

**STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION
Fryeburg Water Company
DW 09-291
TEMPORARY AND PERMANENT RATE PROCEEDING
STIPULATION AGREEMENT**

I. INTRODUCTION

This Agreement is entered into this 3rd day of February, 2011, by and between the Fryeburg Water Company (Fryeburg) and the staff (Staff) of the New Hampshire Public Utilities Commission (Commission). Fryeburg is a New Hampshire and Maine regulated public utility with its principal place of business in the Town of Fryeburg, Maine. It serves approximately 737 customers in Maine and 67 customers in the adjacent town of East Conway, New Hampshire.

The purpose of this Agreement is to memorialize a procedure for Fryeburg to follow to change its general permanent rates in recognition of the fact that Fryeburg's rates and service are also regulated by both the Maine Public Utilities Commission (MPUC) and the Commission and the cost of a full rate case in both states may not provide additional benefit to customers in New Hampshire. As a result, Fryeburg and Staff agree upon procedures to be followed in future cases and request Commission approval.

II. PROCEDURAL BACKGROUND

On December 31, 2009, Fryeburg filed with the Commission a Notice of Intent to File Rate Schedules. On or about January 4, 2010, Fryeburg filed for approval of an approximate 15% rate increase with the MPUC. Fryeburg's request includes recovery of costs to serve all its customers, including those in New Hampshire. On or about April 16, 2010, the MPUC approved a stipulation agreement providing for a rate increase of about 12.9% to Fryeburg's customers.

On August 11, 2010, Fryeburg filed the results of the Maine proceeding with the Commission and also filed a Petition for Temporary Rates pursuant to RSA 378:27, a Petition for Authorization to serve its East Conway customers as a Foreign Business Entity pursuant to RSA 374:24, and an assented-to Motion to Waive N.H. Code Admin. R. Puc Chapter 1604 filing requirements. In support of its rate filing, Fryeburg also filed the testimony of Jean Andrews, Treasurer of Fryeburg, proposed tariff pages, and a proposed statement to be mailed to Fryeburg's New Hampshire customers.

On July 1, 2010, Fryeburg provided notice to its Maine and New Hampshire customers of its rates approved by the MPUC.

Fryeburg requested approval of temporary rates for its New Hampshire customers at the level approved for permanent rates in Maine. Fryeburg stated that its 2009 test year earnings were insufficient to earn a reasonable rate of return, citing a significant decline in sales to Pure Mountain Springs, LLC as the primary reason. Fryeburg stated that temporary rates were needed in order for the company to continue to meet its obligations to provide service to its New Hampshire customers at rates that are just and reasonable as allowed RSA Chapter 378.

Fryeburg offers water service in New Hampshire at quarterly, monthly, and seasonal rates approved by the MPUC and the Commission. In its New Hampshire rate filing, Fryeburg proposed to charge its New Hampshire customers the same quarterly, monthly, and seasonal rates approved by the MPUC. It therefore proposed a quarterly rate for 5/8 inch service of \$45.00 for the first 1,200 cubic feet; a monthly rate for 5/8 inch service of \$15.00 for the first

400 cubic feet; and a seasonal rate for 5/8 inch service of \$135.00 for the first 2,400 cubic feet.

The existing rates in New Hampshire are \$39.24, \$13.08, and \$109.80 respectively.

In Fryeburg's Petition for Authorization to Serve Customers as a Foreign Business Entity Pursuant to RSA 374:24, Fryeburg requested that it be permitted to serve its New Hampshire customers at rates set by the MPUC in lieu of the filing requirements for temporary and permanent rates under RSA 378:27 et seq. Fryeburg stated that it will continue to provide service that is "reasonably safe and adequate" as required by RSA 374:1, pursuant to tariffs filed with the Commission. Fryeburg stated that New Hampshire customers will benefit from reduced regulatory costs. Alternatively, Fryeburg requested the Commission issue an order exempting the company from rate regulation pursuant to RSA 362:4 because it serves fewer than 75 customers in New Hampshire.

On August 31, 2010, the Commission issued an Order of Notice and scheduled a prehearing conference and Technical Session for October 5, 2010. On September 10, 2010, Fryeburg provided copies of the Commission's Order of Notice to all of its New Hampshire customers.

At the Prehearing, Staff and Fryeburg provided their preliminary positions. There were no intervention requests. Staff and Fryeburg met in a technical session after the prehearing conference and developed a proposed procedural schedule to govern the remainder of the proceeding. Staff filed this schedule on October 5, 2010 and on October 15, 2010, the Commission issued a secretarial letter approving a different procedural schedule that provided for discovery to be completed by October 29, 2010; the filing of a stipulation agreement or

testimony on November 19, 2010; and a hearing on temporary and permanent rates on December 8, 2010.

On November 30, 2011, Staff filed an assented-to letter requesting changes to the procedural schedule. On December 2, 2010 and again on January 26, 2011, the Commission rescheduled the hearing on the merits to February 4, 2011.

III. TERMS OF AGREEMENT

A. NOTICE OF REQUEST TO CHANGE PERMANENT RATES

1. Notice to Customers.

When Fryeburg seeks to change its permanent rates it charges its customers, Fryeburg agrees to provide notice of its Maine rate case to its New Hampshire customers in the same manner and by the same method as prescribed by the MPUC for its customers in Maine or if the MPUC's notice requirements are less stringent than the notice requirements of New Hampshire, Fryeburg agrees to also provide notice to its New Hampshire customers as required by New Hampshire law, including but not limited to: RSA 378:3; N.H. Code Admin. R. Puc 1604.05, *Notice of Intent to File Rate Schedules*; and N.H. Code Admin. R. Puc. 1203.02(c), *Information to Customers*, which requires a utility to provide customers, "no later than 30 calendar days from the date of filing" a "clear and concise statement of the rate schedules applied for and indicate which schedules are applicable to that customer."

2. Notice to the Commission.

Fryeburg agrees to file with the Commission and the Office of the Consumer Advocate a *Notice of Intent to File Rate Schedules* (Notice of Intent) pursuant to N.H. Code Admin. R. Puc 1604.05.

B. REQUEST TO CHANGE PERMANENT RATES

No later than 60 days after filing its *Notice of Intent*, Fryeburg agrees to file with the Commission a Request to Change New Hampshire Rates, inclusive of the following:

1. A complete copy of Fryeburg's initial request and supporting schedules submitted to the MPUC.
2. A statement describing notice provided to Fryeburg's New Hampshire customers, including copies of customer notices.
3. All proposed changes to its New Hampshire tariff pursuant to N.H. Code Admin. R. Puc 1603.
4. If requested by Fryeburg, information necessary for Temporary Rates.

Fryeburg agrees to document the notice to New Hampshire customers by filing an affidavit with the Commission no later than 10 days after the date of such notice.

C. ORDER OF NOTICE

Upon submission of a complete Request to Change Permanent Rates as provided by Section III (B) of this Agreement, Staff and Fryeburg anticipate that within 30 days of Fryeburg's filing the Commission will issue an Order of Notice for publication by Fryeburg pursuant to RSA 378:3 and N.H. Code of Admin. R. Puc 1604.03.

D. FILING OF MPUC APPROVED RATES IN NEW HAMPSHIRE

Except as otherwise ordered by the Commission, upon receipt of a final order from the MPUC, Fryeburg agrees to file with the Commission the following documents in support of its Request to Change New Hampshire Rates:

1. Any additional information in support of its permanent rate filing before the MPUC subsequent to that provided to the Commission pursuant to Section III (B) (1) of this Stipulation;
2. The MPUC order(s) approving Fryeburg's request for permanent rates;
3. Tariff schedules showing the permanent rates approved by the MPUC; and
4. Tariff schedules for New Hampshire customers that comply with N.H. Code Admin. R. PART Puc 1603, General Tariff Filing Requirements concerning the format of the tariff schedules; and identify the new permanent rates approved by the MPUC that Fryeburg intends to charge New Hampshire customers.

E. WAIVER OF N.H. CODE ADMIN. R. PUC 1604.01, 1604.02, 1604.06, and 1604.07

Staff and Fryeburg request the Commission waive application of these sections of N.H. Code Admin. R. PART Puc 1604 for future permanent rate filings made by Fryeburg. In support of this request, Staff and Fryeburg state that requiring Fryeburg to comply with N.H. Code Admin. R. Puc:

1604.01, Contents of a Full Rate Case;

1604.02, Procedure and Contents of Full Rate Case Proposal;

1604.06, Filing Requirement Schedules; and

1604.07 Contents of Filing Requirement Schedules;

would be duplicative of the information contained in its MPUC filing that would be, in turn, filed with the Commission. Additionally, any information found to be lacking by Staff could be

obtained through discovery or audit of Fryeburg's records if a full investigation were to be conducted by the Commission.

F. CERTIFICATION OF NO CONSTRUCTION WORK IN PROGRESS

Contemporaneously with its filing as outlined in section D above, Fryeburg agrees to provide a statement certifying that the permanent rates it seeks to apply to New Hampshire customers do not contain Construction Work in Progress (CWIP), since such CWIP is prohibited pursuant to RSA 378:30-a. To the extent that any rates approved by the MPUC include CWIP, Fryeburg agrees to modify its New Hampshire rate schedules as necessary to allow Fryeburg to charge the rates approved by the MPUC without the inclusion of CWIP.

G. STAFF'S RECOMMENDATION

Within 30 days of submission of the MPUC order approving Fryeburg Water Company's new rates, Staff agrees to submit a recommendation to the Commission to:

1. Approve the rates approved by the MPUC for New Hampshire customers;
2. Issue a suspension order to provide notice to New Hampshire customers of the Commission's intent to conduct an investigation concerning Fryeburg's request to change New Hampshire rates; or
3. Take such other action as otherwise authorized by New Hampshire law.

Staff and Fryeburg anticipate that the Commission will issue an order in response to Fryeburg's request to change New Hampshire rates based on Staff's recommendation or otherwise, as provided by law. Fryeburg shall serve the order as directed by the Commission. In the event that Staff recommends that the Commission issue an order suspending the rates approved by the

MPUC, Staff agrees to recommend that the Commission allow Fryeburg to charge the rates approved by the MPUC as temporary rates subject to reconciliation or adjustment pursuant to RSA 378:27-29.

H. EFFECTIVE DATE OF THE MPUC-APPROVED RATE CHANGES TO NEW HAMPSHIRE CUSTOMERS

For future permanent rate filings in New Hampshire, Staff and Fryeburg recommend the effective date of any change in rates for New Hampshire customers be the effective date approved by the MPUC, provided that Fryeburg shall have first complied with notice requirements of this Agreement. In the event that the effective date of any change in rates approved by the MPUC does not comply with the notice requirements under New Hampshire law or this Agreement, Fryeburg shall revise the effective date of its New Hampshire tariff schedules accordingly.

In the event the Commission issues an order suspending the proposed tariffs, as contemplated in Section III (G) of this Agreement, Staff and Fryeburg recommend that the Commission allow Fryeburg to charge the rates approved by the MPUC as temporary rates subject to reconciliation or adjustment pursuant to RSA 378:27-29.

It is the intent of Staff and Fryeburg that properly-filed tariff schedules for Fryeburg's New Hampshire customers that do not contain CWIP and which are based on a rate filing that Staff has no objection or concerns with be allowed to go into effect pursuant to RSA 378:3 without additional Commission action.

Staff and any other intervenor to Commission dockets involving Fryeburg's future rate filings do not relinquish their right to request the Commission to investigate and suspend Fryeburg's tariff schedules pursuant to RSA 378:5 and RSA 378:6.

Fryeburg does not relinquish its right to file for other rate relief allowed pursuant to RSA Chapter 378, including RSA 378:27, Temporary Rates.¹

I. APPROVAL OF PERMANENT RATES

Staff and Fryeburg agree and recommend that the new permanent rates as approved by the MPUC in its April 16, 2010 order set forth in Attachment A to this Agreement be approved for application to Fryeburg's New Hampshire customers effective on a service rendered basis as of September 29, 2010.² These new permanent rates represent an approximately 12.9% increase in rates currently in effect. Staff and Fryeburg agree that Fryeburg's New Hampshire customers received notice of the rate proceeding in Maine at the same time as its Maine customers were noticed. Fryeburg certifies that these new permanent rates as approved by the MPUC contain no CWIP.

In the event the Commission approves these permanent rates after Fryeburg has issued its fourth quarter bills, Staff and Fryeburg agree and recommend the Commission authorize Fryeburg to recoup from each New Hampshire customer a surcharge for the difference between the revenues received under current rates between September 29, 2010 and the order approving the rates and the amount of revenue it would have received had the new permanent rates been in

¹ There is no similar temporary rate provision in Maine.

² The MPUC also approved rates for public and private fire protection. Fryeburg does not provide public or private fire protection service to its New Hampshire customers and has not sought approval to do so in New Hampshire.

effect during September 29, 2010 to the date of the order approving the new permanent rates.

This recoupment is set forth in Attachment B.

IV. CONDITIONS

This agreement shall not be deemed in any respect to constitute an admission by any party that any allegation or contention in these proceedings is true or valid. This agreement is expressly conditioned upon the Commission's acceptance of all its provisions, without change or condition. If the Commission does not accept this agreement in its entirety, without change or condition, the agreement shall at Fryeburg's or the Staff's option, exercised within ten days of such Commission order, be deemed to be null and void and without effect and shall not constitute any part of the record in this proceeding nor be used for any other purpose.

The Commission's acceptance of this agreement shall not constitute continuing approval of, or precedent regarding, any particular principle or issue in this proceeding, but such acceptance does constitute a determination that the provisions set forth herein in their totality are consistent with the public interest under the circumstances. Fryeburg and Staff agree that all pre-filed testimony should be admitted as full exhibits for the purpose of consideration of this agreement. Agreement to admit all pre-filed testimony without challenge, however, does not constitute agreement by any party that the content of the pre-filed testimony filed by another party is accurate or what weight, if any, should be given to the views of any witness.

The Commission's approval of the recommendations in this agreement shall not constitute a determination or precedent with regard to any specific adjustments, but rather shall


constitute only a determination that the revenue requirement and rates resulting from this agreement are consistent with the public interest in this proceeding.

IN WITNESS WHEREOF, the parties to this agreement have caused the agreement to be duly executed in their respective names by their fully authorized agents.

FRYEBURG WATER COMPANY

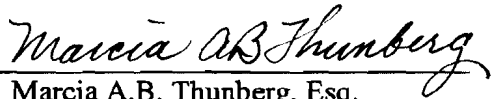
By Its Attorneys,
UPTON & HATFIELD, LLP

Dated: February 3rd, 2011

By: 
Justin C. Richardson, Esq.
159 Middle Street
Portsmouth, NH 03801
(603) 436-7046

STAFF OF THE NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

Dated: February 3, 2011

By: 
Marcia A.B. Thunberg, Esq.
21 South Fruit Street, Suite 10
Concord, NH 03301
(603) 271-2431

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2010-8

April 16, 2010

FRYEBURG WATER COMPANY
Proposed Rate Increase to Increase Rates
(\$72,257 or 15% Increase in Revenue)

ORDER APPROVING
STIPULATION

REISHUS, Chairman; VAFIADES and CASHMAN, Commissioners

I. SUMMARY

We approve a Stipulation filed on March 31, 2010 by the Fryeburg Water Company (FWC) as agreed to by FWC and the Office of the Public Advocate (OPA). The Stipulation provides for a total revenue increase of \$62,257 for bills issued for service on and after April 1, 2010.

II. PROCEDURAL HISTORY

On January 1, 2010, FWC filed, pursuant to 35-A M.R.S.A. § 307, a proposed rate increase to take effect on February 1, 2010. FWC proposed a \$72,257 increase or 15% of additional annual revenue to cover increased operating expenses. The Commission received petitions to intervene from the OPA on January 4, 2010 and ratepayer William Harriman on January 20, 2010. All petitions to intervene were granted at a case conference held on January 22, 2010.

On January 26, 2010, the Commission issued Suspension Order #1 which suspended the effective date of the proposed rates for three months to allow for further review by the Commission.

A case conference was held on January 22, 2010 and the OPA and the Advisory Staff issued written data requests. A technical conference was held on February 22, 2010. This technical conference resulted in a set of oral data requests, to which FWC responded in a filing dated March 19, 2010.

On March 31, 2010, FWC filed with the Commission a Stipulation entered into by FWC and the OPA. The OPA attempted to reach the customer intervener, Mr. Harriman, but was unable to make contact prior to filing the stipulation. Mr. Harriman was provided a copy of the Stipulation by FWC and the OPA. On April 13, 2010, Mr. Harriman spoke with our staff by telephone and indicated that he was neither objecting to nor joining the stipulation. Therefore, the stipulation is unopposed.

III. STIPULATION

A. Revenue Requirement

The Stipulation provides for annual operating revenues of \$545,443, an increase of \$62,257, or 12.9%, over the 2009 revenues. In arriving at the revenue requirement, parties looked at adjustments to the amortization period of past rate case expenses and return on equity.

B. Effective Date for Rates

The Stipulation provides that rates will be effective for bills issued on or after April 1, 2010.

Parties also waived any rights they have under Chapter 110 § 742 of the Commission's Rules to permit the Advisory Staff to discuss this Stipulation and the resolution of this case with the Commissioners, without providing the parties an Examiner's Report or the opportunity to file Exceptions.

IV. DISCUSSION

In approving a stipulation, we consider the following criteria:

1. Whether the parties joining the stipulation represent a sufficiently broad spectrum of interests that the Commission can be sure that there is no appearance or reality of disenfranchisement;
2. Whether the process leading to the stipulation was fair to all parties; and
3. Whether the stipulated result is reasonable and not contrary to legislative mandate. See *Central Maine Power Company, Proposed Increase in Rates*, Docket No. 92-345 (II), Detailed Opinion and Subsidiary Findings (Me. P.U.C. Jan. 10, 1995); and *Maine Public Service Company, Proposed Increase in Rates (Rate Design)*, Docket No. 95-052, Order (Me. P.U.C. June 26, 1996). We have also recognized that we have an obligation to ensure that the overall stipulated result is in the public interest. See *Northern Utilities, Inc., Proposed Environmental Response Cost Recovery*, Docket No. 98-678, Order Approving Stipulation (Me. P.U.C. April 28, 1997).

We find that the proposed Stipulation in this case meets these criteria. The Stipulation was joined by the FWC and the OPA. The OPA represents the using and consuming public, in this case the customers of FWC. The parties represent a sufficiently broad spectrum of interests to satisfy the first criteria. Mr. Harriman has not indicated whether he supports, opposes or is indifferent to the Stipulation.

Order Approving Stipulation

- 3 -

Docket No. 2010-8

We believe the process was fair and all parties had an opportunity to participate. The process of discovery and the technical conference allowed an opportunity for all parties to gather information about the reasons for the rate increase.

We find that the proposed Stipulation is reasonable and is both consistent with the legislative mandate and the public interest. The Stipulation results in rates that are just and reasonable and in the best interest of ratepayers. It also provides a reasonable resolution of issues in this docket and reduces the risk of increased costs if the case were fully litigated.

V. CONCLUSION

We approve the Stipulation filed by the parties in this case for rates to be effective on April 1, 2010.

Accordingly, we

ORDER

1. That the Stipulation filed on March 31, 2010, and attached to this Order, is hereby approved; and

2. That the Fryeburg Water Company's Rate Schedules, Page 1-2, Fifth Revision, and Page 3, Fourth Revision, filed on March 31, 2010, are approved for effect on April 1, 2010.

Dated at Hallowell, Maine, this 16th day of April, 2010.

BY ORDER OF THE COMMISSION


Karen Geraghty
Administrative Director

COMMISSIONERS VOTING FOR:

Reishus
Vafiades
Cashman



JOHN ELIAS BALDACCI
GOVERNOR

STATE OF MAINE
EXECUTIVE DEPARTMENT
PUBLIC ADVOCATE OFFICE
112 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0112

RICHARD DAVIES
PUBLIC ADVOCATE

ELECTRONICALLY FILED ON MARCH 31, 2010

Karen Geraghty
Administrative Director
Public Utilities Commission
18 State House Station
Augusta, Maine 04333-0018

**RE: FRYEBURG WATER COMPANY
Proposed Rate Increase to Increase Rates
(\$72,257 or 15% Over Current Rates)
Docket No. 2010-8**

**THIS IS A VIRTUAL DUPLICATE OF THE ORIGINAL HARDCOPY
SUBMITTED TO THE COMMISSION IN ACCORDANCE WITH
ITS ELECTRONIC FILING INSTRUCTIONS**

Dear Ms. Geraghty:

We enclose for filing in the above-captioned proceeding an original and one copy of a Stipulation that resolves the issues in the above-referenced case.

In addition, as required by the Commission's February 3, 2006 "Notice Regarding Filing of Stipulations with the Maine Public Utilities Commission," the Public Advocate provides the following information.

The parties joining the agreement represent a broad spectrum of interests. The Stipulation has been agreed to by the Fryeburg Water Company and by the Public Advocate. The remaining party, William Harriman, did not submit any discovery and did not participate in any case conferences or in the technical conference.

The process applied in reaching this Stipulation was fair to all parties. Specifically, all petitions to intervene were granted. The Water Company responded to the data requests submitted by the Commission's Advisory Staff, and by the Public Advocate. In the course of the proceeding, three case conferences and one technical conference were held to explore the issues in the case.

As the Water Company and the Public Advocate were in the process of negotiating the terms of this Stipulation, the Public Advocate called the Intervenor, William Harriman, and informed him of the terms proposed for settlement of the proceeding. Mr. Harriman indicated that he had not been aware that it was possible to participate by telephone in the case conferences and technical conference. In that conversation, Mr. Harriman indicated that the issues of concern to him in the Water Company's rate proceeding were as follows:

PRINTED ON RECYCLED PAPER

PHONE: (207) 287-2445 (Voice)

Richard.Davies@maine.gov (e-mail)
<http://www.maine.gov/meopa>

FAX: (207) 287-4317
FAX: (207) 287-4300

- (a) Whether the ownership of Pure Mountain Springs (PMS) (formerly an affiliate of the Water Company) should be shifted to the Water Company;
- (b) Who are the current shareholders of PMS;
- (c) The lack of monitoring and water quality testing for the Water Company's Well No. 3 for the period of 4 ½ years; and
- (d) The need for continuing monitoring by the Maine Drinking Water Program of water quality for the water extracted by the Water Company from Well No. 2 and Well No. 3.

This afternoon the Public Advocate called Mr. Harriman in order to find out what position he will be taking with respect to the Stipulation. Mr. Harriman did not answer the telephone. We left a message asking him to return the call, and explaining that, with respect to the Stipulation, we need to know whether he will (a) join and support the Stipulation, (b) not join, but does not object to, the Stipulation, or (c) oppose the Stipulation and may ask for a hearing. At this writing, Mr. Harriman had not been able to return the telephone call.

Waiver of 5 M.R.S.A. § 9062 and Chapter 110, § 752. The parties have agreed to allow the Commission staff to make a recommendation to the Commissioners concerning the Stipulation without a hearing examiner's report.

Major Provisions of the Stipulation. The Stipulation provisions are in the public interest because the Public Advocate and the Fryeburg Water Company have reviewed the Water Company's proposed rate increase and adjusted downwards by \$10,000 the amount of the proposed increase. The Water Company has also agreed to the reduction in the requested amount. The major provisions of the Stipulation are as follows:

1. The parties agree that, effective April 1, 2010, the annual revenue requirement for the Water Company shall be \$545,443, or \$ 10,000 less than the amount of the proposed revenue increase proposed by the Water Company.
2. In arriving at the new agreed-upon revenue requirement, the parties considered adjustments to the amortization period for past rate-case expenses and to the return on equity (ROE) proposed by the Water Company in its filing.
3. The parties agree and request that the Commission approve the revised tariff sheets that are attached to the Stipulation.

Statutory Authority. The Commission has statutory authority to adopt this Stipulation under 5 M.R.S.A. § 9053(2), which states that an agency may "make informal disposition of any adjudicatory proceeding by stipulation, agreed settlement or consent order . . ." and pursuant to the Commission's general statutory authority with regard to the setting of rates for public utilities [i.e., 34-A M.R.S.A. § 309(2)].

Departures From Commission Precedent Contained in the Stipulation. The Stipulation contains no departures from Commission precedent.

The Provisions of the Stipulation are in the Public Interest. The provisions of this Stipulation are in the public interest (a) because they provide for an increase in rates so as to produce a reasonable revenue requirement for the Water Company, and will result in rates that are not unjust, unreasonable or discriminatory and (b) because this rate proceeding will be resolved without the expense of a hearing, briefs and a Staff examiner's report.

If the Commission has any questions or concerns about this Stipulation, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "William C. Black". The signature is fluid and cursive, with a large initial "W" and a stylized "C" and "B".

William C. Black
Deputy Public Advocate

WCB/dt
Enclosure: Stipulation
cc: Service List

ELECTRONICALLY FILED ON MARCH 31, 2010

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

| | | |
|---------------------------------------|---|----------------|
| <u>FRYEBURG WATER COMPANY</u> |) | |
| |) | |
| RE: Proposed Rate Change Pursuant to |) | STIPULATION |
| 35-A M.R.S.A. § 307 (\$72,257, or 15% |) | |
| Increase in Revenue) |) | March 31, 2010 |
| |) | |
| <u>Docket No. 2010-08</u> |) | |

THIS IS A VIRTUAL DUPLICATE OF THE ORIGINAL HARDCOPY
SUBMITTED TO THE COMMISSION IN ACCORDANCE WITH
ITS ELECTRONIC FILING INSTRUCTIONS

This Stipulation is an agreement entered into by the Fryeburg Water Company (hereinafter referred to as "the Company" or as "the Water Company"), the Public Advocate; whom shall hereinafter be referred to as "the parties."

I. PURPOSE

The purpose of this Stipulation is to resolve the issues raised by the rate filing of the Fryeburg Water Company that was submitted January 4, 2010, pursuant to 35-A M.R.S.A. §307. By filing this Stipulation, the parties are agreeing to a plan under which the Water Company's new rates may be put into effect.

By this Stipulation, the parties seek to avoid further discovery and hearings on the Water Company's proposed increase in revenues. The Stipulation is also being submitted to expedite the Public Utilities Commission's (hereinafter referred to as "Commission" or "PUC") consideration and resolution of this proceeding.

II. PROCEDURAL HISTORY

On January 4, 2010, the Fryeburg Water Company submitted its rate filing to the Commission, pursuant to 35-A M.R.S.A. §307. That rate filing proposed an increase in revenue for the Water Company of \$72,257, or a 15% increase in revenue. Thereafter, a petition to intervene was submitted by the Public Advocate. A set of comments was filed at the Commission by a customer named John Kremer; but Mr. Kremer did not follow those comments with a petition to intervene. On January 20, William Harriman, another customer, submitted a petition to intervene. On January 22, 2010, the Commission held its initial scheduling conference in the proceeding. During that case conference, the petitions to intervene of the Public Advocate and of William Harriman were granted. Mr. Harriman did not participate in that initial case conference. On January 26, the Commission issued Suspension Order #1 in the proceeding. Thereafter, the Advisory Staff and the Public Advocate submitted data requests to the Water Company by February 5, 2010. No other data requests were submitted. Responses to those data requests were submitted by the Water Company on February 19, 2010. A second scheduling conference was held on February 22, 2010. Mr. Harriman did not participate in that case conference. The first technical conference in the proceeding was held on March 4, 2010. Mr. Harriman did not participate in the technical conference. On March 19, the Water Company submitted its responses to the oral data requests made at the March 4 technical conference.

Docket No. 2010-08

On March 29, the Commission held a third case conference. Mr. Harriman did not participate in that case conference. In that conference, the Public Advocate initiated discussions about settlement of the proceeding, and made a settlement proposal orally to the Water Company – a proposal that countered the Water Company's proposed return on equity, and adjusted the amortization of past rate-case expenses. Later that day, the Public Advocate and the Water Company came to agreement on settlement terms, and, in this Stipulation, have reduced those terms to writing.

III. STIPULATION PROVISIONS

1. **Record.** The provisions of this Stipulation have been reached on the basis of the Water Company's January 4, 2010 rate filing, the Water Company's responses to written data requests, the Water Company's revised rate filing, the data and information provided (on the record) by the Water Company at the technical conference, and the Company's subsequent responses to oral data requests.

2. **Revenue Requirement.** The parties agree that the increase to the Company's revenue requirement shall be \$62,257, representing a reduction in revenue of \$10,000 off the revenue requirement originally proposed by the Water Company in its January, 4, 2010 rate filing. The adjusted listing of water utility expense accounts is attached as Exhibit A. The Company's revenue requirement, as set forth in this Stipulation Agreement, represents an increase of \$62,257 over the 2009 revenues, or a 12.9 % increase over the Company's actual 2009 operating revenues.

In arriving at the new agreed-upon revenue requirement, the parties considered adjustments to the amortization period for past rate-case expenses and to the return on equity (ROE) proposed by the Water Company in its filing.

3. **Effective Date for Rates.** The parties agree that the Company's rates, which are designed to recover the Pro Forma Revenue Requirement described in paragraph 2 above, and reflected in Exhibit A, will be in effect as of April 1, 2010.

4. **Tariff Sheets Approved.** By virtue of this Stipulation the parties agree that the Commission should approve the four-page set of tariffs that are attached to Exhibit A. Specifically, the tariff sheets to be approved are as follows:

- a. Sheet #1, Fifth Revision,
- b. Sheet #2, Fifth Revision,
- c. Sheet #3, Fourth Revision,

IV. STANDARD STIPULATION PROVISIONS

1. **Rejection of Portion Constitutes Rejection of Whole.** The parties are entering into this Stipulation for the purpose of finally disposing of all issues raised in this Docket. If the Commission does not accept the entire Stipulation without material modification, then the Stipulation shall be null and void, and will not bind the parties in this proceeding.

2. **No Precedent.** The making of this Stipulation by the parties shall not constitute precedent as to any matter of fact or law, nor, except as expressly provided otherwise herein, shall foreclose any party

Docket No. 2010-08

from making any contention or exercising any right, including the right of appeal, in any other Commission proceeding or investigation, or in any other matter or action.

3. **Examiner's Report.** The parties agree to waive the provisions of § 752 (b) of the Commission's Rules of Practice and Procedure, requiring that any Examiner's Report be in writing and that the parties be afforded an opportunity to file exceptions or comments thereon. The parties thereby intend to permit the Advisors either to provide an oral Examiner's Report to the Commission at the deliberative session to be held in this Docket, or, if the Advisors so wish, to provide a written Examiner's Report to the Commission with the parties waiving the right to file exceptions or comments thereto.

Dated at Fryeburg, Maine, this 31st day of March, 2010,

FRYEBURG WATER COMPANY

By: 

John Andrews
Treasurer
Fryeburg Water Company
24 Portland Street, Suite #1
Fryeburg, Maine 04037

Dated at Hallowell, Maine, this thirty-first day of March 2010,

OFFICE OF PUBLIC ADVOCATE

By: 

William C. Black
Deputy Public Advocate
112 State House Station
Augusta, ME 04333

03/31/2010 23:03 2076679915

PAGE 02

EXHIBIT A

**FRYEBURG WATER COMPANY
24 PORTLAND STREET, SUITE 1
FRYEBURG, ME 04037**

| | <u>As Filed</u> | | <u>As Stipulated</u> | |
|---------------------------|-----------------|--------------|----------------------|--------------|
| Residential | \$23,175 | 17.0% | \$19,959 | 14.6% |
| Commercial | \$ 8,507 | 17.0% | \$ 7,340 | 14.6% |
| Industrial | \$ 610 | 17.0% | \$ 525 | 14.6% |
| Public Authorities | \$ 1,180 | 17.0% | \$ 1,015 | 14.6% |
| Sales for Resale | \$13,900 | 17.0% | \$11,967 | 14.6% |
| Public Fire Protection | \$ 8,600 | 8.7% | \$ 7,121 | 7.2% |
| Private Fire Protection | \$ 2,900 | 17.0% | \$ 2,410 | 14.1% |
| Rents from Water Property | <u>\$13,385</u> | <u>17.0%</u> | <u>\$11,920</u> | <u>15.1%</u> |
| | <u>\$72,257</u> | <u>15.0%</u> | <u>\$62,257</u> | <u>12.9%</u> |

**FRYEBURG WATER COMPANY
24 PORTLAND STREET, SUITE 1
FRYEBURG, ME 04037**

**EXHIBITS AND SCHEDULES FILED IN
SUPPORT OF RATE REVISIONS TO
BE EFFECTIVE APRIL 1, 2010**

FRYEBURG WATER COMPANY

**Page #1
Fifth
Revision**

**Quarterly, Monthly and Seasonal Rates for Water
to Maine Metered Customers**

Quarterly Rates:

| | | | |
|----------------------|-------------------------------|---------------------------|--|
| For the First | 1,200 cubic feet per quarter | \$45.00 | |
| For the Next | 1,800 cubic feet per quarter | \$2.81 per 100 cubic feet | |
| For the Next | 69,000 cubic feet per quarter | \$1.12 per 100 cubic feet | |
| For all in Excess of | 72,000 cubic feet per quarter | \$.779 per 100 cubic feet | |

Monthly Rates:

| | | | |
|---------------|-----------------------------|---------------------------|--|
| For the First | 400 cubic feet per month | \$15.00 | |
| For the Next | 600 cubic feet per month | \$2.81 per 100 cubic feet | |
| For the Next | 23,000 cubic feet per month | \$1.12 per 100 cubic feet | |
| For all over | 24,000 cubic feet per month | \$.79 per 100 cubic feet | |

Seasonal Rates:

| | | | |
|---------------|------------------------------|---------------------------|--|
| For the First | 2,400 cubic feet per season | \$135.00 | |
| For the Next | 600 cubic feet per season | \$2.81 per 100 cubic feet | |
| For the Next | 69,000 cubic feet per season | \$1.12 per 100 cubic feet | |
| For all over | 72,000 cubic feet per season | \$.79 per 100 cubic feet | |

Minimum Charges:

| Meter Size Inches | Quarterly Minimum | | Monthly Minimum | | Seasonal Minimum | |
|----------------------|-------------------|-----------|-----------------|-----------|------------------|-----------|
| | Charge | Allowance | Charge | Allowance | Charge | Allowance |
| 5/8" | 45.00 | 1,200 | 15.00 | 400 | 135.00 | 2,400 |
| 3/4 | 68.73 | 2,100 | 22.91 | 700 | 143.43 | 4,200 |
| 1 | 99.03 | 3,600 | 33.01 | 1,200 | 160.29 | 7,200 |
| 1 1/2 | 133.59 | 7,200 | 44.53 | 2,400 | 311.66 | 14,400 |
| 2 | 187.35 | 12,000 | 62.45 | 4,000 | 399.50 | 24,000 |
| 3 | 321.75 | 24,000 | 107.25 | 8,000 | 692.30 | 48,000 |
| 4 | 465.15 | 36,000 | 155.05 | 12,000 | 961.10 | 72,000 |
| 6 | 686.35 | 72,000 | 298.45 | 24,000 | 1,530.20 | 144,000 |

Proposed Effective Date: April 1, 2010

Effective: _____

Jean Andrews
Treasurer

03/31/2010 23:03 2076679915

PAGE 03

FRYEBURG WATER COMPANY

**Sheet #2
Fifth
Revision**

PUBLIC FIRE PROTECTION

MUNICIPAL FIRE PROTECTION CHARGES

For the 77 standard fire hydrants owned by the Company and connected to its system on December 15, 2009, there shall be paid to the Company a fire protection charge of:

Town of Fryeburg: \$105,221 Annual Rate \$26,305.25 Quarterly Rate (I)

Charges for each public fire hydrant, owned and maintained by the Company, installed after December 15, 2009 will be governed by Chapter 690 of the Public Utility Commission's rules. (N)

All new hydrants now in existence or to be installed will be cared for and maintained in good working order, unavoidable accidents excepted, by the Company. Hydrants are to be connected only to mains having a diameter of 8" or larger. (N)

Once any fire hydrants are installed and are in operation, the total Fire Protection Charge then in effect shall not be reduced should the Town order one or more hydrants discontinued. (N)

Proposed Effective Date: April 1, 2010

Effective: _____

Jean Andrews
Treasurer

FRYEBURG WATER COMPANY

**Sheet #3
Fourth
Revision**

PRIVATE FIRE PROTECTION RATES

FIRE SERVICE OTHER THAN MUNICIPAL FIRE HYDRANTS:

Available to all customers using the Company's service for private fire protection.
The following rates apply to fire protection only and include no allowance
of water for other than fire fighting purposes.

Rates

For automatic sprinkler systems to be used only for fire protection inside of
buildings, the charge per inch of service pipe diameter shall be:

\$ 164.00 (l)

For each private hydrant furnished, installed and maintained by the customer
for private fire protection, the charge shall be:

\$ 984.00 (l)

Proposed Effective Date: April 1, 2010

Effective _____

Jean Andrews
Treasurer

1:49 PM
01/17/11
Accrual Basis

Fryeburg Water Company
2009 Rate vs. Proposed Rate Increase Revenue
September 29, 2010 through January 17, 2011

Attachment B
Page 1 of 2

| Oct-Dec 10 Minimum Charge Billed at 2009 Rates | Oct-Dec 10 Proposed New Min. Rate | Income Loss for Oct - Dec 2010 Billing Period | Jan-Mar 11 Minimum Charge Billed at 2009 Rates | Jan-Mar 11 Proposed New Min. Rate | Oct-Dec 10 Excess Use in cu. Feet | Oct-Dec 10 Excess Use Billed at 2009 Rate | Oct-Dec 10 Proposed New Excess Use Rate | Oct-Dec 10 Excess Income Loss | Income Loss Jan - Mar 11 Billing Period | Recoup- ment |
|--|--|--|--|--|---|--|--|--|---|-----------------|
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | 900 | 22.14 | 25.29 | -3.15 | -8.91 | -17.82 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | Est. 1700 | 41.82 | 47.77 | -5.95 | -11.71 | -23.42 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | 1300 | 31.98 | 36.53 | -4.55 | -10.31 | -20.62 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | 700 | 17.22 | 19.67 | -2.45 | -8.21 | -16.42 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | 1400 | 34.44 | 39.34 | -4.90 | -10.66 | -21.32 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | 100 | 2.46 | 2.81 | -0.35 | -6.11 | -12.22 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | 100 | 2.46 | 2.81 | -0.35 | -6.11 | -12.22 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | 5800 | 83.48 | 95.38 | -11.90 | -17.66 | -35.32 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 72.00 | 187.35 | -115.35 | 171.72 | 187.35 | | | | 0.00 | -15.63 | -130.98 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | 500 | 12.30 | 14.05 | -1.75 | -7.51 | -15.02 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | 700 | 17.22 | 19.67 | -2.45 | -8.21 | -16.42 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | 1100 | 27.06 | 30.91 | -3.85 | -9.61 | -19.22 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | 200 | 4.92 | 5.62 | -0.70 | -6.46 | -12.92 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | 500 | 12.30 | 14.05 | -1.75 | -7.51 | -15.02 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 89.40 | 99.03 | -9.63 | 89.40 | 99.03 | | | | 0.00 | -9.63 | -19.26 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |

1:49 PM
01/17/11
Accrual Basis

Fryeburg Water Company
2009 Rate vs. Proposed Rate Increase Revenue
September 29, 2010 through January 17, 2011

Attachment B
Page 2 of 2

| Oct-Dec 10 Minimum Charge Billed at 2009 Rates | Oct-Dec 10 Proposed New Min. Rate | Income Loss for Oct - Dec 2010 Billing Period | Jan-Mar 11 Minimum Charge Billed at 2009 Rates | Jan-Mar 11 Proposed New Min. Rate | Oct-Dec 10 Excess Use In cu. Feet | Oct-Dec 10 Excess Use Billed at 2009 Rate | Oct-Dec 10 Proposed New Excess Use Rate | Oct-Dec 10 Excess Income Loss | Income Loss Jan - Mar 11 Billing Period | Recoup- ment |
|--|--|--|--|--|---|--|--|--|---|------------------|
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | 700 | 17.22 | 19.67 | -2.45 | -8.21 | -16.42 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | 900 | 22.14 | 25.29 | -3.15 | -8.91 | -17.82 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | 100 | 2.46 | 2.81 | -0.35 | -6.11 | -12.22 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | 100 | 2.46 | 2.81 | -0.35 | -6.11 | -12.22 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | 400 | 9.84 | 11.24 | -1.40 | -7.16 | -14.32 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | 1200 | 29.52 | 33.72 | -4.20 | -9.96 | -19.92 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | 700 | 17.22 | 19.67 | -2.45 | -8.21 | -16.42 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | 3700 | 62.90 | 71.86 | -8.96 | -14.72 | -29.44 |
| 89.40 | 99.03 | -9.63 | 89.40 | 99.03 | 59700 | 585.06 | 668.64 | -83.58 | -93.21 | -186.42 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | 1200 | 29.52 | 33.72 | -4.20 | -9.96 | -19.92 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | 1700 | 41.82 | 47.77 | -5.95 | -11.71 | -23.42 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | 300 | 7.38 | 8.43 | -1.05 | -6.81 | -13.62 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | 600 | 14.76 | 16.86 | -2.10 | -7.86 | -15.72 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | 100 | 2.46 | 2.81 | -0.35 | -6.11 | -12.22 |
| 39.24 | 45.00 | -5.76 | 39.24 | 45.00 | | | | 0.00 | -5.76 | -11.52 |
| 2,565.96 | 3,040.41 | -474.45 | 2,665.68 | 3,040.41 | | 1,154.56 | 1,319.20 | -164.64 | -539.37 | -1,178.46 |