

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 07-105, DW 10-043, DW 10-141, DW 11-021

LAKES REGION WATER COMPANY, INC.

**Investigation into Quality of Service, Affiliate Agreement with LRW Water Services, Inc.,
Permanent Rate Proceeding, and Petition to Approve Long-Term Debt**

**Order Granting Recovery of Certain Rate Case Expenses and Granting Motion for
Confidential Treatment**

ORDER NO. 25,454

January 17, 2013

I. PROCEDURAL BACKGROUND AND POSITIONS OF THE PARTIES

On July 13, 2012, by Order No. 25,391, the Commission established new permanent rates for Lakes Region Water Company, Inc. (Lakes Region), authorized Lakes Region to recover rate case expenses incurred in the proceeding, and directed Lakes Region to file a calculation of its rate case expenses with the Commission by September 1, 2012.

On August 30, 2012, pursuant to Order No. 25,391, Lakes Region filed its proposal to recover \$251,772.46 in rate case expenses. Lakes Region also supplied copies of invoices supporting its request. Lakes Region proposed a 12-month recovery period for these expenses, with a proposed quarterly surcharge to all Lakes Region customers of approximately \$38, applied for four quarters.

Lakes Region also filed, on August 30, 2012, a motion for confidential treatment regarding hourly billing rate information for legal services rendered to Lakes Region in the form of invoices attached to Lakes Region's rate case expense reimbursement request.

On September 14, 2012, subject to its motion for confidential treatment, Lakes Region filed supplemental information regarding its rate case expenses relating to legal expenses rendered by the Upton & Hatfield firm.

In a letter filed with the Commission on November 16, 2012, Staff recommended a series of adjustments to Lakes Region's initial proposal for rate case expense recovery. Staff's recommended adjustments, if adopted by the Commission, would result in: (1) a Commission disallowance of \$28,627.75 in expenses; (2) a Commission-authorized Lakes Region recovery of \$152,965.97 in rate case expenses; and (3) a reassignment of \$81,921.06 from Lakes Region's initial proposal for rate case-expense recovery, for recording as a deferred asset. Staff noted that the \$81,921.06 in costs recommended for recording as a deferred asset incorporated the efforts made by Lakes Region, in conjunction with the rate proceeding, to improve its financial and operational stability and viability. Staff recommended that Lakes Region be permitted to recover \$81,921.06 through customer rates, beginning at the date of a final order in its next filed full rate case, via a five-year amortization of the recorded deferred asset.

Staff recalculated the rate case surcharge on the basis of these proposed disallowances and reassignments, with a rate-case expense recovery figure of \$152,965.97, and recommended that the surcharge be assessed over eight quarters, instead of four quarters, in order to reduce the quarterly bill impacts on Lakes Region customers. The resulting surcharge recommended by Staff, for all Lakes Region customers, would be \$11.64 per customer, assessed for eight quarters. *See Staff Recommendation of Jayson P. Laflamme, November 16, 2012, at 4.* Lakes Region concurred with Staff's recommended adjustments. The Office of the Consumer Advocate

(OCA) noted its concern about the level of rate case expenses incurred by Lakes Region, as well as the Company's heavy reliance on outside contractors but, given the circumstances, supported the Staff's recommendation. *Id.* at 4.

II. COMMISSION ANALYSIS

The Commission considers prudently incurred rate case expenses as a legitimate cost of business appropriate for recovery through rates. *Hampstead Area Water Company, Inc.*, Order No. 25,025 (Oct. 9, 2009). We find that the adoption of Staff's recommended adjustments, as assented to by Lakes Region, is just and reasonable. We approve \$152,965.97 in Lakes Region rate case expenses for recovery, on the basis of Staff's recommendations, as assented to by Lakes Region. We will also permit Lakes Region to record, as a deferred asset, the \$81,921.06 in costs identified by Staff as appropriate for such treatment, and rule that Lakes Region be permitted to recover these costs through customer rates, beginning at the date of a final order in its next filed full rate case, via a five-year amortization of the recorded deferred asset. We also approve Staff's recommended timing modification for rate case expenses recovery, in which Lakes Region would recover its expenses over eight quarters, as just and reasonable, and as a useful method for reducing Lakes Region customers' rate burden. The approved surcharge to Lakes Region's customers would amount to \$11.64 per billable unit for eight quarters. We find this surcharge to be just and reasonable, and we will authorize Lakes Region to recover this amount via surcharges to customer bills as of January 1, 2013.

Regarding Lakes Region's motion for confidential treatment, RSA 91-A:5, IV states, in relevant part, that records of "confidential, commercial, or financial information" are exempted

from disclosure. *See Unutil Corp. and Northern Utilities, Inc.*, Order No. 25,014 (September 22, 2009) at 2. In determining whether commercial or financial information should be deemed confidential, we first consider whether there is a privacy interest that would be invaded by the disclosure. *Id.* at 2-3. Second, when a privacy interest is at stake, the public's interest in disclosure is assessed. *Id.* at 3. Disclosure should inform the public of the conduct and activities of its government; if the information does not serve that purpose, disclosure is not warranted. *Id.* Finally, when there is a public interest in disclosure, that interest is balanced against any privacy interests in non-disclosure. *Id.* This is similar to the Commission's rule on requests for confidential treatment. *See* N.H. Code Admin. Rules Puc 203.08; *see also Unutil Corp. and Northern Utilities, Inc.*, Order No. 25,014 (September 22, 2009) at 3.

The Commission has previously found hourly billing rate information to be exempt from disclosure. *See, Unutil Energy Systems, Inc.*, Order No. 24,746, (April 30, 2007), at 10. Disclosure of the hourly billing information for which protection is sought by Lakes Region could result in a competitive disadvantage to Lakes Region's legal counselors. As such, disclosure would invade the privacy interests of Lakes Region's legal service providers. Further, there is no indication that disclosure of the information would inform the public about the workings of the Commission. In balancing the interests of Lakes Region and its legal service providers in protecting information with the public's interest in disclosure, we find that the privacy interests in non-disclosure outweigh the public interests in disclosure and, therefore, we grant Lakes Region's motion. Consistent with Puc 203.08(k), our grant of this motion is subject

to our on-going authority, on our own motion, on the motion of Staff, or on the motion of any member of the public, to reconsider our determination.

Based upon the foregoing, it is hereby

ORDERED, that Lakes Region's motion for confidential treatment is hereby granted;
and it is

FURTHER ORDERED, that Lakes Region is authorized to recover a total of \$152,965.97 in rate case expenses through a surcharge to customer bills of \$11.64 per customer, for eight consecutive quarters as of January 1, 2013; and it is

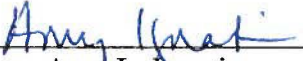
FURTHER ORDERED, that Lakes Region is authorized to record, as a deferred asset, the \$81,921.06 in costs identified by Staff for such treatment in its recommendation of November 16, 2012, and that Lakes Region shall be permitted to recover these costs through customer rates, beginning at the date of a final order in its next filed full rate case, via a five-year amortization of the recorded deferred asset; and it is

FURTHER ORDERED, that Lakes Region file a compliance tariff within 10 days of the date of this order.

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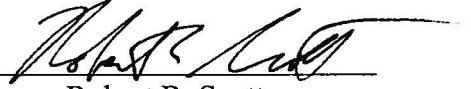
By order of the Public Utilities Commission of New Hampshire this seventeenth day of
January, 2013.



Amy L. Ignatius
Chairman




Michael D. Harrington
Commissioner



Robert R. Scott
Commissioner

Attested by:



Debra A. Howland
Executive Director