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August 29, 2018

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

RE: DW 18-111 Bedford Waste Services Corp.  
Petition for Exemption from Commission Order No. 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 Bedford Waste Service Corporation's ("Bedford" or "Company") Petition for Exemption ("Petition") from Commission Order No. 26,096 in Docket IR 18-001. Bedford's petition was assigned Docket No. DW 18-111. As discussed and outlined below, Staff recommends that Bedford be exempt from Commission Order No. 26,096 and further participation in Docket IR 18-001.

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.

Bedford submitted its petition for exemption on July 30, 2018 in which it indicated that it files its federal tax returns as a "Subchapter S" Corporation, and evidenced this with a copy of page one of its 2017 Form 1120S Federal Tax Return. As such, any income earned by Bedford is not taxed at the corporate level but rather "flows through" to the shareholder's individual tax return and is taxed at that level. Therefore, Bedford does not have any Federal Tax component within its current rates. Concerning State of NH Taxes, Bedford indicated the Company barely meets the minimum gross receipts threshold of \$50,000 to file a State of NH Tax return. Further, the change in the NH BPT will have a minimal impact on the Company, as the decrease in rates would only lower its 2017 State Tax liability by \$1, from \$46 to \$45.

Staff reviewed Bedford's petition and adds the following information. Bedford's last Permanent Rate Case was in Docket DW 04-144 where permanent rates were approved by Commission Order No. 24,479. In that case, Bedford's approved revenue requirement and rates did not include a provision for either Federal or State Income Taxes. The attached testimony of Staff Analyst, Jayson P. Laflamme, in that case, explained that the absence of Federal Taxes was due to Bedford's election to be taxed as a "Subchapter S" Corporation. In addition, according to the same testimony, the absence of State of NH Taxes was due to projections indicating the Company's annual revenue would not meet the \$50,000 gross receipts threshold to file a State of NH Tax return. As evidenced by Schedule F-2, Statement of Income for the NH PUC Annual Reports for 2013 through 2017, Bedford only paid NH BPT one time, \$910 in 2016. During 2017, the Company indicated that while it did pay estimated NH BPT of \$910; when the actual State return was completed, the NH BPT liability was only \$46 as indicated above.

Accordingly, there is currently no Federal or State Income Tax component for the Company to adjust. Additionally, with regard to ADIT, the Company has recorded none. Thus, there is currently no EDIT to calculate.

In conclusion, after reviewing Bedford's Petition, its most recent revenue requirement calculation, and its past five NH PUC Annual Reports, Staff recommends the Commission approve Bedford's request for exemption from Commission Order No. 26,096 as well as further participation in Docket IR 18-001.

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

on Schedule 4 of Attachment JPL-1. Staff's proposed revenue requirement is \$3,750 less than the Company's proposed revenue requirement of \$48,726.

**Q. Please explain how Bedford's rate of return was determined.**

A. The calculation of Bedford's rate of return is found on Schedule 4 of Attachment JPL-1. This calculation is essentially the same as that provided by the Company on Schedule 4 of its filing. Both the Company's and Staff's computations show that the equity component of the Company's capital structure is less than \$0, therefore Bedford's financing essentially consists of a note payable to its shareholder in the amount of \$174,037 at an interest rate of 8.00%. Thus, the Company's cost of capital for rate setting purposes is also 8.00%.

**Q. Please explain how the effective tax factor of 100% was determined.**

A. The calculation of this tax factor is shown on Schedule 5 of Attachment JPL-1. For federal income tax purposes, Bedford is a "Subchapter S" corporation which means that income earned by the Company is not taxed at the corporate level but rather "flows through" to the individual shareholder and is taxed at that level. Thus, in order to reflect this, a federal income tax rate of 0.00% is indicated for the Company. With regard to the New Hampshire Business Profits Tax (NHBPT), the "Subchapter S" designation is not recognized. However, in the case of Bedford, Staff has determined that even with the rate increase that it is proposing the Company's revenues will still fall below the \$50,000 minimum threshold required to file this return and incur a tax. Thus an NHBPT rate of 0.00% is also indicated for the Company. Staff also determined that the Company would not be subject to the New Hampshire Business Enterprise Tax (NHBET) because its

1 annual revenues would be less than \$150,000 and its enterprise value tax base, made up  
2 of dividends, wages and interest expense, are annually less than \$75,000.

3 **Q. What was the amount of the tax effect determined by Bedford in its filing?**

4 A. Bedford's filing also indicated a \$0 tax effect in the determination of its proposed  
5 revenue requirement.

6 **Q. Please discuss the rate base amount calculated by Staff on Schedule 2 of Attachment**  
7 **JPL-1.**

8 A. The "Per Company Filing" column shows the Company's proposed rate base amount of  
9 \$118,671 from Schedule 3 of its filing. To derive the test year averages of the respective  
10 rate base components, the Company averaged the year-end balances of these items for  
11 2002 and 2003. In addition, the Company incorporated subsequent year (2004) fixed  
12 plant acquisitions and retirements into its determination of rate base. The "Staff  
13 Proforma Adjustments" column summarizes, from Schedule 2A, Staff's adjustments to  
14 the Company's proposed rate base. Staff's adjustments reduce the Company's proposed  
15 rate base by an amount of \$7,707 resulting in Staff's rate base proposal of \$110,964  
16 which is shown in the "Proforma Rate Base" column.

17 **Q. Please discuss Staff Adjustment # 1 to Total Plant in Service.**

18 A. As previously stated, most of the components contained in the Company's determination  
19 of rate base were derived by averaging the 2002 and 2003 year-end balances of these  
20 items. Certain components were further adjusted in order to reflect 2004 fixed plant  
21 additions and retirements. Schedule 2B of Attachment JPL-1 shows Staff's computation  
22 of Bedford's rate base using a 5-quarter averaging methodology. The quarter-ending  
23 balances for the various rate base components were taken from quarterly financial

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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.**

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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  
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.