

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 15-209

LAKES REGION WATER CO., INC.

Petition for Change in Rates

Order Authorizing Recovery of Rate Case Expenses

ORDER NO. 26,028

June 21, 2017

APPEARANCES: Upton & Hatfield, LLP, by Justin C. Richardson, Esq., for Lakes Region Water Co., Inc.; Blais Law Associates, by Gary E. Blais, Esq. for Indian Mound Property Owners Association; Office of the Consumer Advocate by D. Maurice Kreis, Esq., for residential rate payers; and Staff of the Commission by John S. Clifford, Esq.

With this order, the Commission approves the settlement agreement submitted by the Settling Parties¹ and authorizes Lakes Region Water Co., Inc., to reconcile the difference between temporary and permanent rates and to recover the rate case expenses through the imposition of a customer surcharge of \$11.73 on each of Lakes Region's 1,690 ratepayers for eight billing quarters.

I. BACKGROUND AND POSITIONS OF THE PARTIES

The background of the procedural history in this matter is set forth in Order No. 25,969 (November 28, 2016). In that Order, the Commission granted Lakes Region the authority to increase its rates by \$160,999 or 15.43 percent, and requested that Lakes Region submit its rate case expenses for recovery pursuant N.H. Code Admin. Rule Puc 1905.02, subject to Staff and OCA review.

¹ The Settling Parties include Lakes Region Water Co., Inc., Office of the Consumer Advocate, and Commission Staff.

On December 28, 2016, the Company submitted its proposal for recovery of rate case expenses and the surcharge to be recovered equal to the difference in revenues the Company would have collected had the agreed upon level of permanent rates been in effect for service rendered after September 14, 2015. Lakes Region sought recovery of \$135,460 in rate case expenses and \$38,575 in the temporary to permanent rate reconciliation for a total recovery of \$174,035 over eight quarters. This would have resulted in a quarterly surcharge of \$12.87 over each of eight billing quarters to Lakes Region's 1,690 ratepayers.

After reviewing the Company's submission and propounding further discovery, Staff filed its recommendation on February 24, 2017. Staff recommended that Lakes Region be authorized to recover the requested amount of \$38,575 as the revenue differential between temporary and permanent rates.

On the issue of rate case expenses, however, Staff opposed Lakes Region's request to recover \$135,460. Staff recommended that a total of \$45,460 be deducted from the requested amount because, according to Staff, a substantial amount of time during this case, and therefore a substantial portion of the costs incurred, was devoted to the Company's erroneous application of Allowance for Funds Used in Construction for the proposed Mt. Roberts property acquisition. Further, Staff believed that the Company's use of outside consultants was excessive in this case, given the fact the Company had hired a utility manager in 2013. Staff recommended recovery of \$90,000 in rate case expenses, and thus a total recovery of \$128,575, including the temporary rate recoupment, which would have resulted in a surcharge of \$9.51 per ratepayer in eight quarterly installments.

The OCA stated that it believed even the recovery of \$90,000 in rate case expenses was excessive, but agreed not to contest the recovery of that amount as recommended by Staff.

On March 7, 2017, Lakes Region submitted a response to Staff's recommendation arguing that Staff's deduction of \$45,460 in rate case expenses was arbitrary and capricious and unsupported. The Company also disagreed that its use of outside consultants was excessive. Lakes Region reiterated its request for recovery of the rate case expenses as submitted in the amount of \$135,460. On March 17, Lakes Region filed a request for a hearing on the matter, which took place on May 8. Prior to the hearing, the Company filed its supporting documentation with the Commission.

At the hearing, both sides made argument as to why their position should prevail. The Indian Mound Property Owners Association stated that it had no specific objection and was generally supportive of Staff's recommendations. The OCA also supported Staff's analysis in this case. Following the hearing, the Settling Parties continued their discussions and were able to agree that Lakes Region should be allowed to recover \$120,000 in rate case expenses. Accordingly, the Settling Parties agreed that (1) the total amount to be collected from rate payers should be \$158,575; (2) the recovery should take place over eight billing quarters; and (3) the recovery amounts and rate treatment are just and reasonable. The Settling Parties filed a Partially Assented-to Motion asking the Commission to approve their agreement.

II. COMMISSION ANALYSIS

Prudently incurred rate case expenses are recognized 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). Under RSA 541-A:31, V(a), informal disposition may be made of a contested case at any time prior to the entry of a final decision or order, by stipulation, agreed settlement, consent order or default. We encourage parties to settle issues through negotiation and compromise because it is an opportunity for creative problem solving, allows the

parties to reach a result in line with their expectations, and is often a better alternative to litigation. *Granite State Electric Co.*, Order No. 23,966, at 10 (May 8, 2002); *see* RSA 541-A:31, V(a).

The Commission's procedural rules provide for the approval of a settlement "if it determines that the result is just and reasonable and serves the public interest." N. H. Code Admin. Rules Puc 203.20(b). Thus the Commission cannot approve a settlement without independently determining that the result comports with applicable standards. *Granite State Electric Co.* at 11. The process leading up to a settlement is one relevant factor in determining whether we should approve a settlement agreement.

In this case, we actually heard oral argument at the May 8 hearing and have had an opportunity to review the parties' submissions. We have also reviewed the settlement agreement and motion to approve in light of the proceedings and find that the amount requested is just and reasonable and in the public interest. We approve the agreement as filed, and authorize the recovery of rate case expenses and rate reconciliation charges in the amount of \$158,575 to be collected through the imposition of a customer surcharge of \$11.73 on each of Lakes Region's 1,690 ratepayers over eight billing quarters.


Based upon the foregoing, it is hereby

ORDERED, that the Settlement Agreement on rate cases expenses and temporary/permanent rate recoupment between Lakes Region Water Co., Inc., Staff, and the Office of Consumer Advocate is hereby Approved; and it is


FURTHER ORDERED, that Lakes Region Water Co., Inc., is authorized to recover \$120,000 in rate case expenses and \$38,575 as the difference between the permanent rates approved by the Commission in Order No. 25,969 for services rendered on and after

September 14, 2015, and the temporary rates actually collected during this period. The total amount to be collected from ratepayers over eight billing quarters is \$158,575 for bills issued on or after June 30, 2017.

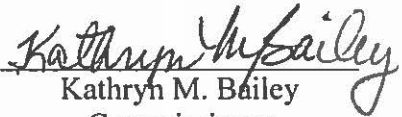
By order of the Public Utilities Commission of New Hampshire this twenty-first day of June, 2017.



Martin P. Honigberg
Chairman




Robert R. Scott
Commissioner



Kathryn M. Bailey
Commissioner

Attested by:



Debra A. Howland
Executive Director

SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED

Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.

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FILING INSTRUCTIONS:

- a) Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with:**
- DEBRA A HOWLAND
EXEC DIRECTOR
NHPUC
21 S. FRUIT ST, SUITE 10
CONCORD NH 03301-2429
- b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.**
- c) Serve a written copy on each person on the service list not able to receive electronic mail.**