

STATE OF NEW HAMPSHIRE

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April 30, 2019

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

Re: Docket No. DW 19-084
Pennichuck Water Works, Inc.
General Rate Proceeding
Motion for Waiver of Rate Case Filing Requirements
Objection of the Office of the Consumer Advocate

Dear Ms. Howland:

The Office of the Consumer Advocate (OCA) is in receipt of a motion filed on April 25, 2019 in the above-referenced docket by the subject utility, Pennichuck Water Works, Inc. (PWW), seeking a waiver of certain rate case filing requirements set forth in N.H. Code Admin. Rules Puc 1600. Please treat this letter as the OCA's objection to the motion. We are transmitting our objection via letter rather than via pleading in the interest of efficiency because our position can be succinctly and briefly stated.

Section 201.05(a) of the Commission's rules sets forth the standard for rules waivers. Assuming no statutory impediments, as is appropriate here, the Commission waives a rules provision when it "serves the public interest" and "will not disrupt the orderly and efficient resolution of matters before the commission." In determining the public interest, the Commission considers whether "[c]ompliance with the rule would be onerous or inapplicable given the circumstances . . . or [t]he purpose of the rule would be satisfied by an alternative method proposed." N.H. Code Admin. Rules 201.05(b).

PWW seeks waiver of the Puc 1604.01(a) filing requirements for internal financial reports, assets and costs allocated to non-utility operations, balance sheets and income statements, and quarterly income statements, all on the ground that "this information has already been provided to the Commission in PWW's monthly reports to the Commission." PWW Motion at ¶¶ 3, 4, 5, and 6.

The OCA does not believe this meets the “serves the public interest” standard in these circumstances.

When the Commission promulgated Puc 1604, it was obviously aware that at least some of the information to be included in rate case filings reprises data that the subject utility would have already submitted to the Commission. But, obviously, there is convenience and efficiency in assembling key information within the rate case filing itself. Perhaps even more importantly, neither the OCA nor other potential intervenors receive the monthly reports to which PWW alludes – so, the fact that the information may already be in the Commission’s files is of little consequence to rate case parties and, indeed, we are almost certain to request the omitted information during the discovery process should it not appear in the rate case filing itself.

PWW additionally seeks waiver of the requirements in Puc 1604.01(a) that it include in its rate case filing its annual reports to shareholders, a list of advertising expenses during the test year, information about any variances from the standard utility chart of accounts, certain 10K and 10Q filings made to the Securities and Exchange Commission, the utility’s most recent depreciation study, information about the any incentive plans for corporate officers and executives, and information relative to voting stock of officers and directors. According to PWW, the Commission should waive these filing requirements on the ground that “PWW no longer incurs or generates this information because it is municipally owned and no longer a publicly traded company and because of its modified revenue requirement structure.” PWW Motion at ¶ 7.

This asserted basis for a waiver does not meet the “serves the public interest” standard. PWW is still technically an investor-owned utility, albeit one with a sole shareholder that is a municipal corporation. In these circumstances, to the extent PWW does not compile or cannot supply the information required by the rules provisions cited in paragraph 7 of the Company’s motion, it should simply state that fact in its rate case filing. Otherwise, the unusual nature of this utility’s ownership structure provides no logical basis for the requested waiver.

Finally, PWW seeks a waiver of the requirements in Puc 1604.07(a) to include in its rate case filing three particular schedules: Schedule 3 (rate base), Schedule 3A (working capital), and Schedule 3 Attachment (pro forma adjustment rate base). PWW states that waiver is appropriate because its “approved revenue requirement structure is no longer based on traditional rate base” and “no longer includes working capital,” and (as to the Schedule 3A attachment) “this or similar information will be provided in the Computation of Revenue deficiency.” PWW Motion at ¶ 8. As to Schedule 3 and Schedule 3A, the mere fact that the Commission has departed from traditional cost-of-service ratemaking principles for this Company (because PWW does not rely on equity capital) does not mean that schedules relevant to the traditional approach cannot provide useful benchmarks as the Commission seeks to determine what rates are just and reasonable for this utility. As to the Schedule 3A attachment, the OCA takes no position and defers to the good judgment of the Commission as to whether the requirement to submit this schedule meets the standard for a rules waiver.

Thank you for considering the OCA's views on the requested waiver of rate case filing requirements. Please feel free to contact me if there are any questions or concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Maurice Kreis". The signature is fluid and cursive, with a prominent initial "D" and "M".

D. Maurice Kreis
Consumer Advocate

cc: Service List, via e-mail