

**STATE OF NEW HAMPSHIRE**

**PUBLIC UTILITIES COMMISSION**

**Docket Nos. DW 10-141, DW 07-105, DW 10-043, and DW 11-021**

**Lakes Region Water Company, Inc.**

**REQUEST FOR APPROVAL OF RATE CASE EXPENSES**

NOW COMES Lakes Region Water Company (the Company) and requests that the Commission approve its rate case expenses as follows:

1. In Order No. 25,391, the Commission ordered that Lakes Region “prepare a filing of its rate case expenses with sufficient detail to demonstrate that the expenses are reasonably related to the core DW 10-141 rate proceeding (as opposed to ongoing professional-services expenses more properly included in Lakes Region’s general expense accounting), to be submitted to the Commission no later than September 1, 2012.” Page 27. The Commission noted that it “will review these expenses when filed, and will provide for recovery of prudent, reasonable expenses in a separate order.” *Id.*

2. The Company requests that the Commission approve a total of \$251,772.46 in rate case expenses based on the enclosed invoices and supporting schedules. As explained below, the Company requests recovery of its prudently incurred rate case expenses over a 12 month period.

3. The Company believes that a technical conference to respond to any questions related to this request is appropriate and understands that a meeting has been scheduled at the Commission for Friday September 14, 2012 at 9:00 AM for that purpose.

4. By way of further explanation in support of this request, the Company states as follows:

5. **Standard for Approval.** RSA 365:38-a provides that “[t]he commission may allow recovery of costs associated with utility proceedings before the commission, provided that recovery of costs for utilities and other parties shall be just and reasonable and in the public interest.” In rate cases, “[t]he Commission has historically treated prudently incurred rate case expenses as a legitimate cost of business appropriate for recovery through rates.” *EnergyNorth Natural Gas, Inc.*, Order No. 25,064, *citing Aquarion Water Company of New Hampshire*, Order No. 25,053.

6. In the case of *EnergyNorth Natural Gas Inc.*, Order No. 25,064, the Commission described its review of rate case expenses as follows:

[T]he Commission's review of a utility's request to recover the expenses of litigating a rate case requires the balancing of the utility's right to and opportunity to collect its legitimate costs with the Commission's responsibility to ensure the reasonableness of the expenses and that the utility is sufficiently motivated to control such expenses. 'If unreasonably incurred, if undue in amount, if chargeable to other accounts, they may to that extent be reduced.'" *Hampstead Area Water Co.*, Order No. 24,581 (January 20, 2006) at 2 (quoting *State v. Hampton Water Works*, 91 NH 278, 296 (1941)); *see also Unitil Energy Systems, Inc.*, Order No. 24,702 (November 22, 2006) at 3.

(emphasis added).

7. The Company recognizes that its expenses are higher than it would typically incur due to a number of factors which include the following: (a) This case commenced on May 10, 2010 after the Company agreed to re-file a prior rate case using the 2009 test year; (b) The case involves four related proceedings that the Commission merged into the Company's rate case by secretarial letter dated October 10, 2010; and (c) The case involved extensive technical and settlement conferences in which financial and legal alternatives were presented. As a result, a higher level of rate case expenses were necessary and prudent to address the issues in the case.

8. **Rate Case Expenses.** The total rate case expense of \$251,772.46 is based on the Company's actual expenses incurred as of July 31, 2012 in the amount of \$246,272.45. In addition, as shown in the summary entitled *LRWC Analysis of Rate Case Expenses*, the Company estimates that it has incurred \$5,500 in rate case expenses during the month of August 2012. The Company will provide detailed invoices for August 2012 as soon as they are available and adjust its total rate case expenses accordingly.

9. **Recovery.** The Company proposes to recover its rate case expense by means of a quarterly surcharge from its 1,642 customers over four quarters. This will result in a quarterly surcharge of \$38.33. The Commission has previously approved recovery periods ranging from 12 months (*see e.g. Pittsfield Aqueduct*, Order No. 25,279; *Pennichuck Water Works*, Order No. 25,278) to three years (*Tioga River Water Company, Inc.*, Order No. 25,359; *Lakeland Management*, Order No. 25,357). The Company proposes recovery over four quarters in order to: (a) eliminate or reduce existing payables attributable to its rate case expenses; (b) minimize overlap with future rate increases for significant capital improvements made in 2011 and 2012, including Mt. Roberts project, that are not presently in rates; and (c) pay the Company's rate case vendors within as reasonable a period as possible without adverse impact to customers.

10. **Interest Expense.** As noted during the hearings before the Commission, the Company's rate case expenses were incurred during a difficult financial period. The Company's allowed rate of return is 8.23%. However, the actual rate of return earned by the Company has been well below this level: 4.12% in 2007, negative 3.96% in 2008, 2.13% in 2009, 5.70% in 2010. *See Lakes Region Water Company Response Record Request 1.* While the Company recorded higher earnings in 2011 due to the recoupment

of temporary rates for the year 2010 that were collected in 2011, the Company had to defer payment of its rate case vendors during the case even though the law is clear that rate case expenses are "a legitimate cost of business appropriate for recovery through rates". *Para. 5 & 6, supra.* The Company therefore requests that the Commission authorize an allowance for interest on its rate case expense due to the unique circumstances of this case.

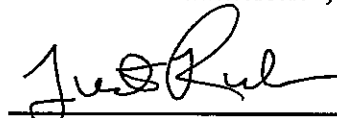
11. **Confidentiality.** In its *Motion for Confidential Treatment*, filed herewith, the Company requests confidential treatment of the descriptions of legal services as authorized by RSA 91-A:4 and Puc 203.08.

Respectfully submitted,

**LAKES REGION WATER  
COMPANY, INC.**

By its Counsel,

**UPTON & HATFIELD, LLP**

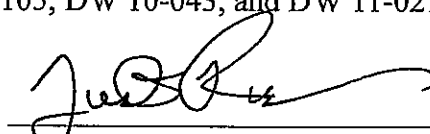


Justin C. Richardson  
NHBA #12148  
159 Middle Street  
Portsmouth, NH 03801  
(603) 436-7046  
[jrichardson@upton-hatfield.com](mailto:jrichardson@upton-hatfield.com)

Dated: August 30, 2012

#### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was this day forwarded to all parties on the official service lists for DW 10-141, DW 07-105, DW 10-043, and DW 11-021.

  
Justin C. Richardson