STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DW 13-126
DW 13-128
DW 13-130

PENNICHUCK EAST UTILITY, INC.
PITTSFIELD AQUEDUCT COMPANY, INC.
PENNICHUCK WATER WORKS, INC.

Notice of Intent to File Rate Schedules

Order Authorizing Recovery of Rate Case Expenses and Temporary Rate Recoupment, and Granting Motions for Protective Treatment

ORDER NO. 25,752

January 13, 2015

In this order, we authorize Pennichuck East Utility, Inc. (PEU), Pittsfield Aqueduct Company, Inc. (PAC), and Pennichuck Water Works, Inc. (PWW), to recover their rate case expenses; and we authorize PEU and PAC to recoup the difference between their temporary and permanent rates. We also grant requests for protective treatment of certain confidential information related to rate-case consultants' hourly billing rates filed by all three companies.

I. BACKGROUND

On November 22, 2013, by Order No. 25,598 in DW 13-130, the Commission approved temporary rates at the same level as existing rates for PWW for service rendered on or after July 1, 2013. Also, on November 22, 2013, by Order No. 25,599 in DW 13-128, the Commission approved a 7.00% temporary rate increase for PAC effective for service rendered on or after July 1, 2013. On November 27, 2013, by Order No. 25,602 in DW 13-126, the

Commission approved a 7.00% temporary rate increase for PEU effective for service rendered on or after July 1, 2013.

On July 15, 2014, by Order No. 25,693 in DW 13-130, the Commission approved a 0% permanent rate increase for PWW. On July 22, 2014, by Order No. 25,695 in DW 13-128, the Commission approved a permanent rate increase of 8.95% for PAC effective as of July 1, 2013; and, by Order No. 25,696 in DW 13-126, the Commission approved a permanent rate increase of 9.91% for PEU effective as of July 1, 2013. The three orders authorized PWW, PAC, and PEU (collectively the Companies) to submit filings for recovery of rate case expenses within thirty days of the respective dates of the orders in accordance with NH. Code Admin. R. Puc 1905.02. In addition, Commission Order Nos. 25,695 and 25,696 authorized PAC and PEU, respectively, to submit filings within thirty days of the dates of those orders to reconcile the differences in revenues between temporary and permanent rates from the effective date of July 1, 2013.[1]

II. POSITIONS OF THE PARTIES

A. PWW, PAC, and PEU

On August 7, 2014, PWW and PAC submitted their rate case expense filings to the Commission. PEU submitted its rate case expense filing one week later. PWW proposed recovery of rate case expenses totaling $103,368.52 over a twelve-month period via a surcharge of $0.32 per customer per month. PAC proposed recovery of rate case expenses totaling $13,142.87 over a twelve-month period via a surcharge of $1.75 per customer per month. PEU proposed recovery of rate case expenses totaling $65,649.28 over a twelve-month period via a surcharge of $0.78 per customer per month.

[1] With regard to PWW, since the Commission approved 0% increases for both temporary and permanent rates in DW 13-130, no recovery of any revenue differential between permanent and temporary rates is necessary.

Accompanying each rate case expense filing was a motion for confidential treatment of hourly billing rate information for legal services performed for the Companies as well as "cost of service" study consulting services performed solely for PEU. On September 29, each company submitted a second motion for confidential treatment of PEU's discovery responses to OCA Data Request 4-1 and Staff Data Request 4-4 in DW 13-126. These six motions concerned the disclosure of hourly billing information for legal and cost of service consulting services as well as a not-to-exceed stipulation contained in the cost of service consultant contract. All of the confidentiality motions argued that disclosure of the information would cause competitive harm to the Companies' attorneys and cost of service consultants, and could potentially have a detrimental effect on the Companies' competitive bidding efforts in the future, thereby creating a detriment to customers as well.

On August 19, 2014, PAC submitted a filing seeking recovery of a total of $28,459.04 as its calculated revenue differential between temporary and permanent rates. In accordance with Commission Order No. 25,695, PAC proposed a recovery period of twelve months and calculated surcharges to be applied to its respective customer classes over that period of time.

On August 21, 2014, PEU filed a request for a two-month extension (until October 24) to file its revenue reconciliation of permanent and temporary rates. PEU's request was granted by Secretarial Letter. On October 30, PEU filed a second request for a reconciliation-filing deadline extension until November 14, which was granted by a Secretarial Letter. On November 14, PEU submitted its filing seeking recovery of a net amount of $216,480 as its calculated revenue differential between temporary and permanent rates. In accordance with Commission

Order No. 25,696, PEU proposed a recovery period of twelve months and calculated surcharges and refunds to be assessed or distributed to its respective customer classes over that period of time.

B. Staff and the OCA

On December 15, 2014, Commission Staff (Staff) filed its recommendations concerning the Companies' respective proposals. Regarding the recovery of rate case expenses, Staff stated that, as a result of discovery, it was recommending a number of adjustments to each company's proposed rate case expense recovery amount. Staff summarized its proposed adjustments in Attachment B to its recommendation letter and indicated that the majority of its proposals involve a re-allocation of various expenses among the three utilities. As a result, Staff recommended rate case expense recoveries of $104,104.28 for PWW; $13,750.07 for PAC; and $64,340.18 for PEU. Overall, Staff recommended that the total rate case expenses recovered by the Companies should be $182,194.53, which represents an increase of $33.86 over the aggregate of the recovery requests filed by the Companies. Staff further recommended that each company be allowed to recover its rate case expenses over a twelve-month period via appropriate monthly customer surcharges, as follows: $0.32 for PWW; $1.83 for PAC; and $0.76 for PEU.

Staff also supported each company's motions for confidential treatment, agreeing that disclosure of the hourly billing and other contract information could have a detrimental effect on the Companies as well as their customers. Staff stated that the Commission has granted confidential treatment of similar information in the past.

With regard to the temporary-permanent rate recoupments, Staff recommended that the Commission approve the net revenue recoveries proposed by PAC of $28,459.04 and by PEU of $216,480. Staff also recommended that both PAC and PEU be allowed to recover those amounts concurrently with their respective rate case expenses over a twelve-month period, through appropriate surcharges and refunds that were determined based on both customer class and individual customer usage during the recoupment period (*i.e.*, the effective period of the temporary rates).

For PAC, Staff recommended an average monthly recoupment surcharge for general metered customers of $2.81 per month. When combined with the proposed rate case expense surcharge of $1.83 per month, the total average surcharge per month for PAC's general metered customers would be $4.64. For PEU, Staff recommended an average monthly recoupment surcharge for general metered customers of $1.95 per month. When combined with the proposed rate case expense surcharge of $0.76 per month, the total average surcharge per month for PEU's general metered customers would be $2.71. Because its recovery does not include a revenue recoupment, Staff recommended that PWW customers pay only an additional $0.32 per month for the rate case expense surcharge.

Prior to filing its recommendation letter with the Commission, Staff stated that it notified the Companies, the Town of Litchfield, and the Office of Consumer Advocate (OCA) of its recommendations. In response, the Companies indicated that they concurred with Staff's recommendations. The Town of Litchfield indicated that it would take no position with on Staff's recommendations.

The OCA's position was presented to the Commission as part of Staff's recommendation. The OCA did not support Staff's proposed rate case expense customer surcharge amounts. Instead, the OCA proposed that the rate case expenses of the Companies be aggregated, resulting in a flat surcharge amount of $0.43 per month for all the Companies' customers, or $5.20 per customer over the entire twelve-month recovery period. The OCA argued that, "The administrative value of legal expenses is system wide so aggregation of these expenses is appropriate." Staff Recommendation, December 15, 2014, at 5.

Staff disagreed with the OCA, explaining that even though the rate cases for the companies were concurrent, each case was unique on a number of issues. As examples, Staff stated that while PEU had a cost of service study, PWW and PAC did not. Also, PAC and PEU had temporary rate increases while PWW did not. Staff argued that, "customers of each company should pay rate case expenses appropriate to the actual cost of each company's case as closely as possible."

III. COMMISSION ANALYSIS

A. Motions for Protective Treatment

The New Hampshire Supreme Court and the Commission apply a three-step balancing test to determine whether documents meet the definition of "confidential, commercial, or financial information" under RSA 91-A:5, IV. *Northern Utilities, Inc.*, Order *Nisi* No. 25,700 (August 1, 2014) at 6 (citing *Lambert v. Belknap County Convention*, 157 N.H. 375, 382-83 (2008); *Sprint Communications Company*, Order No. 25,607 at 2 (Dec. 19, 2013)). Under that test, the Commission first inquires whether the information implicates a privacy interest and

whether there is a public interest in disclosure. The Commission then balances those competing interests and decides whether disclosure is appropriate. *Id.*

With regard to attorney billing rates, the Commission has previously found hourly billing rate information exempt from disclosure. *See, e.g., Aquarion Water Company of New Hampshire, Inc.*, Order No. 25,586 (October 22, 2013) (citing *Unitil Energy Systems, Inc.*, Order No. 24,746, 92 NH PUC 109, 114 (2007)). Likewise, in this case, we find the public's interest in reviewing such financial, commercially-sensitive information is not sufficient to outweigh the benefit derived from maintaining the confidentiality of such information. We also find the not-to-exceed stipulation contained in the cost of service consultant contract to be sufficiently analogous as to require the same determination. Disclosure of this information could result in a competitive disadvantage to the Companies' consultants and, in turn, the Companies' customers. Further, there is no indication that disclosure of the information would inform the public about the workings of the Commission.

In balancing the Companies' and its consultants' privacy interests with the public's interest in disclosure, we find that the privacy interests outweigh the interests in disclosure and, therefore, we grant the Companies' motions for protective treatment. In addition, in lieu of disclosure of the specific hourly rates, the Companies have provided total invoice amounts for the attorneys and cost of service study consultants to inform the public of its expenses and we deem this sufficient.

Consistent with past practice, the protective treatment provisions of this Order are subject to the on-going authority of the Commission, on its own motion, or on the motion of Staff, any

party, or any member of the public, to reconsider this protective order in light of RSA 91-A, should circumstances so warrant.

B. Temporary-Permanent Rate Recoupment

We next address the issue of recoupment of the difference between temporary and permanent rates for PAC and PEU, because our final orders approved rates higher than the temporary rates approved earlier in the proceedings. RSA 378:29 requires the Commission to allow utilities to amortize and recover the difference between temporary rates and permanent rates over the effective period of the temporary rates if, on the final disposition of the rate proceeding, the rates ultimately approved exceed the earlier-imposed temporary rates.

The revenue shortfall, when compared with the temporary rates actually charged since the July 1, 2013, effective date, totals $28,459.04 for PAC and $216,480 for PEU. We have reviewed the temporary rate recoupment proposals for PAC and PEU, as well as Staff's recommendations, and we concur with Staff's recommendations. We therefore approve recovery of the proposed revenue differential between temporary and permanent rates in the amounts of $28,459.04 for PAC and $216,480 for PEU.

C. Rate Case Expense Recovery

The Commission has historically treated prudently-incurred rate case expenses as a legitimate cost of business appropriate for recovery through rates. *Lakes Region Water Company, Inc.*, Order No. 24,708, 91 N.H. PUC 586, 587 (2006). Consistent with that policy, we have reviewed the Companies' rate case expenses as well as Staff's recommendation. In its recommendation, Staff identified a number of adjustments consisting primarily of various

re-allocations of expenses amongst the three companies. In the aggregate, the total amount of rate case expenses recommended by Staff was only $33.86 more than that originally proposed by the Companies.

We decline the OCA's request to consolidate the companies' rate case expenses. Although the Companies are affiliated, we agree with Staff that they should be dealt with separately for the purpose of rate case expense recovery. More fundamentally, we agree with Staff about the unique nature of each rate case, and as a result, we agree that the customers of each company should only be responsible for the actual costs of the rate case that is directly relevant to the company that serves them.

Consequently, we find the rate case expenses for PWW of $104,104.28, for PAC of $13,750.07, and for PEU of $64,340.18 to be just and reasonable, and we approve the respective recoveries of these amounts.

D. Surcharge Recovery Periods and Amounts

The revenue recoupment filings of PAC and PEU, as well as the rate case expense filings of all three companies, propose a surcharge to customer bills to be imposed over twelve months. In reaching our determinations of the appropriate recovery period and surcharge amounts, we have reviewed the companies' requests and Staff's recommendations.

We find the proposal to spread the combined surcharge over 12 monthly billing periods to be just and reasonable. We also find that such recovery will not be unduly burdensome to the customers of any of the three companies.

Accordingly, we authorize the Companies to recover their rate case expenses over a twelve-month period via appropriate monthly customer surcharges, as follows.

Rate Case Expenses	PWW	PAC	PEU
General Metered	$0.32	$1.83	$0.76
Fire Protection (FP)	$0.32	$1.83	$0.76
Public/Municipal FP	$0.32	$1.83	$0.76

We also authorize PEU and PAC to recover their recoupment amounts ($28,459.04 for PAC and $216,480 for PEU) over a twelve-month period via appropriate monthly customer surcharges, calculated based on customer class and individual customer usage. The average monthly recoupment surcharges for general metered customers of the Companies are as follows.

Recoupment	PWW	PAC[2]	PEU[3]
General Metered	$0.00[4]	$2.81	$1.95

Based upon the foregoing, it is hereby

---

[2] PAC's filing included a copy of a proposed tariff page proposing recovery of the revenue differential by customer class as follows:

Customer Class	Recovery / (Refund)	
General Metered	$21,074.28	(Average Monthly Surcharge = $2.81)
Private Fire Protection	914.37	
Public Fire Hydrant-Pittsfield	6,470.39	
Total	$28,459.04	

[3] PEU's filing included a copy of a proposed tariff page indicating the calculated overall recovery / refund amounts by customer class as follows:

Customer Class	Recovery / (Refund)	
General Metered	$164,409	(Average Monthly Surcharge = $1.95)
Private Fire Protection	(2,779)	
Municipal Fire Protection	32,937	
Public Fire Protection	24,687	
Capital Recovery Surcharge	(2,774)	
Total	$216,480	

[4] PWW customers pay zero recoupment because the rates did not change.

ORDERED, that PAC is authorized to recover $28,459.04, representing the difference between its temporary rates approved in Order No. 25,599 and the permanent rates approved in Order No. 25,695; and that PEU is authorized to recover $216,480, representing the difference between its temporary rates approved in Order No. 25,602 and the permanent rates approved in Order No. 25,696; and it is

FURTHER ORDERED, that PWW is authorized to recover $104,104.28, PAC is authorized to recover $13,750.07, and PEU is authorized to recover $64,340.18, representing their just and reasonable rate case expenses; and it is

FURTHER ORDERED, that PAC and PEU are authorized to surcharge or refund their customers for recoupment of temporary and permanent rates as reflected in their respective revenue recoupment filings, until the full amounts of the respective temporary and permanent rate recoupments are recovered; and it is

FURTHER ORDERED, that PWW is authorized to collect a surcharge in the amount of $0.32 per customer per month, PAC is authorized to collect a surcharge in the amount of $1.83 per customer per month, and PEU is authorized to collect a surcharge in the amount of $0.76 per customer per month, each for twelve months, to recover their respective rate case expenses; and it is

FURTHER ORDERED, that PWW, PAC, and PEU shall file compliance tariffs within 14 calendar days of the date of this order reflecting their recoupment and rate case expense surcharges approved herein.

By Order of the Public Utilities Commission of New Hampshire this thirteenth day of January, 2015.

Martin P. Honigberg
Chairman

Robert R. Scott (RNS)
Commissioner

Attested by:

Debra A. Howland
Executive Director