

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 20-187

LAKES REGION WATER COMPANY, INC.

Request for Change in Rates

**Order *Nisi* Approving Recovery of Rate Case Expenses and Reconciliation of
Temporary-to-Permanent Rates and Granting Motion for Confidential Treatment**

O R D E R N O. 26,905

November 21, 2023

In this order, the Commission authorizes Lakes Region Water Company, Inc. (LRWC) to recover rate case expenses in the amount of \$75,166.35 through a total surcharge of \$41.09 per customer recovered over a set number of quarterly periods depending on the customer group, as explained further in this order. Furthermore, LRWC is authorized to reconcile its temporary-to-permanent rates which results in either a revenue credit or recoupment based upon the type of customer class.

LRWC's petition and subsequent docket filings, other than information for which confidential treatment is requested of or granted by the Commission, are posted to the Commission's website at

<https://www.puc.nh.gov/Regulatory/Docketbk/2020/20-187.html>.

I. BACKGROUND AND PROCEDURAL HISTORY

On May 27, 2022 the Commission approved a permanent rate settlement in this docket. See Order No 26,633 (Revised on July 12, 2022). The approved Settlement agreement included consolidation of three rate groups with an associated permanent rate revenue for the new consolidated group and a Step I adjustment. For the consolidated customer base (which equaled 94 percent of customers) the permanent rate requirement was lower than the temporary rates approved by the Commission. Therefore, that group received a credit through the temporary-to-permanent rate

revenue reconciliation process. The customers of Dockham Shores and Wildwood Division would experience a rate increase resulting from the change from the previously approved temporary rates to the permanent rates. Therefore, upon reconciliation of the temporary-to-permanent rates, the Dockham Shores and Wildwood groups would be subject to a rate recoupment surcharge. In addition to the permanent rates, the order on the permanent rate settlement established the framework for submission of step adjustments for all customers. *See Order No. 26,633 (May 27, 2022)* at 4. Because of the potential for confusion to its customers over a credit being provided for implementation of the permanent rates and a charge for Step I, the parties agreed that the permanent rate revenue requirement and the Step I rate increase would be implemented concurrently.

LRWC filed its request for the Step I adjustment on October 19, 2022. The Commission docketed the Step I adjustment in DW 22-068. The Commission denied LRWC motion to consolidate the docket. *See Order No. 26,728 (November 18, 2022)*. On March 27, 2023, the Commission issued Order No. 26,790 approving the Step I adjustment with an effective date of May 1, 2023. The Commission directed LRWC to file a request for recovery of rate case expenses and a calculation of the reconciliation of temporary-to-permanent rates within 90 days of the effective date of Order No. 26,790.

On July 28, 2023 LRWC filed its request to recover rate case expenses. The request encompassed expenses for both dockets (DW 20-187 and 22-068). LRWC's proposal sought recovery of a total of \$94,767.62 in rate case expenses relative to the establishment of permanent rates and Step I which when offset by a net temporary-to-permanent rate customer credit of \$38,065.44, resulted in a proposed net recovery amount of \$56,703.18.

The Commission reminded LRWC that it had denied the request to consolidate the dockets. See Commission August 15, 2023 order in this docket. Subsequently, the settlement signed by LRWC and the DOE separated the rate expenses based on the work performed in each docket. This instant docket includes a request to recover \$75,166.35 and Docket 22-068 includes a request to recover \$19,245.01.

II. MOTION FOR CONFIDENTIAL TREATMENT

In its motion, LRWC requests confidential treatment of legal invoices. LRWC asserts that these invoices are protected under the attorney-client privilege and therefore should be exempt from public disclosure.

LRWC argues that in the absence of confidential treatment, its legal counsel's invoice would be devoid of meaningful information that would make it difficult to review bills for legal services. See Motion at ¶6, page 3. Confidentiality of this information therefore serves the Company's goals of controlling costs and the Commission's goal of ensuring that rates approved are just and reasonable under RSA 378.

III. COMMISSION ANALYSIS

Unless precluded by law, informal disposition by stipulation, settlement agreement, consent order or default may be made of any contested case at any time prior to the entry of a final decision or order. RSA 541-A:31, V(a). Pursuant to Puc 203.20(b), the Commission shall approve the disposition of any contested case by stipulation, settlement, consent order or default, if it determines that the result is just and reasonable and serves the public interest.

The Commission treats prudently incurred rate case expenses as a legitimate cost of service appropriate for recovery through rates, consistent with Puc chapter 1900. Puc 1904.02 sets forth the criteria for determining allowed rate case expenses, including that such expenses are consistent with the chapters' requirements, the costs

are actual, known, and measurable expenses associated with a full rate case proceeding, and that recovery of the expenses is just, reasonable, and in the public interest.

The rate expenses in this matter were anticipated in both the 2022 proposed settlement of permanent rates and the 2023 proposed settlement on the Step I adjustment. The Commission held a duly noticed hearing on the permanent rate settlement on May 5, 2022. Section I. of the Permanent Rate Settlement is entitled Rate Case Expenses. *See* Permanent Rate Settlement at 14. This section anticipated that review of temporary-to-permanent recoupment as well as of rate case expenses would yield administrative efficiency if it occurred after the Commission approved the Step I adjustment. *See Id* at 13-14. The total overall adjustment from temporary-to-permanent rates is a credit of \$36,676.56.

The parties proposed settlement for recovery of expenses and calculation of the differences between temporary-to-permanent rates for the classes of customers is as follows:

Previously Approved-Consolidated Tariff Systems (1,718 customers):

Total Rate Case Expense per Customer	\$41.09
Total Revenue Credit per Customer	<u>(26.11)</u>
Net Recovery per Customer	\$ 14.98
Proposed Recovery Quarters	<u>÷ 2</u>
Proposed Surcharge Per Customer Per Quarter	<u>\$ 7.49</u>

Dockham Shores Division (62 customers):

Total Rate Case Expense per Customer	\$ 41.09
Total Revenue Recoupment per Customer	<u>\$ 28.87</u>
Net Recovery per Customer	\$ 69.96
Proposed Recovery Quarters	<u>÷ 8</u>

Proposed Surcharge Per Customer Per Quarter	\$ 8.75
Wildwood Division (49 customers):	
Total Rate Case Expense per Customer	\$ 41.09
Total Revenue Recoupment per Customer	<u>\$130.58</u>
Net Recovery per Customer	\$171.67
Proposed Recovery Quarters	<u>÷ 8</u>
Proposed Surcharge Per Customer Per Quarter	\$ 21.46

The consolidated group (as established in Section G. of the permanent rate settlement) will receive a revenue credit that reduces an individual rate payer in that groups rate case expenses by \$26.11. The resulting surcharge is \$14.98, which the parties propose to be paid over two quarters. Dockham Shores and the Wildwood Division's rate case expenses are added to their revenue recoupment and the proposed surcharge of \$69.96 and \$171.67 would be billed for payment over a period of eight quarters, respectively.

The Commission has reviewed Lakes Region's responses to DOE data requests and technical session requests that were provided as Attachment A to the Settlement Agreement. The Commission has also reviewed the details in Attachment B of the Settlement Agreement that support the revenue credit for the consolidated group, and the recoupment surcharges for Dockham Shores Division and Wildwood Division, respectively, through the temporary-to-permanent rate reconciliation. Accordingly, the Commission approves the rate case expenses and the temporary-to-permanent rate calculations as submitted.

Concerning the motion for confidential treatment, the Commission typically applies a three-step balancing test to determine whether documents should be protected from disclosure as "confidential, commercial, or financial information" under RSA 91-A:5, IV. *Pennichuck Water Works, Inc.*, Order No. 26,442 at 9 (December 29,

2020) (citing *Northern Utilities, Inc.*, Order No. 25,700 at 6 (August 1, 2014) and *Lambert v. Belknap County Convention*, 157 N.H. 375, 382-83 (2008)). However, application of the test in this case is not necessary.

RSA 91-A:5, XII specifically exempt records protected under the attorney-client privilege or the attorney work product doctrine. LRWC's legal billing it seeks to remain confidential includes information that is protected under the attorney-client privilege. Because this document is exempt from disclosure, an analysis under RSA 91-A:5, IV is unnecessary. It is found that the legal bills include attorney client work product and are therefore exempt.

Based upon the foregoing, it is hereby

ORDERED NISI, that subject to the effective date below, that Lakes Region Water Company, Inc. is authorized to recover \$75,166.35 in rate case expenses through a surcharge of \$41.09 per customer, with quarterly recovery varying by customer type, as outlined on page 4; and it is

FURTHER ORDERED, that Lakes Region Water Company, Inc. is authorized to make temporary-to-permanent rate adjustments totaling a credit of \$36,676.56 through credits or recoupment charges, as applicable per customer type and outlined on page 4; and it is

FURTHER ORDERED that Lakes Region Water Company, Inc. shall post a copy of this order on the Company's website within two business days of the date of this order (November 27, 2023), with an affidavit of publication to be filed with this office on or before December 1, 2023; and it is

FURTHER ORDERED, that Lakes Region Water Company Inc.'s motion for confidential treatment is **GRANTED**; and it is

FURTHER ORDERED, that all persons interested in responding to this order be notified that they may submit their comments or file a written request for a hearing,

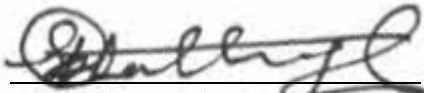
stating the reason and basis for a hearing, no later than December 5, 2023 for the Commission's consideration; and it is

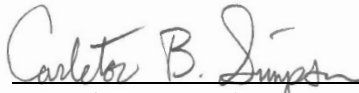
FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than December 12, 2023; and it is

FURTHER ORDERED, that this order shall be effective December 21, 2023, unless the Lakes Region Water Company, Inc. fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

FURTHER ORDERED, that the Lakes Region Water Company, Inc. shall file a compliance tariff with the Commission on or before January 5, 2024, in accordance with New Hampshire Code of Administrative Rules, Puc 1603.02(b).

By order of the Public Utilities Commission of New Hampshire this twenty-first day of November, 2023.


Pradip K. Chattopadhyay
Commissioner


Carleton B. Simpson
Commissioner

Service List - Docket Related

Docket#: 20-187

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