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22 March 2013

Debra A. Howland
Executive Director
New Hampshire Public Utilities Commission
21 S. Fruit Street, Suite 10
Concord, NH 03301

Subject: DW 12-359 Pennichuck Water Infrastructure Conservation Adjustment (WICA)
Intervenor Recommendation

References: NHPUC Secretarial Letter, "DW12-359....Commission Approval of Interventions..."
Debra Howland, dated 22 Feb 2013

Dear Ms. Howland:

I was granted intervention status in DW 12-359 by the NHPUC Commission by secretarial letter dated 22 February 2013 (see reference).

A Water Infrastructure and Conservation Adjustment (WICA) may be beneficial to water customers to facilitate more timely replacement of aging infrastructure. However, it comes as a surcharge to rates set between regular/full rate hearings. The WICA under DW12-359 is inappropriate for the following reasons:

1. WICA was originally authorized as a Pilot program in Order No. 25,230 dated 9 June 2011 under Docket No. DW 10-091. **But Pennichuck Corporation failed to comply with this Order**, specifically that "PWW, Inc. shall file all filings under the WICA mechanism approved herein under Docket No. DW 10-091."
2. The reason for this failure was clarified in pre-filed testimony by Donald Ware, Chief Operating Officer of Pennichuck Water Works on 19 December 2012 in support of Pennichuck filing under instant Docket (see page 2 line 19 through page 3 line 20)

***Question:** The Order authorized the Company to initiate the WICA program in 2011. Why did the Company determine not to do so?*

***Answer:** In 2011, the Company and its affiliates were thoroughly involved in finally resolving the acquisition of the Company's parent, Pennichuck Corporation, by the City of Nashua (the "City") following years of highly contentious regulatory and court proceedings. The efforts required to resolve these proceedings and complete the acquisition were intense. This was a time of great change for the Company and potentially a time of uncertainty for the Company's customers. A WICA filing would*

have added a further complexity for the Company and its customers (emphasis added). Additionally, the approved settlement agreement relating to the acquisition in the proceedings before this Commission in Docket DW 11-026 provided for the Company to file a permanent rate case on or before June 1, 2013 using the calendar year 2012 as the test year (emphasis added). As a result, the 2012 investments in water main and service replacements would be included in the test year rate base and dealt with as part of the rate filing. Therefore, the Company deferred the initiation of the WICA program for a year and is requesting that the Commission consider this WICA filing as the initial filing.”

3. Don Ware summarizes precisely the situation. The Settlement Agreement, approved by the Commission, provided for filing a full rate case hearing on or before 1 June 2013, using year 2012 as a test year. So why the need for a WICA rate surcharge, when there is a **regular rate hearing to be filed only 3 months away?** Exactly where is the public benefit for the WICA rate surcharge?
4. Nether the Settlement Agreement, nor the NHPUC Order approving the Settlement Agreement, mention a WICA rate adjustment. This was never mentioned during the lengthy DW11-026 settlement discussions (I know this, for I was an authorized intervenor, and I signed the Settlement Agreement).
5. The Pennichuck Corporation was acquired 100% by the City as a sole shareholder barely a year ago, and novel ratemaking factors apply under the Settlement agreement (CBFRR, MARA, RSF, to name just a few). Thus it would be prudent to experience a full rate case with test year 2012, resolving the special and unique ratemaking method for Pennichuck Water Works, before jumping into WICA rate adjustments with test years 2013 and beyond for which there is neither history nor experience.
6. The NHPUC staff has not documented by which method WICA is to be evaluated, and the WICA surcharge is to be quantified. For example, Connecticut, having enacted a state law to cover WICA (Public Act No. 07-139) spells out how WICA rate adjustment is to be calculated:


“The WICA adjustment shall be calculated as a percentage, based on the original cost of completed eligible projects multiplied by the applicable rate of return, plus associated depreciation and property tax expenses related to eligible projects and any reconciliation adjustment calculated pursuant to subsection (j) of this section as a percentage of the retail water revenues approved in its most recent rate filing for the regulated activities of said water company.”

7. My inquiry with Mr. Mark Naylor, NHPUC Director of the Water and Gas Division, led to his response to study a \$300 text book on utility regulation, and referred me to countless web sites on the subject. **A brief review of these sources demonstrates conclusively that there is no uniform methodology on how to assess the benefit(s) of WICA and assess the surcharge, be it by formula or by spread sheet.** (The State of Connecticut employs a formula; a comprehensive reference on utility regulation titled, Deloitte Regulated Utilities Manual, --available free of charge on the Internet--- employs spread sheets).

8. This lack of documented and standardized methodology is evident, for example, in the NHPUC staff and OCA disagreement on how to valuate depreciation, evidenced in their correspondence.
9. Also undefined by the NHPUC is how the enormous amount of information required to be filed by the NHPUC under its Rules (see PuC 1604 Full Rate Case Filing Requirements) is to be employed in setting rates, be it gathered for the purpose of evaluating a full rate case or for a WICA rate surcharge.

I therefore make the following recommendations:

1. Reject the WICA filing under Docket DW 12-359, in favor of the full rate case to commence on/before I June of this year, and
2. For the Commission to order the NHPUC staff to document and publish their methodology, either by formula or by spread sheet, or both, for evaluating the benefits of a WICA Petition and assess the surcharge, before hearing another WICA Petition. This needs to be done especially for the Pennichuck Corporation given its current corporate status and lack of history under that status.



Fred S. Teeboom
Intervenor