

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 20-187

LAKES REGION WATER COMPANY, INC.

Request for Change in Rates

Order on Permanent Rates Settlement

O R D E R N O. 26,633

May 27, 2022

In this order, the Commission accepts and approves a settlement agreement on permanent rates (Settlement) reached between Lakes Region Water Company, Inc. (Lakes Region, or the Company) and the New Hampshire Department of Energy (DOE). The Settlement provides for a proposed permanent rate increase based on a 2019 test year to be followed by two separate step increases that would account for capital projects completed in 2020 and 2021. The proposed permanent rate increases for Lakes Region customers are expected to increase overall revenue from current base rates to \$1,378,827, which represents an increase of approximately 3.12 percent over the revenue requirement established in the Company's prior rate case. However, in accordance with the terms of the Settlement, no change in customer rates will occur until the corresponding proposed step increases are reviewed and approved. The stepped approach is intended to lessen the overall rate impact on customers when new permanent rates (inclusive of the step increases) are approved.

Lakes Region's initial filings and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted at <https://www.puc.nh.gov/Regulatory/Docketbk/2020/20-187.html>.

I. PROCEDURAL HISTORY

Lakes Region is a regulated water utility that serves approximately 1,800 customers in 11 communities, including Moultonborough, Laconia, Tuftonboro, Thornton, Campton, Conway, Freedom, Gilford, Tamworth, Ossipee, and Albany, New Hampshire. Lakes Region operates 19 separate systems, including the stand-alone systems of Dockham Shores Estates (Dockham Shores) in Gilford and Wildwood Water Company in Conway.

On January 15, 2021, Lakes Region filed a petition for temporary and permanent rates (Petition), including a request for approval of a 10.44 percent return on equity and a corresponding change in its customer service rates. In support of its Petition, the Company stated that it had made substantial investments in system improvements to its 19 water systems since its last general rate case in order to replace aging infrastructure and improve the quality of service to its customers. Lakes Region included a request in its Petition for approval of temporary rates pursuant to RSA 378:27 for effect on the earlier of October 1, 2021, or the date the Commission issues an order on temporary rates. The Company filed amendments to its temporary rate request on February 12 and February 26, 2021, based on a revised effective date of February 28, 2021, with temporary rates established by the Commission for the Dockham Shores Division at existing rates on January 28, 2021, in Order No. 26,446. For all other customers, the Company proposed an increase of 4.51 percent in existing rates through temporary rates, with the exception of its Wildwood Division, for which it proposed an increase of 39.3 percent. The Company's petition also included a request for approval of a 10.44 percent return on equity and a consolidation of all rates throughout the Lakes Region water system.

On March 26, 2021, the Commission suspended the proposed tariffs for 18 months and scheduled a prehearing conference, which was duly held on May 3, 2021.

On April 7, 2021, a group of approximately 200 Lake Ossipee Village homeowners and residents filed a petition to intervene through five individuals representing the group *pro se*, with an updated petition filed on May 27, 2021. On August 3, 2021, the Commission granted the intervention requests of the homeowners and residents of Lake Ossipee Village (LOV Intervenors). No additional intervention requests were filed. The Office of the Consumer Advocate did not file a letter of participation.

On August 30, 2021, the Company filed a settlement agreement on temporary rates signed by Lakes Region and DOE. A hearing on temporary rates was held on September 8, 2021. The Commission issued Order No. 26,522 approving temporary rates on September 23, 2021.

On April 28, 2022, Lakes Region filed the Settlement on permanent rates, with attachments A through F, reached by the Company and DOE. A corrected attachment D was filed on May 2, 2022. A hearing on permanent rates was held on May 5, 2022.

II. SETTLEMENT AGREEMENT

A. Revenue Requirement, Permanent Rates, Recoupment, and Rate Case Expenses

The Settlement proposes a permanent overall rate revenue requirement of \$1,378,827, representing an increase of 3.12%, or \$41,678, over *pro forma* 2019 test year revenues of \$1,337,149 for an overall rate of return of 8.52%, up from the Company's current rate of return of 6.42%.

The Settling Parties state that the terms of the Settlement represent a compromise that resolves all permanent rate revenue requirement issues in three proposed stages:

- (1) acceptance of the terms of the Settlement on permanent rates;
- (2) review in a new docket of a petition to be filed at a later date, for an initial adjustment in the Company's permanent rate revenue requirement based on:

- (a) capital plant additions completed and placed in service in 2020 and 2021;

(b) post-2019 annual wage expense increases that have been deferred pending review in the current proceeding; and

(c) completion of paving work associated with post-test year 2019 plant additions, to be completed in the second quarter of 2022 with paving costs not to exceed \$36,150 (Step 1 adjustment); and

(3) review in a subsequent, separate new docket of the recoupment of the difference between temporary and permanent rates and the recovery of combined rate case expenses for each proposed stage (Step 2 adjustment).

The combined requests, if approved, would increase rates by a not-to-exceed total of \$144,863 in the Company's overall consolidated revenue requirement, representing a 10.83% increase from the pro forma 2019 test year revenues of \$1,337,149 capital projects completed in 2020 and 2021.

The combined maximum effect of the proposed permanent rates and the proposed Step 1 adjustment would result in a total revenue requirement increase of \$186,541. If approved, the combined impact of the permanent rate revenue requirement and the Step 1 adjustment would result in an absolute revenue requirement of \$1,523,690, or a 13.95% increase from the pro forma 2019 test year revenues of \$1,337,149. The customer bill impacts of subsequent Step 2 adjustments to reconcile temporary and permanent rates have not been estimated.

The Step 1 and Step 2 proceedings would be conducted in separate dockets with further review, audit, and filings by the Settling Parties and interested persons who are granted intervention status. According to the Settlement and testimony of the Settling Parties, the proposed 'tiered' or 'stepped' approach to resolving the Company's rate change request will reduce "rate shock" to customers and permit the Company to proceed with needed capital investments to ensure the safe and reliable operation of its systems.

B. Other Matters**(1) Common Cost of Equity**

The Settlement recommends approval of a cost of common equity in this proceeding of 10.13 percent, based on the formulaic approach for deriving a cost of common equity for small water utilities developed and approved by the Commission in IR 19-005, *Investigation to Determine a Method for Setting a Generic Return on Equity for Small Water Utilities*.

(2) Local Property Tax Treatment

The Settlement further recommends that local property taxes included in the proposed Permanent Rate Revenue Requirement total \$47,896, and that that amount should be adjusted upward by no more than \$5,703, subject to audit by the DOE Audit Division and review by the DOE, to reflect plant additions in 2020 and 2021, upon the proposed approval of the Step 1 adjustment. The Settling Parties further agreed that the Company will record a deferred debit and subsequent adjustment to local property taxes in Lakes Region's revenue requirement, as needed, in accordance with RSA 72:8-e, in the Company's subsequent full rate proceeding.

(3) Consolidated System Rates

The Settlement also recommends that the Commission approve a system-wide consolidated rate that would apply to all Lakes Region customers, based upon the agreed-upon Permanent Rate Revenue Requirement and rate design. In support of that request, the Settling Parties cited *Hampstead Area Water Company*, Order No. 24,626 (May 26, 2006) at 9-10 ("eliminating disparities among individual systems is likewise consistent with the long-term best interests of the utility's customers"). The Settling Parties noted that the Wildwood and Dockham Shores Divisions, which are relatively small, would face a substantial rate increase if their respective rates remained independent from the consolidated rate group. The Settling Parties also noted that the

cost of plant additions or replacements in the future would be spread among the entire customer base of all Company divisions, thereby decreasing the potential impact on individual divisions while providing for necessary investments throughout the system.

(4) Metering and Waiver of Puc

The Settling Parties agreed that the Company shall commit to installing meters for all of its customers. Until that goal is met, the Settling Parties recommend that the Commission waive Puc 603.03(a), which requires water utilities to bill on the basis of metered volume sales unless a waiver is granted pursuant to Puc 201.05 for unmetered service. The Settling Parties recommend that a waiver be granted until disposition of the Company's next full rate proceeding.

C. PARTY POSITIONS

(1) Lakes Region

On May 2, 2022, Lakes Region filed written testimony of Thomas A. Mason, President of Lakes Region Water Company, Inc., and Stephen P. St. Cyr, consultant to the Company, in support of the proposed rate increases and the Settlement.¹ In his written testimony, Mr. Mason outlined the capital projects undertaken in the test year of 2019 that underlie the Company's request for a change in rates. Mr. Mason also testified regarding certain issues that small water systems face in the course of their operations, and corresponding impacts on their financial performance. According to Mr. Mason, the rate of return on equity the Company seeks in its petition takes into account the increased risks associated with operating small water systems with an average of fewer than 100 customers per system, as well as the Company's improvements to those systems at shareholder expense. Mr. Mason avers that the additional return on equity requested in the Company's petition will enable it to attract lower-cost debt to reinvest in

¹ Mr. Mason's testimony was previously admitted at the Temporary Rate Hearing held in this docket on September 8, 2021.

its systems and continue serving customers in challenging economic conditions. Mr. Mason further recommends the Commission's consideration of periodic step adjustments or water infrastructure cost adjustments as replacement projects for mains, pumping and treatment systems, and customer meters are completed and placed in service.

Mr. St. Cyr and Mr. Mason testified jointly with Mr. Laflamme at the May 2, 2022, hearing in support of the Settlement on permanent rates.

(2) Department of Energy

Jayson Laflamme, Assistant Director of the Water Group, testified as a joint panel witness at the hearing held on May 5, 2022, in support of the proposed Settlement on behalf of the Department of Energy (DOE). Mr. Laflamme supported the Settlement based on his review of the Company's books and records, and noted that the Company in its original filing had included the step increase as part of the proposed permanent rates. The Settlement, by deferring the implementation of the requested step increase, ensures that the reconciliation between the temporary rates and the permanent rates does not apply to the step increase and therefore lessens the impact of the general rate increase on customers.

(3) Intervenors

The Settlement filed in April 2022 stated that the LOV homeowners had participated in the multiple rounds of data requests and technical sessions that resulted in the filed Settlement. However, those homeowners were not signatories to the Agreement. Ms. Carol Stansell, representing LOV homeowners *pro se*, expressed opposition to the Company's petition for the proposed rate increase, and stated at the May 5, 2022 hearing that the LOV homeowners generally did not support the Settlement or any rate increase. No other intervenors submitted testimony or participated in the May 5, 2022 hearing. Two Lakes Region residential customers filed public comments in March 2021, objecting to the proposed rate increase in the Company's initial petition.

D. COMMISSION ANALYSIS

Unless precluded by law, informal disposition by stipulation may be made of any contested case 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 “if it determines that the result is just and reasonable and serves the public interest.” The Commission encourages parties to settle disagreements through negotiation and compromise because it is an opportunity for creative problem solving, allows parties to reach a result in line with their expectations, and is often a better alternative to litigation. *Pennichuck Water Works*, Order No. 26,070 at 14-15 (November 7, 2017), citing *Granite State Electric Co.*, Order No. 23,966 at 10 (May 8, 2002). Nonetheless, even when all parties agree, the Commission cannot approve a settlement without independently determining that the result comports with applicable standards. *Id.* at 14.

Pursuant to RSAs 374:2, 378:7, and 378:28, the Commission may approve permanent rates if it finds they are just and reasonable and reflect capital improvements that are found to be prudent, used, and useful. In determining whether rates are just and reasonable, the Commission acts as the arbiter between the interests of customers and the regulated utility. RSA 363:17-a. The utility bears the burden of proving the necessity of increased rates. RSA 378:8.

The Settling Parties in this proceeding presented oral testimony of a panel of witnesses at the May 2, 2022, hearing on the Settlement. The panel consisted of witnesses Thomas Mason and Peter St. Cyr on behalf of the Company and Jayson LaFlamme on behalf of DOE. Mr. Laflamme, the Assistant Director of the Water Group within the Regulatory Support Division of the Department of Energy, did not submit written testimony but testified at the hearing. Mr. Laflamme supported the proposed changes to Lakes Region’s revenue requirements, stating that the terms and conditions

contained in the Settlement Agreement would provide adequate assurance to customers regarding the sufficiency of the Company's cash flow, liquidity, and solvency and that the proposed rate changes represent an equitable balancing of the interests of the Company and its ratepayers.

We have reviewed the testimony and evidence presented regarding permanent rates and the terms of the Settlement. Based on the record, including docketed filings as well as the Settlement and testimony presented at the May 5, 2022 hearing, we find the Settling Parties' proposed procedural approach in determining permanent rates to be reasonable. We, therefore, find the Settlement to be just and reasonable and in the public interest, including all recommendations made therein by the settling parties. The Settling Parties anticipate that Lakes Region will file a separate petition for review of a proposed initial step adjustment subsequent to this order, to be reviewed in a new docket. If that initial step adjustment is approved, Lakes Region will subsequently file a second petition for an additional second step adjustment for further review and approval in a separate docket.

Based upon the foregoing, it is hereby

ORDERED, that the Settlement Agreement on permanent rates as submitted in this docket is **APPROVED**; and it is

FURTHER ORDERED, that Lakes Region shall file a petition supported by testimony regarding the initial step adjustment proposed in the Settlement at a later date; and it is

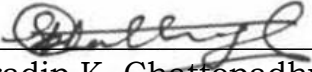
FURTHER ORDERED, that the temporary rates that were approved on September 23, 2021, shall continue in effect until the Commission has reviewed and ruled on the two anticipated step adjustment petitions proposed in the Settlement; and it is

FURTHER ORDERED, that Lakes Region shall file a motion pursuant to Puc 203.08 and RSA 91-A:5, IV and properly marked and redacted confidential and redacted

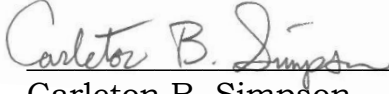
versions of any Settlement attachments for which it seeks confidential treatment pursuant to Puc 201.04 no later than 5 business days from the date of this order, including any request for rate case expenses; and it is

FURTHER ORDERED, that the requirement of Puc 603.03(a) to bill customers on the basis of metered volume sales is **WAIVED** pursuant to Puc 201.05 for unmetered service until the disposition of the Company's next full rate case proceeding.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of May, 2022.



Pradip K. Chattopadhyay
Commissioner



Carleton B. Simpson
Commissioner

Service List - Docket Related

Docket# : 20-187

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Email Addresses

ClerksOffice@puc.nh.gov
douglas.brogan@gmail.com
robyn.j.descoteau@energy.nh.gov
david.n.goyette@energy.nh.gov
budhadley@hotmail.com
jayson.p.laflamme@energy.nh.gov
anthony.j.leone@energy.nh.gov
lrwh2oserv@yahoo.com
rmasse49@gmail.com
karen.j.moran@energy.nh.gov
amanda.o.noonan@energy.nh.gov
ocalitigation@oca.nh.gov
justin@nhwaterlaw.com
stephenpstcyr@yahoo.com
carlo@mychibay.com
christopher.r.tuomala@energy.nh.gov
leah@Lakesregionwater.com