

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 17-103

WEST SWANZEY WATER CO., INC.

Petition for Change in Rates

Order Approving Settlement Agreement and Permanent Rates

ORDER NO. 26,105

February 23, 2018

APPEARANCES: Stephen P. St. Cyr of Stephen P. St. Cyr & Associates, on behalf of West Swanze Water Co., Inc., and Alexander F. Speidel, Esq., on behalf of Commission Staff.

In this Order, the Commission approves a permanent rate increase for West Swanze Water Co., Inc., effective on a service-rendered basis as of January 1, 2018. The new rates are intended to increase West Swanze Water's revenue by \$22,406, or 30.4 percent, to allow the company to receive an appropriate rate of return on its investments in plant and equipment used for delivering water to its customers.

I. PROCEDURAL HISTORY

West Swanze Water Company, Inc. (West Swanze Water or the Company), is a New Hampshire corporation, and has been a regulated water utility since 1988. The Company provides service to approximately 85 customers in the Town of Swanze. On June 19, 2017, West Swanze Water filed a notice of intent to file rate schedules. On July 21, 2017, the Company filed a petition for a permanent rate increase and step adjustment pursuant to RSA 378:3 and 378:27. The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted on the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2017/17-103.html>

In its initial rate filing, West Swanzey Water sought an overall permanent rate increase in its water revenues of \$39,872, or 57.12 percent, and proposed a step adjustment of an additional \$2,989 or 2.73 percent. According to the Company, the proposed revenue increase was the result of an operating revenue deficiency of \$31,677 before taxes during calendar year 2016, which was the test year for the request. The additional \$2,989 in revenues proposed in the step increase was based on planned capital improvements that, if approved, would be used and useful as of the end of 2017. The Company also proposed an overall rate of return of 5.05 percent based on a cost of equity of 9.60 percent and a cost of debt of 4.36 percent. West Swanzey Water requested a waiver of various filing requirements pursuant to N.H. Code Admin. Rules Puc 1604.01, citing their inapplicability to the Company's situation.

On August 4, 2017, the Commission issued Order No. 26,046, suspending the proposed tariff schedules pending investigation pursuant to RSA 378:6. The Commission scheduled a prehearing conference and technical session for September 27, 2017.

The prehearing conference was held as scheduled. The Commission received no intervention requests. Following discovery and a technical session, Staff and West Swanzey Water filed a Settlement Agreement dated November 29, 2017. One week later, on December 6, 2017, the Commission held a hearing on the merits at which Staff and West Swanzey Water presented evidence and testimony in support of the Settlement Agreement.

On December 29, 2017, in response to a record request and with the concurrence of the Company, Staff filed a letter requesting that the Commission make certain modifications to the Settlement Agreement and approve it as modified. Hearing Exhibit (Exh.) 3. On January 25, 2018, Staff filed a correction to the total revenue requirement allowed in the Settlement Agreement, and on February 13, 2018, Staff filed a motion to reopen the record to

add the January 25, 2018, letter as Exh. 4. The Company did not object to the corrected revenue amount or the motion.

II. TERMS OF SETTLEMENT AGREEMENT AND THE MODIFICATIONS

The original terms of the Settlement Agreement, Exh. 2, prior to the modifications presented in Exh. 3, were as follows:

A. Revenue Requirement: Permanent Rates and Estimated Step Adjustment

Staff and the Company (the Settling Parties) agreed to a total revenue requirement in the amount of \$96,379. In deriving this revenue requirement, the Settling Parties agreed to a permanent rate increase of \$17,954, based on pro forma test year 2016, as well as a step increase of \$4,797, based on estimated 2017 plant additions which will be fully in service and used and useful at the time rates are implemented.

B. Effective Date for Permanent Rates and Step Adjustment

The Settling Parties agreed that the total rate increase of \$22,751, or 30.9 percent, should be effective as of the date of the Commission order approving the Settlement Agreement.

C. Rate Base (Prepaid Expense)

As shown on Attachment A, Schedule 2b, the Settling Parties agreed that the Prepaid Expense line item should exclude prepaid insurance.

D. Rate Base (Deferred Asset)

As shown on Attachment A, Schedule 2a, the Settling Parties agreed to the addition of a Deferred Asset related to costs incurred by West Swanzey Water to meet the New Hampshire Department of Environmental Services (NHDES) requirements to replace the System Operator, improve reporting requirements, and comply with NHDES's recent Sanitary Survey and new Sampling Schedule. The NHDES-related Deferred Asset will be amortized over three years.

E. Return on Equity

As shown on Attachment A, Schedule 1a, the Settling Parties agreed and recommended that for purposes of calculating the revenue requirement adopted in the Settlement Agreement, the equivalent of a 9.6 percent Return on Equity (ROE) is reasonable, and should be used.

F. Net Operating Income (Revenue)

Attachment A, Schedule 3a, shows that the Settling Parties proposed to increase test year revenues due to a commercial meter that had been tampered with, and thus did not read properly for two billing periods.

G. Net Operating Income (Pumping and Water Treatment Expenses)

Attachment A, Schedule 3a, shows that the Settling Parties agreed to the use of a modified test year to more fairly reflect the costs of E.E. Houghton Co., Inc., being hired as a new System Operator in April 2017. The modified test year for pumping expense and water treatment expense begins with the third quarter of 2016, and runs through the second quarter of 2017.

H. Step Adjustment

At hearing, Staff testified it would review actual invoices associated with the project expected to be completed by year end and report its findings to the Commission. A Record Request was made for the Staff recommendation letter to update the record with the actual costs associated with the step adjustment. Exh. 3.

Staff's review of the final invoice costs associated with the step adjustment reduced plant additions by \$1,600. As a result, adjustments were made to accumulated depreciation, annual depreciation expense, net plant in service, and property tax expense. The overall rate of return was reduced from 6.02 percent to 5.87 percent to reflect lower debt costs. The step increase

revenue requirement was ultimately reduced from \$4,797 to \$4,452. The percent of increase in the revenue requirement from water sales was reduced from 5.24 to 4.86 percent. Exh. 3 at 1-2.

I. Revenue Requirement with Verified Step Adjustment

As a result of the adjustments outlined in Exh. 3, and with the Company's concurrence, Staff proposed that the Commission approve a total revenue requirement of \$96,034.¹ The Settling Parties recommended that the Commission approve a permanent rate increase of \$17,954, based on pro forma test year 2016, as well as the adjusted step increase of \$4,452, based on 2017 plant additions that were fully in service and used and useful by the end of 2017. The Settling Parties recommended further that the Commission approve a total rate increase based on the sum of the permanent rate increase and step increase of \$22,406, or 30.4 percent, to be effective as of the date of the Commission Order approving the Settlement Agreement.

III. COMMISSION ANALYSIS

Under RSA 541-A:31, V(a), 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. We encourage parties to settle issues through negotiation and compromise because it is an opportunity for creative problem solving, allows the parties to reach a result in line with their expectations, and is often a better alternative to litigation. *Granite State Electric Co.*, Order No. 23,966 at 10 (May 8, 2002); *see* RSA 541-A:31, V(a). The Commission's procedural rules provide for the approval of a settlement "if it determines that the result is just and reasonable and serves the public interest." Puc 203.20(b). Thus, the Commission cannot approve a settlement without independently determining that the result comports with applicable

¹ In Exh. 3, Staff erroneously referred to this total revenue requirement as being \$91,582; Staff subsequently presented a correct total revenue requirement figure of \$96,034 in Exh. 4.

standards. *Id.* The process leading up to a settlement is one relevant factor in determining whether we should approve the agreement.

Pursuant to RSA 378:3, “no change shall be made in any rate, fare, charge, or price, which shall have been filed or published by a public utility ... except after 30 days’ notice to the commission.” RSA 378:28 provides the standards by which the Commission sets permanent rates. Under that statute, the Commission “shall not include in permanent rates any return on any plant, equipment, or capital improvement which has not first been found by the commission to be prudent, used, and useful.” Further, the Commission sets rates after a finding that the rates provide the Company with “a just and reasonable rate of return.” *Id.* Finally, the utility bears the burden of proving the necessity of the increase. RSA 378:8.

In determining whether rates are just and reasonable, the Commission must balance the customers’ interest in paying no higher rates than are required against the investors’ interest in obtaining a reasonable return on their investment. *Eastman Sewer Company, Inc.*, 138 N.H. 221, 225 (1994). In this way, the Commission fulfills its duties as an arbiter between the interests of customers and those of a utility’s owners. RSA 363:17-a. The Commission exercises its discretion and judgment in striking this balance. *Appeal of Conservation Law Foundation*, 127 N.H. 606, 634-36 (1986).

The Company and Staff agreed originally that the revenue requirement, including the step adjustment, should be \$96,379. That revenue amount was subsequently adjusted after review of invoices associated with the step adjustment and corrected by Staff in a letter dated January 25, 2018, to \$96,034. We will reopen the record to include the correction which was agreed to by the Company. *See* Puc 203.30. The revenue requirement is a combination of a permanent rate increase of \$17,954, based on proforma test year 2016, and a step adjustment of

\$4,452, above test year water revenues of \$73,628. The total increase in revenues being proposed is \$22,406, or 30.4 percent, with an underlying return on equity of 9.6 percent.

The proposed overall revenue requirement is the product of a meeting of the minds of the Company and Staff regarding a number of technical issues. The areas of agreement include an appropriate and equitable capital structure, the cost components reflected in the determination of an overall cost of capital, and an appropriate valuation for the Company's rate base. The Commission has previously approved negotiated settlements which include step adjustments. *See, e.g., West Swanzey Water Company, Inc.*, Order No. 25,606 (December 19, 2013). We note that the Company made no temporary rate request in an effort to make the proceedings more efficient. The agreement between the Company and Staff strikes a balance between the interests of shareholders and ratepayers.

The Commission finds the proposed revenue requirement and rates just and reasonable and approves them. We also find the ancillary provisions of the Settlement Agreement, regarding the prepaid insurance expense, the deferred asset treatment of the NHDES mandate, the net operating income adjustment to reflect the tampered meter, and the modified test year approach to reflect E.E. Houghton costs, to be just and reasonable and in the public interest, and will approve them on that basis. Furthermore, to ease administrative burden on the Company, we elect to make the effective date of the permanent rate increase and step adjustment January 1, 2018, for service rendered on and after that date.

We also find the Company's requests for waiver of filing requirements to be in the public interest, and approve them. The granting of the waiver requests will reduce administrative burden on this small water utility, and will not deprive the Commission of needed information.

Based upon the foregoing, it is hereby


ORDERED, that the terms of the Settlement Agreement, as modified, are hereby adopted and APPROVED as discussed herein; and it is

FURTHER ORDERED, that West Swanzey Water is authorized to collect from customers permanent rates, on a service-rendered basis as of January 1, 2018, as discussed herein; and it is

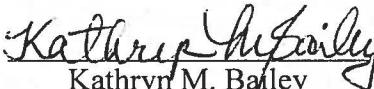
FURTHER ORDERED, that West Swanzey Water's request for waiver of the filing requirements of N.H. Code Admin. Rules Puc 1604.01 is GRANTED; and it is

FURTHER ORDERED, that West Swanzey Water shall file a compliance tariff within thirty days of the date of this order.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of February, 2018.



Martin P. Honigberg
Chairman




Kathryn M. Bailey
Commissioner



Michael S. Giaimo
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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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.