

DW 08-070
DW 10-141

Leighton, Adele

From: David Smith [dmintonsmith@gmail.com]
Sent: Wednesday, October 27, 2010 10:57 AM
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Subject: DW 07-080 Smith letter HVPOA

For those of you unable to open the prior mailing here find below

the letter From

David M. Smith
President
Hidden Valley POA

RE: ~~07-080~~



To: Public Utilities Commission and Parties to DW 08-070
From: David M. Smith. President Hidden Valley POA
Re: Case #DW-08-070 Third Step Increase
Date: 10/27/10

I write in an effort to continue to represent the interests of the members of the Hidden Valley Association and where our interests are common, all retail consumers within the LRWC systems.

At the Technical Session meeting on the 24th of September as an intervener I introduced myself as the President of HVPOA, a position I have held since 2003. What I have been compelled to deal with from day one related to the performance and the practices of the Lakes Region Water Company has been burdensome and at times infuriating. Associated concerns quickly led me to contact various offices at both the Department of Environmental Services and the Public Utilities Commission. I continue to appreciate their efforts both to educate me and more importantly all their efforts in a shared quest to insure that LRWC both fulfills its obligations and does so in an ethical manner. To date it is my observation that the members of those departments have also found those efforts to be burdensome as the response has all too often been infuriating.

I quickly came to understand that it is the obligation of a system under the jurisdiction of the Public Utility Commission to have the demonstrated ability in practice to provide:

1. dependable services-infrastructure, securing supply/capacity etc.
 2. the assurance that the company will do so in a way and by the means that assures safety to the consumers
 3. the management capability to meet the responsibilities to the consumer and to insure valid and timely compliance with State regulations, reporting etc.
 4. the financial where-with-all to carry out these responsibilities
- When I first became involved, 2003-2004, there were serious concerns and mounting evidence that the company was not measuring up under any one of these expectations. We in Hidden Valley were made well aware of their failings relative to #s 1, 2, & 3 above.

Non-compliance, unsatisfactory response and then the Tamworth contamination case led to the Commission's Staff, on September 19, 2007, filing "a formal proceeding to determine whether Lakes Region Water Company should be placed in receivership pursuant to RSA 374:47-A..."

At the hearing the Staff offered three options to include:

* "1st a procedural schedule, with discovery, with the goal of monitoring developments at DES and the AG'S office.

*" 2ND " an orderly transition of ownership or change in management. & *" 3rd "place the company in receivership now"

I believe it is fair to say that the State wanted to continue to do all possible to avoid the necessity of placing the company in receivership for as stated in the testimony that day "Lakes Region in past years has been willing to take on troubled systems. ...And this has been great service to the state." Then in an effort to both enforce compliance and to assist the company in doing so PUC instituted quarterly meetings wherein a combination of specified expectations and an associated timetable was built around the Administrative Orders finally set down by DES. Since that time the state has continued to provide what Staff has deemed to be necessary pressure and guidance.

Relative to Hidden Valley the necessary actions and additions defined and called for under the Department of Environmental Services'

Administrative Orders have brought notable improvements. However, examples continue to persist of management not fulfilling its promises and responsibilities. In all this we again are faced with the inherent truth of the adage that "the greatest predictor of future performance is past performance."

And now we are engaged in the processes under the 4th standard, the financial capacity of the company. The process includes Step increases that I understand to be for the purpose of recovering those moneys expended toward meeting the capital requirements to fulfill the Administrative Orders as well as some other initiatives. I must say that Steps Increases 1 & 2 seemed to have been approved w/out much, considered input from the consumers. In inquiring about this I have been assured that this is not the case and that in fact normal procedures timetables etc. were followed. What that tells me then is that I did not establish and maintain a responsible focus relative to my responsibility and thus I want to do my best to do so now that the process moves to consider Step 3. This then is part of my attempt to do so.

As a layperson, I must depend on the people within the state agencies and the system itself to ensure that both the standards are met and fair practices are judged in the process going forward. All that I can do is state our concerns and ask that those concerns be addressed in that process, together with those identified by those with more expertise, responsibility and authority.

At this point -Step 3 considerations -I will only list here those concerns that come into play at this stage but do understand that I have major concerns when we move into the realm of the rate case that is also underway, DW 10-141.

That said factors to consider at this point include:

Profitability:

It is understood that LRWC has the right to be profitable w/in acceptable boundaries.

However as we see it the system is being manipulated. The several "Mason Family Enterprises," including the combination of Mason loans, LRWServices and LRWcompany -is profitable. We suggest this is why LRWC did not seek a rate increase that was reported in the

'07 hearing to be because they were "hesitant to come in for a rate case due to the expense to customers."

Loan business:

One component [a profit center] being the loan operation wherein the LRWC passes on low interest SRF money [5-years at 0.9% interest rate; 10-years at 1.9% rate; and 20-year at 2.9% rate] and instead borrows at 9.7% from its owners [sole stock owners Tom Sr. & Barbara Mason].

Lakes Region Water Services - Affiliated Agreement; The actual practices wherein Tom Mason Jr. as Pres. & CEO & COO of both companies [which for all intents & purposes is really only one company] ---decides when "Services" subs for LRWC and as revealed in the Audit Report feels justified in charging 14% to 20% to LRWC for a simple pass through to another subcontractor.

In short the loan rate and the LRW-Services arrangements produce the profit but also the "justification" for rate increase due to the associated expense to LRWC.

Therefore, I request that when considering any additional Step increase [and the rate case application] our concerns are considered both in judging the competence of the company to supply real numbers, and their veracity in doing so. We also feel somewhat at a loss in this part of the process as we have no way of knowing first hand what those capital and operating expenses truly are and thus we need to depend on the PUC's audit system and the completeness of the Data request process and its follow through for insuring the legitimacy of the process.

I did receive is September 22, 2010 document entitled Lakes Region Water Company Inc. DW 08-070 Step 3 FINAL AUDIT REPORT that is filled with examples of these concerns:

*Evidence of questionable veracity: Just HV portion p. 3 top list a number of misrepresentations specifically associated with the Hidden Valley system. Other such notations follow for other systems w/in LRWC.

* Questionable "evidence" of expenses

Time and again throughout the report the audit identifies unsubstantiated expense claims. We assume and have recently been assured by Staff at the PUC that historic [not now created] hard evidence is needed to justify both Step and general rate increases. That in fact "to the extent that they are unable to document Staff will not support recovery." We hope that is the case.

We say all this while appreciating the time and energies so many have spent in efforts to enable LRWC to meet the standards of expected performance while serving the 17 communities within its system. Some notable improvements have been achieved but serious concerns remain and a number of those concerns are revealed in this stage of step and rate consideration.

Again as I stated at the meeting on the 24th my [and our] responsibility and position on behalf of the HVPOA remains to be able to be convinced and report that the decisions that will flow out of this stage will result in fair and reasonable rates. And here my initially stated difficulty comes into play, as I personally will be out of the State until mid-May. In a good faith attempt to continue to carry on in what I hope is an overall partnership to achieve what is right, I will be assisting Paul Dubuc our Association V.P. and other members of our board community in their intervener responsibilities as well as other LRWC community members as best I can from long distance. It is also my understanding that the initial steps/ decisions in the overall/ general rate case will not be prosecuted until mid- May at which time I expect to be back in N.H.

Thank you for your consideration of my comments.