10.81%, to \$26,720,711 and allow PWW to increase customer rates currently in effect by an equal percentage amount to recover those revenues.

B. RATE DESIGN

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

C. EFFECTIVE DATE AND RECOUPMENT

Staff and PWW 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 PWW's revenue requirement by a total of \$2,604,524. The purpose of this temporary increase is to allow PWW to earn a reasonable rate of return until permanent rates are set. Exh. 1 at 2 and 3. Staff testified that the temporary increase would not cause PWW to over-earn. Hearing Transcript of 9/15/10 (9/15/10 Tr.) at 21. Based on its filing, PWW is not earning a reasonable return on its property used and useful in the public service. PWW's last authorized rate of return on net plant in service was 7.38%. According to PWW, for the test year ending December 31, 2009, PWW's actual return on investment was 5.65%. Exh. 1 at 9. PWW's return on equity was 5.1%, or 465 basis points below its allowed return on equity of 9.75%. *Id.* at 10. We understand that the decline in the rate of return is due in part to a significant increase in property taxes, insurance, and payroll expenses, a decline in water usage, and \$19.1 million in capital improvements made since PWW's last test year, December 31, 2007. Exh. 1 at 2. The extent to which such

investments are deemed prudent, used and useful in the public service, and 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 PWW's revenue requirement is warranted and in the public interest.

If temporary rates are approved as proposed, PWW calculated that the bill for an average residential customer utilizing a 5/8-inch meter would increase as follows: the current fixed monthly charge of \$18.18 would increase to \$20.15 and the current volumetric rate would increase from \$2.90 to \$3.21 per hundred cubic feet and, assuming a monthly consumption of 7.88 hundred cubic feet, that customer's monthly bill would increase from \$41.03 to \$45.44. Exh. 2 at 8. PWW noted that the average usage per customer has declined from 9.53 hundred cubic feet to 7.88 hundred cubic feet. Exh. 2 at 12. This decline in usage results in monthly temporary rates to non-metered declining from \$45.82 to \$45.44. *Id.*¹. The temporary rate will also affect PWW's wholesale contracts with Anheuser-Busch, Inc., Hudson, and Milford. As indicated in Schedule 9 to the settlement agreement, wholesale contracts will be subject to a 10.85% temporary increase as follows: the Anheuser-Busch, Inc. contract would increase by \$93,532; the Hudson contract would increase by \$28,880; and the Milford contract would increase by \$9,527. Exh. 2 at 7. The temporary rate increase is slightly more than half of the permanent increase sought by PWW, 16.23%, and is less than the combined permanent and step increase amount sought by PWW of 19.91%. The OCA and Anheuser-Busch, Inc. took no position on the temporary rates proposed by Staff and PWW.

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. PWW and its customers are protected because, pursuant to RSA 378:29, the

¹ PWW presently has no non-metered customers, but retains that rate class for customers who are awaiting meter installation. 9/15/10 Tr. at 28.

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 PWW and its customers because PWW will only recover the revenue requirement as 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 PWW's proposed allocation of its revenue requirement among the customer classes in the permanent rate phase of this proceeding.

Staff and PWW recommend that the temporary rates go into effect for service taken on or after June 16, 2010. At hearing, PWW testified that June 16, 2010 was the date PWW published notices of the proposed rate increases in area newspapers and was also the date PWW mailed each customer a copy of the suspension order identifying the proposed rate increases. 9/15/10 Tr. at 12-13. 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) that 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 \$2,604,524, or 10.81%, to PWW's revenue requirement on a temporary basis for a total test year revenue requirement of \$26,720,711. We also find it just and reasonable to raise

customer rates by 10.80%. 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

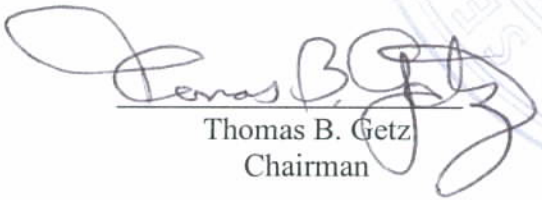
ORDERED, PWW's request to increase its revenue requirement by \$2,604,524, or 10.81%, to \$26,720,711 on a temporary basis is GRANTED; and it is

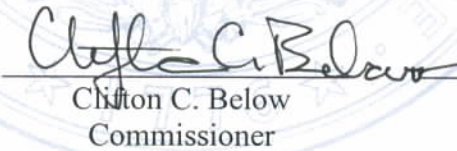
FURTHER ORDERED, that PWW is authorized to raise customer rates by an overall 10.80% and as further detailed in the attachment, Schedule 9, to the settlement agreement; and it is

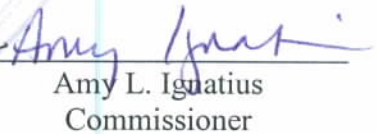
FURTHER ORDERED, that this temporary increase in PWW's revenue requirement and customer rates is effective for service rendered on or after June 16, 2010; and it is

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

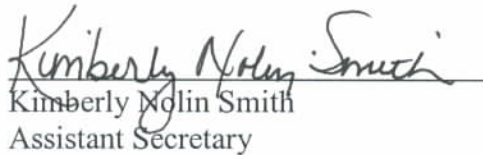
By order of the Public Utilities Commission of New Hampshire this eighth day of October, 2010.


Thomas B. Getz
Chairman


Clifton C. Below
Commissioner


Amy L. Ignatius
Commissioner

Attested by:


Kimberly Molin Smith
Assistant Secretary