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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

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August 24, 2018

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

RE: DW 18-115 Lorden Commons Sewer Co., LLC
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 Lorden Commons Sewer Co., LLC's ("Lorden" or "Company") Petition for Exemption ("Petition") from Commission Order No. 26,096 in Docket IR 18-001. Lorden's petition was assigned Docket No. DW 18-115. As discussed and outlined below, Staff recommends that Lorden 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.

Lorden submitted its petition for exemption on July 30, 2018, in which it indicated that it is a “disregarded entity” for Federal tax purposes, meaning it does not file a separate Federal Tax Return. As such, any Federal income or loss is passed through to the member. Lorden also stated that, as an LLC, it is not subject to Federal or State taxes and that there is no income tax provision included in the Company’s currently authorized rates. Lastly, Lorden indicated that the Company does not meet the \$50,000 gross receipts threshold to file a NH Business return. Therefore, Lorden concludes that the change in Federal and State Income Tax rates will have no impact.

Staff reviewed Lorden’s petition and adds the following information. Lorden is a relatively new regulated utility and its initial Permanent Rate Case was Docket DW 13-305. In that case, permanent rates were approved on June 13, 2014 by Commission Order No. 25,677. However, Lorden’s approved revenue requirement and rates did not include a provision for either Federal or State Income Taxes. With regard to the revenue requirement in that case, it was noted that, as a new utility, there was no prior financial information and that estimates were used based on the anticipated build-out of the properties which Lorden was authorized to serve. The build-out was expected to consist of at least two phases, which was expected to take several years with net losses anticipated until the point of full or near-full build-out. Consequently, no taxable income was expected to be generated for several years. Staff notes that every NH PUC Annual Report subsequently filed by Lorden indicates a net loss.

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

In conclusion, after reviewing Lorden’s Petition and its most recent revenue requirement calculation, Staff recommends the Commission approve Lorden’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

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.

Executive.Director@puc.nh.gov

amanda.noonan@puc.nh.gov

anthony.leone@puc.nh.gov

david.shulock@puc.nh.gov

jayson.laflamme@puc.nh.gov

ocalitigation@oca.nh.gov

robyn.descoteau@puc.nh.gov

stephenpstcyr@yahoo.com

steve.frink@puc.nh.gov

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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.**