

DW 04-145

BODWELL WASTE SERVICES CORPORATION

Petition For Rate Increase

Order Approving Settlement Agreement

ORDER NO. 24,480

July 1, 2005

APPEARANCES: Stephen P. St. Cyr & Assoc. by Stephen P. St. Cyr for Bodwell Waste Services Corporation ; and Marcia A.B. Thunberg, Esq. for the Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

Bodwell Waste Services Corporation (Bodwell) is a public utility providing sewer service to customers in portions of Manchester and Londonderry, New Hampshire. On November 9, 2004, Bodwell filed with the New Hampshire Public Utilities Commission (Commission) a tariff seeking to permanently increase rates. Bodwell sought to collect annual revenues of \$102,324 from its 440 residential customers, through a fixed quarterly charge of \$58.14 per customer. In support of the rate increase, Bodwell provided testimony and supporting financial schedules.

Bodwell requested in its testimony that, in the event the Commission suspended the permanent rate, the proposed permanent rate be made a temporary rate pursuant to RSA 378:27. On November 19, 2004, the Commission issued Order No. 24,402 and suspended the tariff filed by Bodwell, and ordered a prehearing conference and technical session be held on January 4, 2005.

On January 10, 2005, Bodwell filed revised schedules increasing the proposed revenue requirement to \$113,749, an additional increase of \$11,425. Bodwell stated this new

revenue requirement would translate into a proposed fixed quarterly charge of \$64.63 per customer.

Subsequent to the hearing and technical session, the Commission received and approved a procedural schedule which set a hearing on temporary rates for January 28, 2005. On January 21, 2005, Staff and Bodwell filed a Stipulation on temporary rates for the Commission's consideration and, on February 11, 2005, the Commission issued Order No. 24,430 approving the Stipulation on temporary rates. The Commission approved Bodwell's existing rate of \$50.33 per quarter per customer as a temporary rate, effective February 1, 2005.

In accordance with the procedural schedule, on April 21, 2005, Staff filed the testimony of Jayson P. Laflamme, Utility Analyst. On June 2, 2005, Bodwell and Staff filed a Stipulation Agreement (Stipulation) with the Commission, and the Commission held a hearing on the matter on June 9, 2005.

On June 15, 2005, Bodwell filed its request for recovery of rate case expenses, as well as its calculation of a recoupment of temporary rates. Bodwell sought to recover \$11,041.83 in rate case expenses and stated that would result in a total surcharge of \$25.10 per customer. Bodwell proposed a recovery period of 4 billing quarters in which it would bill each customer a surcharge of \$6.27. In addition to seeking recovery of rate case expenses, Bodwell submitted a calculation of its temporary rate recoupment of \$10,151.33. Bodwell proposed a recovery period of 2 billing quarters, in which it would bill each customer a surcharge of \$11.54 per quarter.

On June 17, 2005, Staff filed its recommendation on rate case expenses and temporary rate recoupment. With respect to rate case expenses, Staff determined that \$926.25 of the expenses should be disallowed because they were deemed to be related to the Commission

Staff's audit of Bodwell's books and records. Staff stated that the Commission traditionally does not allow recovery of audit-related expenses in rate case expenses. Accounting for this deduction, Staff recommended the Commission approve Bodwell's recovery of \$10,115.58 in rate case expenses and stated this would result in a surcharge of \$22.99 per customer. Regarding the temporary rate recoupment, Staff determined that Bodwell's calculation included recovery of \$2,825 associated with insurance, which the Stipulation specifically prohibited. Removing this item, Staff recommended the Commission approve \$8,976.00 as Bodwell's temporary rate recoupment and stated this would result in a surcharge of \$20.40 per customer.

Staff recommended Bodwell combine the rate case expense and temporary rate recoupment into one surcharge and recover this amount over 4 billing quarters. Under Staff's recommendation, customers would be billed a combined surcharge of \$10.85 per quarter for 4 quarters, beginning with bills issued on or about July 1, 2005. Staff averred that spreading the surcharge over 4 billing quarters would be more reasonable and consistent with other recoupment surcharges recently approved by the Commission.

II. SETTLEMENT AGREEMENT

Bodwell and Staff entered into a Stipulation resolving their issues. The terms are summarized below.

A. Reporting and Accounting Requirements

Bodwell will comply with the Uniform System of Accounts (USOA) for Sewer Utilities. Bodwell will implement and maintain a Work Order System and will maintain detailed and current Continuing Property Records (CPRs) on a consistent basis. At the conclusion of six months after the date of the order approving the stipulation, the Commission Audit Staff will conduct a compliance audit and will report its findings and conclusions to the Commission.

If the Commission Audit Staff finds that Bodwell has not achieved full compliance, Bodwell will pay a \$100 per day fine. The daily fine is capped at \$100 per day for non-compliance.

B. Past-due Accounts Receivables

Bodwell will make a filing within 15 days from the date of an order approving the Stipulation to update its collection procedures and fees and will aggressively pursue the collection of past-due accounts receivables. Bodwell will include in its Annual Report, beginning with 2005, and for every year thereafter, an Aged Accounts Receivable Report as well as a report of its collections efforts.

C. Rate Base and other Expenses

Bodwell and Staff recommend the Commission allow Bodwell's test year rate base components to be calculated on a 5-quarter average. Bodwell and Staff recommend Bodwell insure its utility facilities and that the first year insurance premium of \$2,825 be included in the revenue requirement provided for in the Stipulation. Bodwell will file proof of insurance coverage with the Commission within three months of the Commission's Order approving the Stipulation. Bodwell and Staff agree that the insurance expense shall not be included in the calculation of temporary rate recoupment.

D. Management Fee

Bodwell and Staff agree that the Management Fee included in the revenue requirement recommended in the Stipulation is \$8,265 (\$6,480 + \$1,785). Bodwell agrees to file with the Commission within 30 days of the Commission's Order approving the Stipulation a management agreement between Bodwell and Stephen P. St. Cyr & Associates regarding work Mr. St. Cyr performs on behalf of Bodwell.

E. Other Deferred Credits

Bodwell and Staff agree that the developer contribution of \$52,500 Bodwell received in early 2003 should be treated as follows:

a. The remaining balance of \$23,450 after use of the funds for plant additions (\$16,450) and state property taxes (\$12,600) should be segregated into an interest-bearing account and used only for capital additions in the future. At hearing Bodwell and Staff recommended this be performed within 90 days from the date of a Commission Order approving the Stipulation; and

b. Beginning with its 2005 NHPUC Annual Report and for every year thereafter, Bodwell shall include a detailed accounting of the sources and uses of this fund which corresponds to the beginning and ending balances of this fund as contained in its Annual Report to the Commission.

c. The \$12,600 amount used for state property taxes shall be a rate base deduction in the calculation of the revenue requirement in this docket. Bodwell and Staff agree this is appropriate since Bodwell has had use of these funds for approximately two years.

Bodwell and Staff further agree that if Bodwell files for new rates based on a 2004 test year, this amount shall be a rate base deduction of \$6,300 for that test year. Bodwell and Staff agree that rate filings based on a 2005 test year or future years should have zero deduction for this amount.

F. Annual Report on notification to prospective Mill Pond Customers

Bodwell and Staff agree that Bodwell shall continue to annually report in Bodwell's Annual Report to the Commission, during the build-out period of the Mill Pond subdivision in Londonderry, on its efforts to notify all prospective customers in that development, that they will be subject to dual sewer charges from both Bodwell and the Town of Londonderry. Bodwell and Staff acknowledge that Bodwell was originally ordered to make this annual reporting by Commission Order No. 23,578 (10/30/00) in docket DW 00-090. Bodwell and Staff agree that this reporting obligation shall expire after the last property in the Mill Pond subdivision has been sold and the notification requirement to the prospective customer has been completed by Bodwell.

G. Permanent Rate Increase

Bodwell and Staff recommend the Commission approve a 27.51% increase in Bodwell's permanent rates, and that Bodwell should be entitled to temporary rate recoupment based on that rate level pursuant to RSA 378:29, with the exception of the insurance expense detailed above. Bodwell and Staff recommend the Commission approve a total revenue requirement of \$112,944, which would result in an increase in revenues of \$24,364 over Bodwell's test year.

III. COMMISSION ANALYSIS

New Hampshire RSA 378:7 authorizes the Commission to fix rates pursuant to an order after a hearing. In determining just and reasonable rates, the Commission must balance the 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 circumstances where a utility wishes to increase rates, the utility bears the burden of proving the necessity of the increase pursuant to RSA 378:8.

Applying these standards to the instant case, and after reviewing the record before us, we find that the rates proposed by the Bodwell and Staff are just and reasonable. In its initial filing, Bodwell sought to increase its rates by 16.93%, in order to increase its revenue

requirement by \$14,813. Bodwell cited the recent assessment of state utility property taxes as well as increased management and maintenance costs as reasons for the rate increase. Exh. 3 at 2. Bodwell later revised its schedules, on January 10, 2005, upon learning that the City of Manchester would be assessing Bodwell local utility property taxes. Bodwell proposed raising its annual revenues from \$102,324 to \$113,749, an increase of \$26,238, or 29.98%. Exh. 4. Bodwell stated this revision would produce an annual customer bill of \$258.52. In its pre-filed testimony, Staff recommended the Commission not grant an increase in Bodwell's permanent rates. Staff's recommendation was based upon its conclusion that Bodwell had been lax in collecting overdue receivables, had failed to keep proper records, had failed to comply with Commission rules and regulations, and had failed to comply with past Commission orders. Exh. 5 at 4 lines 1-8. Bodwell and Staff agreed to a revenue requirement of \$112,944, an increase of \$24,364, or 27.51%.

Evident from the record is that Staff reviewed Bodwell's filing and that Bodwell and Staff made certain adjustments to Bodwell's initial proposal to produce the revenue requirement proposed in the Stipulation. We find the revenue requirement and rates resulting therefrom reasonable.

With respect to the supplements to Annual Reports filed with the Commission, Bodwell's rate base, management agreement, maintenance expense, insurance, and notification to prospective Mill Pond customers, we find the terms contained in the Stipulation reasonable. Two issues addressed in the Stipulation, record keeping and collections, however, necessitate further comment.

Staff's pre-filed testimony identified specific instances of Bodwell's failure to comply with the Commission's USOA for sewer utilities, which are required by N.H. Admin.

Rules, Puc 706. To encourage compliance, the Stipulation imposes a \$100 per day penalty for Bodwell's non-compliance with the USOA which have been in effect since 1997, after an initial 6-month grace period. Although a 6-month period is allowed, based on testimony presented by Bodwell at the hearing, we expect Bodwell to take steps to comply in a matter of days, not months. It is imperative that Bodwell maintain its books and records in accordance with the USOA. To do otherwise, Bodwell risks not having verifiable records for future rate proceedings, which jeopardizes its burden of proving any needed rate increases. In order to encourage Bodwell's curing of these deficiencies, we will approve the Stipulation's grace period and penalty provisions and instruct Staff to monitor Bodwell's compliance.

With respect to collections, Staff learned in discovery that Bodwell's accounts receivable in excess of 90 days, as of the end of 2004, totaled \$34,237. Exh. 5 at 4 lines 20-21. When Staff sought confirmation of past due receivables, Bodwell responded that it needed more time to collect the information. *Id.* At 5 lines 12-14. Bodwell's existing annual revenue requirement is \$87,511 and \$34,237 in accounts receivable represents 39% of that annual revenue, which is unacceptable. We are reminded by Staff that Bodwell was to have submitted a tariff containing proposed collection fees, in response to our Order No. 23,778, dated September 20, 2001. To date, Bodwell has not filed such a tariff. In light of Bodwell's lack of attention to complying with our previous order and reducing accounts receivable aging, we find the \$100 per day stipulated penalties and the filing of collection fees within 15 days of the Commission Order approving the Stipulation are reasonable. Additionally, we instruct Staff to review Bodwell's Annual Report and report of its accounts receivables and inform the Commission in the event Bodwell's balance does not start to diminish.

With respect to recovery of rate case expenses, we have reviewed Staff's recommendations and agree with Staff that recovery of audit expenses in rate case expenses is inappropriate. Response to audit requests is a continuing obligation of utilities under RSA 374:18 and is recognized in calculating the permanent rate in RSA 378:28. Allowing expenses associated with responding to audit requests as a surcharge for rate case expenses would in effect amount to double recovery of these expenses.

With respect to temporary rate recoupment allowed pursuant to RSA 378:29, in Commission Order No. 24,430 (February 11, 2005), we approved implementation of temporary rates of \$50.33 per quarter per customer, effective for service on or after February 1, 2005. According to the Stipulation, Bodwell and Staff recommend the Commission approve a 27.51% increase in permanent rates. Exh. 6 at 5. This will result in annual revenues of \$112,944. Spread over 440 customers, the annual per customer rate will be \$256.69, or \$64.17 quarterly. Bodwell and Staff seek to implement permanent rates July 1, 2005. Staff's recoupment recommendation noted that Bodwell had included in the calculation of the recoupment \$2,825 for insurance, notwithstanding, Section 5 of the Stipulation which states that "the insurance expense shall not be included in the calculation of temporary rate recoupment." Exh. 6 at 4. We will consider Bodwell's inclusion of insurance in its calculation an oversight and find Staff's deduction of \$2,825 from Bodwell's recoupment calculation reasonable. Accordingly, we will allow Bodwell to recover \$8,976.00, which represents the difference between the temporary rate of \$50.33 and the permanent rate of \$64.17 per quarter per customer for the time period February 1, 2005 through June 30, 2005.

With respect to recovery of the surcharges proposed, we agree with Staff that recovery of rate case expenses and temporary rate recoupment over 4 billing quarters is

reasonable and comparable to other recoupment surcharges recently approved by the Commission. Bodwell had proposed recovering rate case expenses over 4 billing quarters and temporary rate recoupment over 2 billing quarters. This would result in rates changing three times, rather than twice, as suggested by Staff which could prove confusing to customers. Utilities also incur administrative expense associated with changing rates. For these reasons, we will approve recovering the surcharges as a combined amount recovered over 4 billing quarters. Thus, we will approve a surcharge of \$10.85 per quarter per customer for 4 quarters, beginning with bills issued on or about July 1, 2005.

Based upon our review of the Stipulation as well as the supporting testimony and exhibits provided at the hearing, we find that the terms of the Stipulation are reasonable and will benefit customers of Bodwell. We conclude that the Stipulation and the rates established therein are just and reasonable and are consistent with the public interest.

Based upon the foregoing, it is hereby

ORDERED, the Stipulation is APPROVED as discussed herein; and it is

FURTHER ORDERED, that Bodwell Waste Services Corporation shall submit reports to the Commission as identified in the Stipulation; and it is

FURTHER ORDERED, that Bodwell Waste Services Corporation is authorized to recover \$10,115.58 in rate case expenses in a surcharge to customer bills over four billing quarters as specified above; and it is

FURTHER ORDERED, that Bodwell Waste Services Corporation is authorized to recover a temporary rate recoupment amount of \$8,976.00 in a surcharge to customer bills over four billing quarters as specified above; and it is

FURTHER ORDERED, that Bodwell Waste Services Corporation file with the Commission a compliance tariff within ten days of the date of this order.

By order of the Public Utilities Commission of New Hampshire this first day of July, 2005.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Michael D. Harrington
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary