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NHPUC 8AUG18AM10:30

August 8, 2018

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

RE: DW 18-114 Bodwell 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 Bodwell Waste Service Corporation's ("Bodwell" or "Company") Petition for Exemption ("Petition") from Commission Order No. 26,096 in Docket IR 18-001. Bodwell's petition was assigned Docket No. DW 18-114. As discussed and outlined below, Staff recommends that Bodwell 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.

Bodwell 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 2016 Form 1120S Federal Tax Return.<sup>1</sup> As such, any income earned by Bodwell is not taxed at the corporate level but, rather, "flows through" to the shareholder's individual tax return and is taxed at that level. Concerning the State of NH Business Profit Taxes (BPT), Bodwell indicated that, under the new rates, the Company's 2016 State BPT Liability would be reduced from \$1,120 to \$1,079, or \$41, which is a minimal impact on the Company.

Staff reviewed Bodwell's petition and adds the following information. Bodwell's last Permanent Rate Case was in Docket DW 04-145 where permanent rates were approved on July 1, 2005 by Commission Order No. 24,480. In that case, Bodwell's approved revenue requirement and rates did not include a provision for either Federal or State Income Taxes. The testimony of Staff Analyst Jayson P. Laflamme in that case explained that the absence of Federal Taxes was due to Bodwell'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 Staff's determination that Bodwell, at the time, had accumulated net operating loss-carryforwards which were sufficient to offset taxable net operating income for a number of subsequent years.

Accordingly, there is currently no Federal or State Income Tax component encompassed in the Company's rates to lower. Additionally, with regard to ADIT, the Company recorded none, thus, there is currently no EDIT to calculate. Lastly, due to the length of time since Bodwell's last permanent rate proceeding, Staff believes an adjustment to the NH BPT would neither result in substantially different customer rates nor affect the Company in such a way as to be the sole factor in Bodwell reporting positive earnings. Staff believes a discussion on adjustments or changes to the Company's rates and revenue requirement would be more appropriate within a formal permanent rate case, where all rate components are subject to Commission review.

In conclusion, after reviewing Bodwell's Petition, its most recent revenue requirement calculation, and most recent permanent rate case Order, Settlement and associated materials, Staff recommends the Commission approve Bodwell'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

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<sup>1</sup> Bodwell indicated that it has not yet filed its 2017 Federal or State Tax Returns.

1 component of the Company's capital structure is less than \$0, therefore Bodwell's  
2 financing essentially consists of a note payable to its shareholder in the amount of  
3 \$433,763 at an interest rate of 8.50%. Thus, the Company's cost of capital for rate  
4 setting purposes is also 8.50%.

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

6 A. The calculation of this tax factor is shown on Schedule 5 of Attachment JPL-1. For  
7 federal income tax purposes, Bodwell is a "Subchapter S" corporation which means that  
8 income earned by the Company is not taxed at the corporate level but rather "flows  
9 through" to the individual shareholder and is taxed at that level. Thus, in order to reflect  
10 this, a federal income tax rate of 0.00% is indicated for the Company. With regard to the  
11 New Hampshire Business Profits Tax (NHBPT) however, the "Subchapter S" designation  
12 is not recognized. Therefore, the earnings of the Company would normally be subject to  
13 this tax. However, Staff has determined that in the case of Bodwell a number of prior  
14 years' net operating losses have been accumulated which would be available to be used to  
15 reduce any net taxable income it may recognize in subsequent years. In addition, Staff  
16 has also determined that even with a rate increase, it is probable that the Company will  
17 continue to recognize net operating losses in subsequent years due to the level of interest  
18 expense incurred by the Company on an annual basis. Thus an NHBPT rate of 0.00% is  
19 indicated for the Company. Staff also determined that the Company would not be subject  
20 to the New Hampshire Business Enterprise Tax (NHBET) because its annual revenues  
21 would be less than \$150,000 and its enterprise value tax base, made up of dividends,  
22 wages and interest expense, are annually less than \$75,000.

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

1 A. Bodwell's filing also indicated a \$0 tax effect in the determination of its proposed  
2 revenue requirement.

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

5 A. The "Per Company Filing" column shows the Company's proposed rate base amount of  
6 \$387,666 from Schedule 3 of its filing. To derive the test year averages of the respective  
7 rate base components, the Company averaged the year-end balances of these items for  
8 2002 and 2003. The "Staff Proforma Adjustments" column summarizes, from Schedule  
9 2A, Staff's adjustments to the Company's proposed rate base. Staff's adjustments reduce  
10 the Company's proposed rate base by an amount of \$40,614 resulting in Staff's rate base  
11 proposal of \$347,052 which is shown in the "Proforma Rate Base" column.

12 **Q. Please explain Adjustments # 1 through # 4 made to various rate base components.**

13 A. As stated previously, most of the components used by the Company in its determination  
14 of rate base were derived by averaging the 2002 and 2003 year-end balances of these  
15 items. Schedule 2B of Attachment JPL-1 shows Staff's computation of Bodwell's rate  
16 base using a 5-quarter averaging methodology. The quarter-ending balances for the  
17 various rate base components were taken from quarterly financial statements prepared for  
18 the Company by Stephen P. St. Cyr & Associates. (See Attachment JPL-2) Staff used the  
19 5-quarter averaging methodology in its determination of rate base because it feels that  
20 this method provides a more accurate reflection of the Company's rate base throughout  
21 the entire test year. Actually, the Commission most prefers the use of a 13-month  
22 average for the calculation of rate base, but monthly information was not available.  
23 Adjustments # 1 through # 4 modify the Plant in Service rate base components presented

DW 04-145

**BODWELL WASTE SERVICES CORPORATION  
REVENUE REQUIREMENT**

Rate Base (Sch 2)	\$376,038
Rate of Return (Sch 4)	<u>8.50%</u>
Operating Income Requirement	31,963
Proforma Operating Income (Sch 3)	<u>32,768</u>
Revenue Surplus Before Taxes	(805)
Divided by Tax Factor (Sch 5)	<u>100.00%</u>
Revenue Surplus	(805)
Annual Sewer Revenues Proposed by Company (Sch 3)	<u>113,749</u>
Annual Sewer Revenues Proposed per Settlement	112,944
Less: Annual Sewer Revenues under Current Rates	<u>(88,580)</u>
Increase in Annual Sewer Revenues Proposed per Settlement	<u>\$24,364</u>
Percentage Increase in Annual Sewer Revenues	<u>27.51%</u>

**DW 04-145**  
**BODWELL WASTE SERVICES CORPORATION**  
**EFFECTIVE TAX FACTOR**

Taxable Income	100.00%
Less: NH Business Profits Tax	<u>0.00%</u>
Federal Taxable Income	100.00%
Federal Income Tax Rate	<u>0.00%</u>
Effective Federal Income Tax Rate	0.00%
Add: NH Business Profits Tax	<u>0.00%</u>
Effective Tax Rate	<u><u>0.00%</u></u>
Percent of Income Available if No Tax	100.00%
Effective Tax Rate	<u>0.00%</u>
Percent Used as a Divisor in Determining the Revenue Requirement	<u><u>100.00%</u></u>
Tax Multiplier	<u><u>0.00000</u></u>

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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.**