

STATE OF NEW HAMPSHIRE
before the
PUBLIC UTILITIES COMMISSION

Docket No. DW 23-088

Pennichuck Water Works, Inc., Pennichuck East Utility, Inc. and Pittsfield Aqueduct Company, Inc.

Request for Change in Rates

Motion Requesting Dismissal of Petition

Pursuant to N.H. Code Admin. Rules Puc 203.07, the New Hampshire Department of Energy (DOE) requests that the N.H. Public Utilities Commission (Commission) dismiss the Joint Petition of Pennichuck Water Works, Inc. (PWW), Pennichuck East Utility, Inc. (PEU) and Pittsfield Aqueduct Company, Inc. (PAC) (together, Petitioners), to approve the application of PWW rates to customers of PEU and PAC under a consolidated single tariff. Logistically, the Petitioners are requesting to file rate schedules with the Commission as one merged rate case with consolidated tariff rates. In support of this Motion, Movant states as follows:

1. On October 13, 2023, Petitioners filed a notice of intent to file a single, consolidated rate case for PWW, PEU and PAC, and on November 21, 2023, filed testimony and schedules in support of the rate change.
2. The Commission approved a settlement agreement in Docket No. DW 11-026, regarding a Petition of the City of Nashua for approval to purchase [100 percent of the stock in Pennichuck Corporation. The Commission approved settlement provided that PWW, PEU and PAC would remain separate legal entities providing water service to the public, and, as such, are separately regulated. *See* Order No. 25, 292 (Nov. 23, 2011) approving Settlement Agreement (Fully Executed Copy filed in Docket No 11-026 on October 24, 2011).
3. PWW, PEU, and PAC, although having a common owner, are different legal entities that operate as water utilities in three different franchise areas in New Hampshire. Prior to the instant filing,

PWW, PEU, and PAC have filed separate rate cases for their respective franchise areas. *See e.g.*, Docket No. DW 22-032 for PWW, Docket No. DW 20-156 for PEU, and Docket No. DW 20-153 for PAC.

4. In the interim, from the approval of the settlement in Docket No. DW 11-026 to the current day, the Petitioners have not presented, and the Commission has not considered, the consolidation or merger of the three utilities into a single, uniformly regulated public water utility.

5. Yet, in the instant filing, PWW, PEU, and PAC request a rate change that combines the revenue requirement for PWW, PEU, and PAC, and derives a single consolidated customer rate for the “combined” entities.

6. The Joint Petition states that the outcome of the consolidated rate case is conditioned on the approval of the “merger” of PWW, PEU and PAC.

7. The fact is no merged entity exists that is a public utility entitled to request the rate relief in the proposed “consolidated” rate case.

8. Because there is no merged entity, the Petition for a Rate Change filed in this docket seeks relief that is hypothetical at best. The orderly and efficient process before the Commission does not contemplate the concurrent consideration of a merger petition, and a rate case for the merged entity, at the same time.

9. RSA 378:6 (a) provides that any investigation into a proposed general increase in rates to not exceed 12 months, as follows:

“Pending any investigation of a rate schedule which represents a general increase in rates and the decision thereon, the commission may, by an order served upon the public utility affected, suspend the taking effect of said schedule and forbid the demanding or collecting of the rates, fares, charges or prices covered by the schedule for such period or periods, not to exceed 12 months in all, as in the judgment of the commission may be necessary for such investigation, except as provided in paragraph II.” RSA 378:6 (a).

10. Contrary to rate cases, investigations into merger dockets are not time-limited. *See* RSA 378:33, which does not limit the time for an investigation in a merger. The orderly and logical process calls for the consideration of the merger first, and, if and after the merger is approved, the consideration of a consolidated rate for the merged entity.

11. On November 29, 2023, PEU and PAC filed separate notices for a change in rates for their respective franchises, thus affirming that PEU and PAC continue to exist as separate entities from each other and PWW, and that there is of yet no merged entity that is entitled to request consolidated rate relief for PEU and PAC, and from PWW. *See* Docket No. DW 23-096 and Docket No. DW 23-097.

12. These notices indicate that PEU and PAC each intend to have two rate cases for the same test year before the Commission concurrently with the “consolidated” rate case. The statutory framework in RSA 378 does not contemplate that a single utility will have multiple rate cases before the Commission at the same time, with duplicate testimony, exhibits and related attachments. The appropriate remedy would be to dismiss the hypothetical consolidated rate case filed in DW 23-088.

13. The Department has consulted with the Office of Consumer Advocate (OCA), who concurs with this Motion. The Department also informed the Town of Bedford (which filed a motion to intervene on December 7, 2023), and the PWW, PEU and PAC that the Department is filing this Motion.

WHEREFORE the Movant respectfully requests that the Commission:

1. Dismiss the consolidated rate case filed by the Joint Petitioners on November 21, 2023; and
2. Grant such further order and relief as may be just and proper.

Dated this 15th day of December, 2023.

Respectfully submitted,

N. H. Department of Energy
By Its Attorney

/s/ Suzanne G. Amidon

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Certificate of Service

I hereby certify that on December 15, 2023, a copy of the foregoing Motion has been forwarded to the parties listed on the Commission's service list in this docket.

/s/ Suzanne G. Amidon

Suzanne G. Amidon

