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STATE OF NEW HAMPSHIRE



PUBLIC UTILITIES COMMISSION  
21 S. Fruit St., Suite 10  
Concord, N.H. 03301-2429

TDD Access: Relay NH  
1-800-735-2964

Tel. (603) 271-2431

FAX No. 271-3878

Website:  
[www.puc.nh.gov](http://www.puc.nh.gov)

August 29, 2018

Debra A. Howland, Executive Director  
New Hampshire Public Utilities Commission  
21 South Fruit Street, Suite 10  
Concord, New Hampshire 03301

NHPUC 29AUG18AM9:36

RE: DW 18-032 Fryeburg Water Company  
Petition for Approval of Compliance Plan in Response to Order 26,096 in Docket IR 18-001  
Staff Recommendation for Approval

Dear Ms. Howland:

The purpose of this letter is to provide Staff's recommendation regarding Fryeburg Water Company's ("Fryeburg" or "Company") Petition for Approval of Compliance Plan ("Petition" or "Compliance Plan") in response to Commission Order No. 26,096 in Docket IR 18-001. Fryeburg's petition was assigned Docket No. DW 18-032. As discussed and outlined below, Staff recommends the approval of Fryeburg's petition.

At the end of December 2017, the United States Congress voted, and the President signed into law, major federal tax changes, commonly known as the Tax Cuts and Jobs Act of 2017 ("Tax Act"). The Tax Act is effective for tax years beginning in 2018 and, among other items, substantially reduces the Federal Corporate Income Tax Rate from a maximum 35% to a flat 21%. The change in the Federal Corporate Income Tax Rate also affects any Accumulated Deferred Income Tax ("ADIT") recorded on a company's books. In addition to the Tax Act, the State of New Hampshire also changed two specific taxes. It lowered the NH Business Enterprise Tax ("BET") from .72% to .675% and lowered the NH Business Profits Tax ("BPT") from 8.2% to 7.9%.

Subsequently, the Commission issued Order No. 26,096 in Docket IR 18-001 requiring each public utility regulated by the Commission to record the estimated reductions in the Federal Corporate Income Tax and State BET and BPT as a deferred liability in an appropriate account on their books using the specific methodology outlined in the Commission's order. Additionally, each regulated utility was instructed to calculate its excess ADIT, or Excess Deferred Income Tax ("EDIT"), and to recognize such as a deferred liability and reduction in their respective revenue requirements. Each utility was to file a proposal with the Commission by no later than April 1, 2018 to address the effects of the Federal and State tax law changes.

Fryeburg submitted its compliance plan on March 8, 2018 indicating it is a Maine corporation and public water utility who serves customers in Maine, and approximately 68 residential customers in East Conway, NH as a result of its acquisition of the East Conway Water Company charter on September 8,

1901. Fryeburg has historically provided service in NH by charging rates approved by the Maine PUC as outlined in Exhibit 1 of DW 09-291; and that according to Exhibit 2, it's rates in NH are subject to the terms of an approved February 2, 2011 stipulation agreement that allows Fryeburg to charge rates approved by the Maine PUC to its NH customers.

Fryeburg's Compliance Plan further states that in lieu of a separate, parallel, investigation concerning the impacts of the Tax Act of 2017, any adjustments required by the Maine PUC would be made also to its NH customers in accordance with the approved stipulation agreement, subject to review by the NH PUC.

On January 3, 2018 the Maine PUC opened Docket No. 2018-00008 to investigate the impact of the Tax Act of 2017 pertaining to all Maine water companies. Subsequent to this, The Maine PUC and Fryeburg Water held discussions concerning the impact and have advised the Gas and Water Division of the NH PUC that no action will be taken immediately and instead the Maine PUC will review the Company's 2018 Annual PUC and Financial Reports once filed in 2019. The attached e-mail from the Maine PUC references the following five points in its decision:

- Fryeburg's Federal Income Tax rate prior to the TCJA was 15% and it will now be 21%. Fryeburg estimated that this would increase its tax obligation by approximately \$2,200
- Fryeburg does have deferred income taxes on its books related to accelerated tax depreciation – . . . because of the increase in the tax rate, Fryeburg would not have any excess deferred income taxes
- Fryeburg did report earnings at a level higher than its approved ROE during 2017, in part because of the first full year of revenues from the water sales contract
- Maine Water, who is operating Fryeburg now, has recommended some work which will increase operating expenses.
- 2018 will reflect the increased tax expenses for income and property and increased operations expenses

Staff reviewed Fryeburg's compliance plan and believes following the stipulation agreement, the exhibits referenced from DW 09-291, and following the Maine PUC's decision is the most prudent choice of action relative to the instant docket. To that end, and as outlined above, the State of Maine PUC has decided not to take any action at this point in time as Fryeburg may need to ultimately increase its rates due to the increase in its tax obligation.

In conclusion, after reviewing Fryeburg's Compliance Plan, the communication from the Maine PUC, and its most recent revenue requirement calculation, Staff recommends the Commission approve Fryeburg's Compliance Plan.

Thank you for your assistance and attention regarding this matter. If you have any questions, do not hesitate to contact me.

Respectfully,



Anthony J. Leone  
Utility Analyst

cc: Service List

**From:** Smith, Lucretia  
**Sent:** Thursday, August 23, 2018 12:03 PM  
**To:**  
**Subject:** Fryeburg Water Company - Tax Cut and Jobs Act

Rick, Greg, and Nick,

Thank-you all for taking the time to discuss Fryeburg Water Company and the impact of the Tax Cut and Jobs Act on its tax situation. My understanding of the situation based on that call is as follows:

- Fryeburg's Federal Income Tax rate prior to the TCJA was 15% and it will now be 21%. Fryeburg estimated that this would increase its tax obligation by approximately \$2,200
- Fryeburg does have deferred income taxes on its books related to accelerated tax depreciation – although not stated specifically during the call, because of the increase in the tax rate, Fryeburg would not have any excess deferred income taxes
- Fryeburg did report earnings at a level higher than its approved ROE during 2017, in part because of the first full year of revenues from the water sales contract
- Maine Water, who is operating Fryeburg now, has recommended some work which will increase operating expenses.
- 2018 will reflect the increased tax expenses for income and property and increased operations expenses

Based upon the information above, we determined that Staff would review the 2018 Annual PUC and Financial Reports after they are filed in 2019 and contact Fryeburg about any next steps that may be necessary.

Please feel free to contact me if you have any questions.

Lucretia A. Smith  
Senior Utility Analyst  
Maine Public Utilities Commission  
18 SHS  
Augusta, ME 04333  
(207) 287-1383  
(207) 287-1039 (fax)

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**SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED**

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**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  
alexander.speidel@puc.nh.gov  
amanda.noonan@puc.nh.gov  
david.shulock@puc.nh.gov  
donald.kreis@oca.nh.gov  
gleighton@mainewater.com  
jayson.laflamme@puc.nh.gov  
jrichardson@upton-hatfield.com  
karen.moran@puc.nh.gov  
ocalitigation@oca.nh.gov  
rknowlton@mainewater.com  
steve.frink@puc.nh.gov  
suzanne.amidon@puc.nh.gov

Docket #: 18-032-1      Printed: August 29, 2018

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- 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  
EXECUTIVE 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.