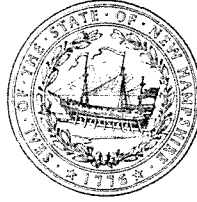


THE STATE OF NEW HAMPSHIRE

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Debra A. Howland



PUBLIC UTILITIES COMMISSION

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NHPUC 17JUL14AM9:00

July 16, 2014

Stephen P. St. Cyr & Associates
Attn: Stephen P. St. Cyr
17 Sky Oaks Drive
Biddeford ME 04055

RE: DW13-305 – Lorden Commons Sewer Company, LLC Compliance Tariff

Dear Mr. St. Cyr:

Staff has reviewed the filing received on June 30, 2014 in the above-captioned proceeding.

The recently submitted tariff does not comply with Puc Order #25,677, dated 7/13/14. Please refer to Order #25,677, page 7, which approves Exhibit #4, presented at Hearing on 4/23/14, as the Company's tariff. Please review Exhibit #4 and make appropriate revisions.

Staff would like to remind the Company to refer to and follow the 1603 rules when submitting any tariff filing to the Commission. The rejected version also needed the following administrative corrections:

- The title page did not contain the tariff number: NHPUC Tariff No. 1 – Sewer
- The title page did not contain an original signature
- The individual pages header, top left should refer to NHPUC Tariff No. 1 – Sewer
- An electronic version of the Tariff was not received

Please submit a copy of the tariff approved in Puc Order #25,677. Because the recently submitted tariff was rejected by this letter, the new version is still considered an original version of the tariff.

If you have any questions, please contact me at (603) 271-7092 or via e-mail at robyn.descoteau@puc.nh.gov.

Yours truly,

A handwritten signature in black ink that reads "Robyn J. Descoteau".

Robyn J. Descoteau
Utility Analyst, Gas/Water Division

Attachments: Puc Order #25,677, dated 7/13/14
Exhibit #4 presented at Hearing on 4/23/14

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 13-305

LORDEN COMMONS SEWER COMPANY, LLC

Permanent Rate Proceeding

Order Approving Permanent Rates

ORDER NO. 25,677

June 13, 2014

APPEARANCES: Lorden Commons Sewer Company, L.L.C., by Mr. Stephen P. St. Cyr and Mr. Paul Kerrigan; Mr. James M. Tullis, Intervenor; and Marcia A. Brown, Esq. on behalf of Commission Staff.

In this order, the Commission approves Lorden Commons Sewer Company's initial rate, a per customer, permanent fixed rate of \$639.68 per year, or \$159.92 per quarter, with no volumetric charge.

I. PROCEDURAL HISTORY

Lorden Commons Sewer Company, L.L.C. (Lorden), is a regulated utility authorized to provide sewer service to a prospective residential development in the Town of Londonderry. The Commission granted Lorden a franchise to provide sewer service in Order No. 25,253 (July 22, 2011), effective August 22, 2011. Phase I of the development will consist of 50 single family homes. Phase II is expected to add 82 more homes for a total development of 132. Lorden has begun Phase I and seeks to charge rates.

On October 21, 2013, Lorden filed its Notice of Intent to file rate schedules, and, on October 25, 2013, Lorden filed the rate schedules. On November 6, 2013, the Commission informed Lorden that its filing was deficient because 30 days had not elapsed between its Notice of Intent and rate filing. *See* N.H. Code Admin. Rules Puc 1604.05(a). Lorden cured this

deficiency when it re-filed its rate schedules on November 21, 2013. On December 19, 2013, the Commission issued Order No. 25,608 suspending Lorden's rate schedules and scheduling a pre-hearing conference and technical session for January 22, 2014. The Commission also ordered Lorden to mail a copy of the order to the Town Clerk for the Town of Londonderry as well as to all current and known prospective customers of Lorden.

The Commission held the prehearing conference on January 22, 2014. On January 23, 2014, Commission Staff (Staff) filed an assented-to proposed procedural schedule, which the Commission approved. On January 24, 2014, Mr. James Tullis filed a request for intervention. The Commission granted his request on February 6, 2014. The Commission received no other requests for intervention.

On February 3, 2014, Lorden provided additional information to the Commission. Lorden stated that the Town of Londonderry will be charging Lorden \$96.00 per quarter per residential unit for sewage disposal. Londonderry discharges sewage collected within the town to the Manchester system in accordance with an intermunicipal agreement. Lorden stated that it incurred \$28,692.13 in design costs but that it would not seek recovery of those costs. It also stated that it incurred \$5,123.33 in franchise costs and that it would seek recovery of this amount in its revenue requirement, through amortization over 20 years. The amortization would add \$256.17 to its calculation of annual operating expenses. Lorden stated that it would be converting \$30,000, originally classified as debt, to equity, and requested that the rate of return on rate base be adjusted to 9.6%. Lorden stated that it sold its first home on October 18, 2013. Lorden also stated that it notifies prospective customers that the development is served by a sewer utility.

Staff and the parties conducted discovery pursuant to the approved procedural schedule and, on April 16, 2014, filed a settlement agreement with the Commission. Staff and the parties presented the settlement agreement at a hearing held on April 23, 2014.

II. POSITIONS OF THE PARTIES AND STAFF

Lorden, Mr. James Tullis, and Staff (Settling Parties) reached agreement on many issues raised in this proceeding and their positions are set forth in the settlement agreement.

III. SUMMARY OF SETTLEMENT AGREEMENT

A. Revenue Requirement

The Settling Parties agreed to an overall revenue requirement of \$31,984. The revenue requirement is based on a rate base of \$10,999, an overall rate of return of 9.6%, and operating income of \$1,056. Lorden's capital structure is 0% debt to 100% equity. Although Lorden has proformed test year plant in service of \$616,423, Lorden agreed to book \$606,284 as Contribution in Aid of Construction (CIAC) because that amount was contributed by the owner. The Settling Parties agree that the plant is used and useful.

B. Rate Impact, Rate Design

Lorden provides only unmetered, residential sewer service. Lorden expects that there will be 50 customers when Phase I is fully developed. The Settling Parties divided the revenue requirement among the 50 customers and arrived at an annual customer rate of \$639.68, or \$159.92 per quarter. The Settling Parties recommend the Commission find this rate just and reasonable and approve it effective for service rendered on and after January 7, 2014.

The Settling Parties also request that the Commission approve other fees: a bad check fee equivalent to the amount charged by Lorden's bank, a collection fee of \$50.00, and a 1% per month interest rate on outstanding amounts due. Lorden also requested approval of its recovery

of cost of collection, such as attorneys and court fees, and a \$100.00 fee if it has to place a lien on a customer's property.

C. Rate Case Expenses

Lorden agrees to file its rate case expenses with the Commission no later than 15 days from the date of the final order in this proceeding.

IV. COMMISSION ANALYSIS

RSA 378:7 authorizes the Commission to fix rates after a hearing upon determining that the rates, fares, and charges are just and reasonable. In determining whether rates are just and reasonable, the Commission "must balance consumers' interest in paying no higher rates than are required with the investors' interest in obtaining a reasonable return on their investment."

Eastman Sewer Company, Inc., 138 N.H. 221, 225 (1994). In addition, when a utility seeks to increase rates, the utility bears the burden of proving the necessity of the increase. RSA 378:8. 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. RSA 541-A:31, V(a). Prior to approving disposition of a contested case by settlement, the Commission must find that the settlement results are just and reasonable and serve the public interest. N.H. Code Admin. Rules Puc 203.20(b).

A. Revenue Requirement

The Settling Parties propose an overall revenue requirement of \$31,984, based on a test year ending December 31, 2012. Exh. 3 at 5. We find this revenue requirement to be reasonable and we approve it. The revenue requirement is based on a rate base of \$10,999, an overall rate of return of 9.6%, and an operating income requirement of \$1,056. *Id.* The rate base is significantly lower than the proformed plant in service of \$616,423. *Id.* at 7. This is because Lorden's owner has contributed utility plant costing \$606,284. *Id.* Contributed plant is not

subject to a return and thus is booked as Contribution in Aid of Construction (CIAC), which Lorden has agreed to do. *See* NH PUC Uniform System of Accounts for Water Utilities, Puc 610.02(j). Although Lorden will not earn a return on that amount, it will earn a return on the remaining \$10,999. Lorden testified, and the settling parties all agreed, that the plant is in service, used, and useful. Hearing Transcript of April 23, 2014 (4/23/14 Tr.) at 16. Lorden testified that the pump station was delivered and installed in June of 2013 and that the system was “substantially up and ready at that point in time.” *Id.* Lorden also testified that it is currently serving three customers. *Id.* at 27.

Lorden’s capital structure is 100% equity. Consequently, the overall rate of return is the same as Lorden’s cost of equity. *Id.* at 20. The Settling Parties derived the cost of equity from the most recent water company case where this issue was litigated. *Id.* at 19-20. The Commission approved a 9.6% cost of equity for Aquarion Water Company, Inc., last summer. *See Aquarion Water Company, Inc.*, Order No. 25,539 (June 28, 2013). We find that this cost of equity is appropriate for Lorden.

This is the first time Lorden has requested that the Commission approve a revenue requirement. Lorden has not previously provided sewer service. As a result, the Settling Parties recommend operation and maintenance expenses in rates that are based on a combination of known and estimated expenses for calendar year 2012. Exh. 3 at 9. Staff testified that the Settling Parties based the estimated expenses on an analysis of two other similar regulated sewer utilities in the same geographic area as Lorden. 4/23/14 Tr. at 14-15. Staff testified that one of the sample sewer utilities also sends sewage to the City of Manchester and thus was particularly relevant. *Id.* at 15. Staff tested the reasonableness of the estimated expenses by comparing them on a per-customer basis. *Id.* at 14. We find that this approach to determining estimated

operating expenses is reasonable and that it ensures that Lorden's operating income is appropriate.

We note that Lorden will not collect its authorized revenue requirement in the first years of operation, because Lorden does not expect full build out to occur for a few more years. As Lorden testified, setting rates based on full build-out is the only equitable way of charging customers. *Id.* at 31. Otherwise, the first customer would be paying the cost of operating the entire system until other customers are added. *Id.* Some of Lorden's expenses mitigate Lorden's potential losses under this circumstance. For instance, the Town of Londonderry charges Lorden \$96 a quarter per residential unit for sewer disposal services. Lorden testified that this cost is a pass through to customers. *Id.* at 28. As such, Lorden will incur this expense coincident with its ability to collect it from customers. Notwithstanding the initial period of potential losses, we find the revenue requirement is just and reasonable.

In conclusion, we find the plant included in rate base is prudent, used, and useful pursuant to RSA 378:28. We find the rate of return to be just and reasonable. We find the revenue requirement is just and reasonable and that it is sufficient to allow Lorden an opportunity to earn a return on its investment in future years. Accordingly, we approve the recommended revenue requirement.

B. Rates, Fees, and Tariff

As stated above, Lorden will provide unmetered, residential sewer service to 50 customers when Phase I is fully developed. Lorden will not be providing service to industrial or commercial customers. Given the uniformity of Lorden's customer base, the Settling Parties divided the revenue requirement equally among the 50 customers. This produced an annual customer rate of \$639.68, or \$159.92 per quarter. We find that this rate design is reasonable and equitable to customers. We find that the customer rates are just and reasonable.

The Settling Parties also request approval of other fees. They recommend a bad check fee equivalent to the amount Lorden's bank charges, a collection fee of \$50.00, and an interest rate of 1% per month on outstanding amounts due. Lorden also requested approval of collection fees and approval of a \$100.00 fee if it has to place a lien on a customer's property. Having reviewed the fees, we find them reasonable. The bad check fee is a pass-through fee based on the amount Lorden is charged by its bank. *Id.* at 36. Lorden realizes no profit from this fee. The 1% per month interest rate on past due amounts is the same rate as that imposed by the two sample sewer utilities as well as by the Town of Londonderry. *Id.* at 34. Lorden testified that the fee for the lien is based on the hourly cost of its accountant to process a lien. *Id.* at 36-37. We find the justification for this fee is reasonable. With respect to collection fees, we note that N.H. Code Admin. Rule Puc 1203.11(s) already authorizes a utility such as Lorden to use a third party to conduct collection activities. If the collection is associated with a court action, then jurisdiction for awarding collection fees would be with that court, and not with this Commission. Accordingly, we will not rule on these fees. In conclusion, we approve the bad check fee, \$50 collection charge, \$100 lien fee, and 1% monthly interest on past due amounts.

The Settling Parties filed an original tariff to govern the terms of service. Exh. 4. Lorden testified that it modeled its tariff after the approved tariffs of two regulated sewer utilities. 4/23/14 Tr. at 34. Having reviewed the terms, we find them reasonable and approve them. We note that Lorden has yet to describe its service area, and we order Lorden to provide that description as part of its compliance tariff.

C. Effective Date

The Settling Parties recommend that the Commission approve the customer rates and other charges and fees, effective for all service rendered on or after January 7, 2014. We find

that this effective date is reasonable. Lorden testified that all known and prospective customers were notified of Lorden's rate filing by that date. *Id.* at 32-33. Lorden filed its rate schedules on November 21, 2013. Lorden filed an affidavit with the Commission stating it mailed a notice to the Town Clerk of the Town of Londonderry on January 6, 2014, and a notice to two known customers and four prospective customers on January 7, 2014. We find that the January 7, 2014, effective date is consistent with *Appeal of Pennichuck Water Works*, 120 NH 562, 567 (1980), in which the Court held that the earliest date on which rates may take effect, when billing is on a service-rendered basis, is the date on which the utility files its underlying request for its permanent rates. For these reasons, we approve the January 7, 2014, effective date.

D. Rate Case Expenses

Pursuant to the settlement agreement, Lorden agrees to file documentation of its rate case expenses no later than 15 days from the date of the final order in this proceeding. The Commission's administrative rules authorize utilities to file for rate case expenses. *See* N.H. Code Admin. Rules Chapter Puc 1900. A utility seeking recovery of rate case expenses shall file its request for recovery along with all supporting documentation no later than 30 days after the Commission's final order. N.H. Code Admin. Rules Puc 1905.02. Although Lorden agreed to file its documentation within 15 days, Rule 1905.02 provides Lorden 30 days to comply. Accordingly, we will allow Lorden 30 days to file its rate case documentation. We will defer ruling on the recovery of rate case expenses until after Lorden makes its filing.

E. Conclusion

Having reviewed the record, including the settlement and evidence presented at hearing, we find that the revenue requirement proposed by the Settling Parties is reasonable and will produce just and reasonable rates. We find that the terms of the settlement represent an appropriate balancing of ratepayer interests and the interests of Lorden's investors under current

economic circumstances and are consistent with the public interest. We further find that Lorden's investments in rate base used to serve its customers are prudent, used, and useful.

Accordingly, as modified in our analysis, we adopt and approve the terms of the settlement agreement.

Based upon the foregoing, it is hereby


ORDERED, that the terms of the settlement agreement are hereby adopted and **APPROVED** as discussed herein; and it is

FURTHER ORDERED, that Lorden is authorized to collect from customers permanent rates, as discussed herein, effective for service rendered on or after January 7, 2014; and it is

FURTHER ORDERED, that Lorden shall file with the Commission a final accounting of its rate case expenses no later than thirty days after the date of this order; and it is


FURTHER ORDERED, that Lorden file with the Commission a compliance tariff, including a description of its service area as discussed above, within fourteen days of the date of this order.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of June, 2014.


Robert R. Scott
Commissioner


Martin P. Honigberg
Commissioner

Attested by:


Lori Davis
Assistant Secretary

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.

Executive.Director@puc.nh.gov
amanda.noonan@puc.nh.gov
Christina.Martin@oca.nh.gov
jtcwap@comcast.net
marcia.brown@puc.nh.gov
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stephenpstcyr@yahoo.com
steve.frink@puc.nh.gov
susan.chamberlin@oca.nh.gov

Docket #: 13-305-1 Printed: June 13, 2014

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.

ORIGINAL	
N.H.P.U.C. Case No.	DW 13-305
Exhibit No.	PH
Witness	Robyn Descoteau, Stephen P. St Cyr
DO NOT REMOVE FROM FILE	

Lorden Commons Sewer Company, LLC

Tariff

For Sewage Collection and Transmission

in

a portion of the Town of Londonderry, N. H.

Issued: February 19, 2014

Effective: Date of Service

Title: President

(Authorized by NHPUC Order No. ... in DW 13-305 dated ...)

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Issued: February 19, 2014

Effective: Date of Service

Title: President

(Authorized by NHPUC Order No. ... in DW 13-305 dated ...)

Description of Service Area

Issued: February 19, 2014

Effective: Date of Service

Title: President

(Authorized by NHPUC Order No. ... in DW 13-305 dated ...)

Lorden Commons Sewer Company, LLC

Terms and
Conditions

1. Customers

"Customer" means any person, firm, partnership, corporation, cooperative marketing association, tenant, governmental unit, or a subdivision of a municipality, or the State of New Hampshire, who has contracted for sewer service from Lorden Commons Sewer Company, LLC.

2. Arrangements for Service

Application for service shall be made by the prospective owner of a residential dwelling in the Service Area at the time the prospective owner executes a Purchase and Sale Agreement for the unit, in accordance with PUC 1203.01. Application for service shall be made by any tenant of an owner of a residential dwelling in the Service Area at the commencement of the tenancy. The rendering of service by the Company and its use by the Customer shall be deemed a contract between the parties and subject to all provision of this Tariff applicable to such service.

3. Service Pipe

(a) Company Facilities. The Company shall be the Owner of all mains and other facilities not expressly defined as being Customer Facilities in paragraph (b) herein below. The Company Facilities shall include, but not necessarily be limited to, all mains within the limits of the public or private roadways, and all pumps and pumping facilities related thereto.

(b) Customer Facilities. The Customer shall own the outflow pipe to the point of its connection to the Company's main.

4. Right of Access

Pursuant to the easement filed with Hillsborough County Registry of Deeds, any authorized Company representative shall be permitted access to the Customer's premises at any time to inspect or repair the outflow pipe existing thereon, and the source and nature of such effluent, for the purpose of enforcing the provisions of this tariff.

5. Tampering

All gates, valves, shutoffs or other installation or equipment of the Company shall not be opened, closed or tampered with in any way by any person other than an authorized employee/contractor of the Company.

6. Company Liability

The Company will not be responsible for any loss, cost or expense caused by interruption of service due to repairs, construction or conditions beyond the control of the Company. Under no circumstances will the Company be responsible for consequential damages, such as economic loss, caused by system malfunction or interrupt of service.

Lorden Commons Sewer Company, LLC

7. Payment for Service

Bills. All Customers will be billed quarterly in arrears for services rendered in accordance with the rate schedule. Bill for service will be issued quarterly in accordance with the terms of payment specified in the appropriate rate schedule and are due and payable upon presentation. Bills not paid within thirty days (30) days from the invoice date shall bear interest at the rate of one percent per month until payment is received by the Company. In accordance with PUC 1203.08, financial hardship customers are not subject to late charges and penalties.

Penalty for Bad Checks. Whenever a check or draft presented for payment is not accepted by the institution on which it is written, the Company will impose a charge of the bank processing fee.

Deposits. The Company may require a deposit equal to one quarter of service as defined in section 1203.03 of the NHPUC's code of administrative rules. Deposits shall be maintained in accordance with the rules of the NHPUC.

Collections. If any bill for service is unpaid after forty five (45) days from the billing date and no payment arrangement has been made, the Company will issue a mid-quarter billing with the addition of a finance charge. The Company will issue a letter indicating that if the balance remains unpaid after 60 days from the billing date and no payment arrangement has been made, the Company will add a collection fee (\$50.00). The Company would also include a copy of the tariff provision related to payment for services (which identifies the collection and other fees). In addition, if a payment arrangement has been agreed upon, but not followed, the Company will add a collection fee. In accordance with PUC 1203.08, financial hardship customers are not subject to late charges and penalties.

Cost of Collections. In the event a customer fails to make payment to Company, and Company incurs expense in its effort to collect payment, the Company's reasonable costs of collection, including, but not limited to, attorney's fees, court fees, sheriff's fees, witness fees, and administrative fees, shall be payable by customer to Company and shall be added to the customer's account.

Lien. If the Company receives a favorable judgment from the small claims court, and the bill remains unpaid, the Company may add an administrative fee of \$100.00 in order for the Company to place a lien on the property. In addition, filing fees and other fees and expenses will be added to the Customer's account.

Change of Ownership. Until the Company is notified of a change in ownership or the premises served, the Company will hold the Customer of record responsible for payment of service.

Lorden Commons Sewer Company, LLC

RATE SCHEDULE

1. Residential Service

AVAILABILITY:

This schedule is applicable to each unit of residential real estate in the Service Area which is connected to the Company's facilities. This rate is available to unit owners who are customers.

CHARACTER OF SERVICE:

The Company is responsible for the receiving and transporting of sewage from the Customer's premises through its sewer plant to the City of Manchester, subject to the Terms and Conditions of this tariff.

RATE

\$639.68 per year (\$159.92 per quarter)

TERMS OF PAYMENT

Bills, under this Rate Schedule, are rendered quarterly in arrears on the first day of the quarter (or as soon thereafter as is practicable) following the quarter. The bills are due and payable upon presentation.

MINIMUM CHARGE

One quarterly payment.

Issued: February 19, 2014

Issued by: _____

Effective: Date of Service

Title: President

(Authorized by NHPUC Order No. ... in Docket DW 13-305 dated ...)