

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 21-134

PENNICHUCK WATER WORKS, INC.

Request for Emergency Temporary Rates for Merrimack Village District

Expedited Order Authorizing Temporary Tariff

O R D E R N O. 26,552

November 12, 2021

I. PROCEDURAL HISTORY AND BACKGROUND

On October 21, 2021, Pennichuck Water Works, Inc. (PWW) filed an emergency tariff sheet for a single customer, Merrimack Village District (MVD), proposing tariff language allowing bulk water would be sold to MVD at the actual variable cost of production (to be billed at an estimated initial rate of \$0.67 per 100 cubic feet), for effect November 20, 2021.

On October 22, 2021, PWW filed a petition requesting the approval of a temporary emergency water rate which would enable it to provide bulk water supply to MVD while MVD's water supply systems are brought into compliance with water quality regulations for per- and polyfluoroalkyl (PFAS) contaminants. In support of its petition, PWW filed the direct testimony of Donald Ware, PWW's chief operating officer, and related attachments, as well as a proposed tariff.

PWW is a regulated water utility owned by Pennichuck Corporation, which, in turn, is owned by the City of Nashua. PWW has customers in Nashua and other New Hampshire municipalities, including Amherst, Bedford, and Merrimack. MVD also provides water service to the Town of Merrimack using its own water service infrastructure, which presently includes six wells. MVD's service area covers more

than 87 percent of the Town of Merrimack, and it manages over 7,500 service connections. PWW has approximately 376 customers in Bedford who obtain their water exclusively from MVD and about 75 customers in Amherst who obtain a supplemental water supply from MVD.

On October 27, 2021, Suzanne Amidon, Esq. filed an appearance on behalf of the Department of Energy (Energy). On October 27, the Department of Environmental Services (NHDES) filed a letter in support of PWW's petition, stating that "NHDES has determined the approach to providing safe drinking water to MVD described in the petition is the most appropriate action to address the contamination in the drinking water until MVD completes the construction filtration systems..."

On October 29, 2021, the Commission issued a Notice of Adjudicative Proceeding, scheduling an expedited hearing in this matter on November 8, 2021.

On November 1, 2021, MVD filed a letter in support of PWW's petition.

On November 8, 2021, the Commission held a duly noticed expedited hearing. Marcia Brown, Esq. (NH Brown Law) appeared on behalf of PWW, along with PWW witnesses Larry Goodhue and Donald Ware, and MVD witnesses Ronald Miner Jr., Jill Lavoie, and Michelle Houlton. Suzanne Amidon, Esq. appeared on behalf of Energy. At the conclusion of the hearing, PWW and Energy took the position that the Commission should authorize the proposed tariff language to take effect as proposed on November 20, 2021, for a term of six months, and that PWW and MVD would pursue a special contract for the purchase of water supply on the same terms as the proposed tariff, covering the period of time from October 20, 2021 to at least November 1, 2022.

On November 12, 2021, PWW filed an executed special contract between PWW and MVD representing similar terms to the originally filed tariff, permitting PWW to provide MVD up to one million gallons of water per day at the actual variable cost of

production (to be billed at an estimated initial rate of \$0.67 per 100 cubic feet) between October 20, 2021 and December 31, 2022. In filing the executed special contract, PWW noted that “PWW and MVD, as well as the Department of Energy indicated support for allowing the tariff to go into effect pending the review and approval of the special contract. To that end, PWW will file a supplemental petition to reflect these changing requests.”

PWW’s tariff, petition, and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are available on the Commission’s website at:

<https://www.puc.nh.gov/Regulatory/Docketbk/2021/21-134.html>.

II. COMMISSION ANALYSIS

The Commission has plenary authority over rates charged by regulated utilities. *See* RSA 378:7. Pursuant to RSA 378:3, no change in rates shall be effective except after 30 days’ notice to the Commission and such notice to the public as the Commission shall direct. Under RSA 378:9 the Commission may authorize any public utility to temporarily alter or amend rates when it is of the opinion that an emergency exists.

At the expedited hearing on November 8, 2021, we heard uncontested testimony that established that: 1) PWW and MVD are members of a mutual aid entity; 2) PWW and MVD’s water supply systems contain pre-existing interconnections, including a gate capable of transporting bulk water supplies from PWW to MVD, and distribution infrastructure where MVD provides water supply for subsets of PWW’s customer base; 3) a majority of MVD’s water supply sources are contaminated with PFAS contaminates, a situation that is unlikely to change until treatment systems can be installed over the course of the next year; 4) MVD would be unable to purchase bulk

water supplies from PWW at retail rates due to budgetary constraints; 5) PWW has the capacity to supply MVD with up to one million gallons of water per day for the foreseeable future, including under adverse conditions such as drought; 6) PWW and MVD are in agreement on terms for PWW to supply MVD with bulk water at the variable cost of production while MVD remedies its supply contamination issue; and 7) NHDES states that the action proposed is the most appropriate way to address the contamination in MVD's drinking water.

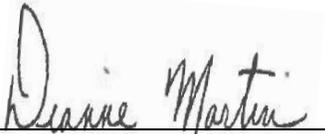
Based on the conclusions above, and understanding that PWW and MVD will be filing a further petition seeking approval of the special contract filed on this date, we utilize the aforementioned statutory authorities to authorize PWW's tariff to take effect November 20, 2021, as requested by PWW, MVD, and Energy, on the condition that the tariff shall be temporarily in effect for not more than six months. We note that this decision is based on the specific facts in this case, including the mutual aid agreement, the interconnected nature of PWW and MVD's systems, and the support of NHDES. We note that NHDES has a separate authority under RSA 485:4 to order public water systems with adequate water supply to supply water to systems with public health or safety problems due to water supply quality or quantity. As such, we emphasize that NHDES' support and the agreement of the parties are both critical in our evaluation of this petition, because the emergency rates provision of RSA 378:9 is not designed to invite litigation of the whether a public health emergency exists due to water supply quality or quantity, a matter that the General Court saw fit to entrust to NHDES.

We will act promptly to consider the special contract filed on this date pursuant to RSA 378:18 once the appropriate petition has been filed.

Based upon the foregoing, it is hereby

ORDERED, Pennichuck Water Works, Inc.,’s tariff filed October 21, 2021 is authorized to take effect November 20, 2021, on a temporary basis for a term not to exceed six months.

By order of the Public Utilities Commission of New Hampshire this twelfth day of November, 2021.

	
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Dianne Martin	Daniel C. Goldner
Chairwoman	Commissioner

Service List - Docket Related

Docket# : 21-134

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