

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

**DW 12-254
DW 13-074**

FOREST EDGE WATER COMPANY, INC.

Rate Case and Affiliate Agreement

Order Denying Motion for Rehearing

ORDER NO. 25,594

November 8, 2013

I. BACKGROUND

Forest Edge Water Company, Inc. (Forest Edge) is a water utility serving 42 residential customers in North Conway. On September 20, 2013, the Commission issued Order No. 25,575 approving a stipulation agreement among Forest Edge, Mr. Robert L. deFeyter, a Forest Edge customer intervenor, and Commission Staff (Staff) and authorizing a permanent revenue requirement of \$24,642. The Commission also accepted an affiliate management agreement between Atlantic Operating and Management Corp. (Atlantic) and Forest Edge dated February 14, 2013. A more complete description of this proceeding is found in Order No. 25,575. The order was emailed to parties who elected to receive documents in the proceeding electronically. The order was mailed to Mr. Lake on September 20, 2013.

On November 1, 2013, Mr. Richard A. Lake, also a Forest Edge customer intervenor, filed a “Motion of Appeal & Motion to Reconsider the PUC Order of November 1, 2013 as Received by Petitioner November 5, 2013.”¹ Mr. Lake requests the Commission place the order

¹ Though Mr. Lake referenced November 1 and November 5, 2013, the order was issued September 20, 2013 and his Motion was dated November 1, 2013.

on hold or rescind the order until he or the Commission review the “true facts and issue a fair decision that protects the public.”

In support of his request, Mr. Lake states that he was “unable to understand the overwhelming order” and cannot decipher the Commission’s treatment of Forest Edge’s tariff. Mr. Lake also states that the order makes no reference to facts contained in his submissions in this docket which he claimed incorporate “much information that should be inclusive in the rendering of the order.”

Mr. Lake states that the costs approved by the Commission do not match Forest Edge’s annual report. He also states Forest Edge has not submitted verified rate case expenses. Lastly, Mr. Lake states the Commission “has a duty to protect the public to see that the matters as submitted are accurate and true.”

II. COMMISSION ANALYSIS

Although Mr. Lake references an order dated November 1, 2013, we will assume his motion pertains to Order No. 25,575 dated September 20, 2013, the order in which we approved permanent rates and tariff changes for Forest Edge. Pursuant to RSA 541:3, motions for rehearing must be filed within 30 days of the date of the order. Here, Mr. Lake has filed a motion well past the 30-day deadline. Nonetheless, because he is a *pro se* participant, we will consider his arguments.

Pursuant to RSA 541:3, the Commission may grant rehearing or reconsideration when a party states good reason for such relief and demonstrates that a decision is unlawful or unreasonable. “Good reason” means the order was “unlawful or unreasonable,” which requires the movant to identify new evidence that could not have been presented in the underlying proceeding, *see O’Loughlin v. N.H. Personnel Comm’n.*, 117 N.H. 999, 1004 (1977), or to

identify specific matters that were “overlooked or mistakenly conceived” by the Commission, *see Dumais v. State*, 118 N.H. 309, 311(1978) and RSA 541:4. “A successful motion for rehearing does not merely repeat prior arguments and request a different outcome.” *Public Service Co. of N.H.*, Order No. 25,168, 95 NH PUC 557 (2010) (citations omitted).

We begin our analysis by noting that Mr. Lake’s statements and arguments do not identify with any specificity any new evidence he wishes to bring to the Commission’s attention; nor does he identify with sufficient specificity evidence that he believes we overlooked or mistakenly conceived. Mr. Lake also does not describe any error of law, nor does his motion demonstrate any specific unreasonable decision in our prior order. Accordingly, we find that Mr. Lake has failed to state good reason for the relief he requests and that he has failed to demonstrate that a decision is unlawful or unreasonable.

Notwithstanding that finding, for clarity we will respond to some of Mr. Lake’s arguments. He states that there are important “facts” contained in the materials he submitted to the Commission which should have impacted the order. We note that we considered Mr. Lake’s evidence and that is amply reflected in Order No. 25,575.

Mr. Lake requests the order be placed on hold or rescinded until he and the Commission had an opportunity to review the “true facts and issue a fair decision that protects the public.” This docket was opened on August 20, 2012 and Staff and the parties, including Mr. Lake, participated in discovery, had an opportunity to file testimony, and to present evidence at hearing. Mr. Lake requested time to file additional evidence after the February 28, 2013 hearing and was allowed to file additional evidence on May 17, 2013. This process resulted in ample evidence for the Commission to consider, including that presented by Mr. Lake.

Mr. Lake correctly states that cost figures do not match the Annual Report, but misperceives the meaning of the two sets of cost figures. The Annual Report shows year end balances for Forest Edge. In contrast, costs shown in the rate case are based on a pro-formed test year. Therefore these cost figures should not be the same.

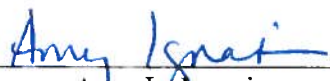
Finally, Mr. Lake argues that the Commission "has a duty to protect the public." The Commission must balance the competing interests of ratepayers who desire the lowest possible rates and investors who desire rates that are higher, to arrive at a rate which meets the just and reasonable standard of RSA 378:7. *See, Appeal of Conservation Law Foundation*, 127 N.H. 606, 638 (1986) and *Appeal of Eastman Sewer Company, Inc.*, 138 N.H. 221, 225 (1994). Mr. Lake has not demonstrated that the Commission has in any way breached this duty.

For the foregoing reasons, we deny Mr. Lake's motion for failing to state good cause for the relief requested.

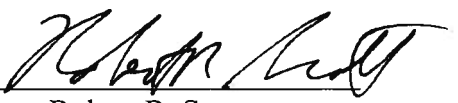
Based upon the foregoing, it is hereby

ORDERED, that Mr. Lake's motion for rehearing is DENIED.

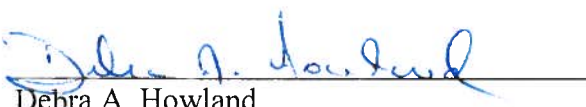
By order of the Public Utilities Commission of New Hampshire this eighth day of November, 2013.


Amy I. Ignatius
Chairman


Michael D. Harrington
Commissioner


Robert R. Scott
Commissioner

Attested by:


Debra A. Howland
Executive Director

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.

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A copy of Order No. 25,594 was US Mailed to : Renee Arakelian, Robert DeFeyter
Richard Lake, Ledge Top Co., Inc.

November 12, 2013 (Lori Davis)

Docket #: 13-074-1 Printed: November 08, 2013

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.