

**THE STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION**

Pennichuck Water Works, Inc.

Docket No. DW 19-091

Petition for Arbitration

STATEMENT OF AGREED-UPON FACTS

NOW COMES, Pennichuck Water Works, Inc. ("PWW"), by and through its attorney, NH Brown Law, PLLC, and respectfully submits the below positions on relevant facts.

Uncontested Facts

1. The Commission approved a twenty-year contract for wholesale water supply ("Special Contract") between the Town and PWW in Docket No. DW 05-143, Order No. 24,611 (March 31, 2006).

2. The Special Contract is a special contract within the meaning of RSA 378:18.

3. The Special Contract includes the following provision at Section 7(b):

Volumetric Charge. In addition to the Demand Charge, the Town shall pay the Company \$1.116 per 100 cubic feet (748) gallons, the Company's production cost excluding administrative and general cost for all water taken by the Town (the "Volumetric Charge"). *The Volumetric Charge shall be adjusted from time-to-time by the same percentage and effective as of the same dates as any adjustment in the rates paid by residential customers in Nashua pursuant to the Company's tariff on file with the NHPUC.* If the Company no longer has a tariff for service to residential customers in Nashua, the parties shall negotiate in good faith to determine an appropriate reference point for adjustment to the Volumetric Charge. (emphasis added).

4. PWW has a tariff on file with the Commission.

5. Germane to the instant billing dispute, the Special Contract governs the relationship between the Town and PWW as well as does the portion of PWW's tariff referenced

in Section 7(b) above that pertain to “adjustment[s] in rates paid by residential customers in Nashua.”

6. The Town disputes charges that appear on its bill from PWW: (1) “PWW/CWS Rate Case Expense 2018”; and (2) “PWQCPAC Recoupment”.

7. The Town and PWW have never amended the Special Contract.

8. The crux of the dispute between the Town and PWW is a matter of law involving the interpretation of the italicized language in Section 7(b) of the Special Contract quoted above.

9. The Commission has issued orders that have adjusted “the rates paid by residential customers in Nashua” which include:

- a. Docket No. DW 06-073, PWW Rate Case, NHPUC Order No. 24,751.
- b. Docket No. DW 08-073, PWW Rate Case, NHPUC Order No. 25,006, NHPUC Order No. 25,018.
- c. Docket No. DW 10-091, PWW Rate Case, NHPUC Order No. 25,153, NHPUC Order No. 25,230, and NHPUC Order No. 25,278.
- d. Docket No. DW 12-359, PWW WICA, Order No. 25,510 (no rate change).
- e. Docket No. DW 13-130, PWW Rate Case, NHPUC Order No. 25,598, NHPUC Order No. 25,693, NHPUC Order No. 25,752.
- f. Docket No. DW 13-358, PWW WICA, NHPUC Order No. 25,661.
- g. Docket No. DW 15-043, PWW WICA, NHPUC Order No 25,784.
- h. Docket No. DW 16-220, PWW QCPAC, NHPUC Order No. 25,896.
- i. Docket No. DW 16-806, PWW Rate Case, NHPUC Order No. 25,990, NHPUC Order 26,070, NHPUC Order No. 26,114.

10. PWW continues to bill the Town for charges denoted on customer bills as: (1) “PWW/CWS Rate Case Expense 2018”; and (2) “PWQCPAC Recoupment”.

11. The Town has refused to pay said charges, documentation of which was attached to PWW's petition.

Disputed Facts

12. PWW is not aware that any material facts are in dispute. The instant matter concerns a dispute of interpretation of Section 7(b) of the Special Contract, which involves resolution of matters of law rather than disputed facts.

Witness

13. If the Commission holds a hearing on the merits in this matter, PWW will offer Donald L. Ware, PWW's Chief Operating Officer, as a factual witness for the following:


- a. The terms of the PWW-Hudson Special Contract;
- b. How PWW has interpreted the terms of the PWW-Hudson and other special contracts;
- c. How PWW has invoiced its customers after Commission approval of rate changes and, in particular, rate changes that affect "residential customers in Nashua" and special contract customers;
- d. The Town's most recent outstanding amounts due;
- e. When PWW issued bills to the Town;
- f. For what service PWW issued the bills to the Town; and
- g. A description of the limited collection activities PWW has undertaken toward the Town.

Time for Evidentiary Presentation

14. If the Commission holds a hearing on the merits, PWW estimates that direct examination of Mr. Ware would take thirty (30) minutes. Oral argument is contained in PWW's brief and reply brief which has been filed with the Commission. If the Commission were to hold a hearing on the merits, PWW estimates its argument summary would take forty (40) minutes.

Respectfully submitted,
PENNICHUCK WATER WORKS, INC.
By and through its Attorney,
NH BROWN LAW, PLLC

Date: December 2, 2019

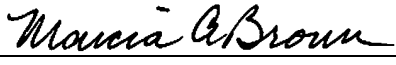


Marcia A. Brown, Esq., Bar No. 11249
20 Noble Street
Somersworth, NH 03878-2621
(603) 219-4911

CERTIFICATION

I hereby certify that a true and accurate copy of the foregoing has been forwarded by e-mail to all parties on the Commission's electronic docket-related service list.

Dated: December 2, 2019



Marcia A. Brown, Esq.