

Lakes Region Water Company

Dockham Shores

DW 19-177

Petition, Testimony, Exhibits and
Other Rate Case Filing Requirements

LAKES REGION WATER COMPANY INC.

420 Governor Wentworth Highway, PO Box 389

Moultonborough, NH 03254

Telephone: 603-476-2348, Fax: 603-476-2721

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STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

Docket No. DW 19 – 177

Lakes Region Water Co., Inc.

Petition for Permanent Rate Increases

Lakes Region Water Co., Inc. (“Lakes Region”) petitions for permanent rate increase for its Dockham Shores Estates (“Dockham Shores”) water service franchise pursuant to RSA 378:28 as follows:

I. BACKGROUND

1. Lakes Region acquired the Dockham Shores water system and franchise on July 1, 2017 following approval by the Commission in Order No. 25,694 dated November 10, 2016 in Docket No. DW 16 – 619. As noted in Order No. 25,694, Lakes Region anticipated prior to acquisition that it would finance the acquisition primarily using debt financing provided by CoBank ACB and that “\$60,000 would be used to acquire the Dockham Shores assets, another \$60,000 (approximately) would fund capital improvements, and approximately \$17,000 would cover acquisition costs.”

2. As set forth in the attached Testimony of Lakes Region President Thomas A. Mason, improvements were anticipated prior to acquisition of the system. However, following acquisition Lakes Region discovered that the Dockham Shores “system was in considerably worse shape than originally believed”: one of the two storage tanks had failed and the second tank had deteriorated to the point where it was leaking and could not be repaired; well yields were lower than anticipated which required LRWC to impose

water use restrictions and bans; and the system also experienced frequent electric power outages during storm events which resulting in significant service interruptions.

3. To address these system deficiencies, Lakes Region hired Lewis Engineering to review the system and provide recommendations. Lewis Engineering recommended that the pump station be completely re-designed and re-built to meet current standards, including a new water storage/pump house facility located next to the existing wells to eliminate internal electrical problems; a reinforced concrete 15,000-gallon water storage tank, a new pump house building, booster pumps, automatic controls and related equipment. A standby generator was added to address power outages. One of the wells was deepened to increase its production.

4. As a result of the Lewis Engineering recommendations, Lakes Region constructed an entirely new state of the art pump house and rebuilt the system to serve customers. As described in the Testimony of Stephen P. St. Cyr, the total cost of improvements made by Lakes Region was \$300,599.

5. On December 4, 2018, Lakes Region sought a step adjustment to reflect the costs of the improvements to the Dockham Shores system in DW 16 - 619. On June 21, 2019, Staff filed its recommendation to the Commission. Staff acknowledged that “Lakes Region has made great effort to improve the quality of water service at Dockham Shores. The new facilities constructed have dealt with the potential confined space violations identified previously in the acquisition docket. In addition, Lakes Region has succeeded in providing improved water quality at the Dockham Shores' system that the prior facilities could not offer. Additionally, the new facilities include automatic controls and provisions for future water treatment.” Page 3.

6. However, citing to Lakes Region’s failure to file an updated estimate of construction costs, Staff recommended that the Commission approve a step adjustment limited to \$6,620 based on the \$60,000 estimated cost of improvements noticed by the Commission prior to acquisition by Lakes Region. Staff recommended that the additional “costs be deferred, and examined in either a future Dockham Shores or Lakes Region full rate proceeding for possible recovery by Lakes Region”. Page 4.

7. On July 11, 2019, the Commission issued Order No. 26,272 approving a step adjustment as recommended by Staff. The Commission noted that Lakes Region “is not precluded from filing for additional recovery, including acquisition costs, in either a future Dockham Shores or Lakes Region rate case. That recovery, however, is subject to Commission examination and approval, and, furthermore, is not guaranteed.” Order No. 26,272, Page 4.

II. STANDARD FOR TEMPORARY AND PERMANENT RATE INCREASES

8. RSA 378:7 authorizes the Commission to fix rates after a hearing upon determining that the rates, fares, and charges are just and reasonable. In determining whether rates are just and reasonable, the Commission must balance the customers’ interest with the investors’ interest in obtaining a reasonable return on their investment.

Appeal of Eastman Sewer Co., 138 N.H. 221, 225 (1994).

9. RSA 378:28 governs the approval of permanent rates and provides:

378:28 Permanent Rates. – So far as possible, the provisions of RSA 378:27 shall be applied by the commission in fixing and determining permanent rates, as well as temporary rates. *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.* Nothing contained in this section shall preclude the commission from receiving and considering any evidence which may

be pertinent and material to the determination of a just and reasonable rate base and a just and reasonable rate of return thereon. (emphasis added)

10. RSA 378:28 refers to the temporary rates statute, RSA 378:27, which provides:

378:27 Temporary Rates. – In any proceeding involving the rates of a public utility brought either upon motion of the commission or upon complaint, the commission may, after reasonable notice and hearing, if it be of the opinion that the public interest so requires, immediately fix, determine, and prescribe for the duration of said proceeding reasonable temporary rates; provided, however, that such temporary rates shall be sufficient to yield not less than a reasonable return on the cost of the property of the utility used and useful in the public service less accrued depreciation, as shown by the reports of the utility filed with the commission, unless there appears to be reasonable ground for questioning the figures in such reports.

11. The two statutes direct that temporary rates be set based on the “used and useful” standard applied to plant of the utility “as shown by the reports of the utility, unless there appears to be reasonable ground for questioning the figures in such reports”. Permanent rates, by contrast, involve consideration of both whether the utility investment in plant meets both the “prudence” and “used and useful” standards.

12. In the *Investigation of Scrubber Costs and Cost Recovery and Determination Regarding Eversource's Generation Assets*, DE 11-250 and DE 14-238; Order No. 25,920 (July 01, 2016), the Commission explained the “prudence” standard to be applied under RSA 378:28 when setting utility rates. The Commission explained:

"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." RSA 378:28. In order to approve the settlements, which permit placement of the scrubber in rate base, we must determine the investment was prudent, used, and useful.

Supreme Court precedent provides the standard for our prudence review: "(t)he principle of prudence requires that an investment or a constituent

element of an investment that was foreseeably wasteful when made be excluded from the rate base." *Appeal of McCool*, 128 N.H. 124, 139 (1986). "[P]rudence judges an investment or expenditure in the light of what due care required at the time an investment or expenditure was planned and made." *Appeal of CLF*, 127 N.H. 606, 638 (1986). Prudence does not require that the utility make the correct choice, which can only be known in hindsight, but that the utility's decision was within a "range of reasonableness." *Incentives for Conservation and Load Management*, 75 NH PUC 527, 541 (1990).

III. REQUEST FOR A PERMANENT RATE INCREASE

13. Lakes Region requests that the Commission issue an order of notice and approve a rate increase as set forth in the schedules and Testimony of Stephen P. St. Cyr which request that water revenues be increased to \$88,708, an increase of 105.13%. Lakes Region requests that the rate increases be effective date as of the date of publication of the Commission's Order of Notice.

14. Lakes Region recognizes that the increase is significant. However, it is necessary result of the significant investment in new plant required to maintain service in accordance with the requirements of the Department of Environmental Services and to maintain service that is reasonably safe and adequate and in all other respects just and reasonable under RSA 374:1. The system had significantly deteriorated prior to its acquisition by Lakes Region. While the costs of exceeded the original estimate of \$60,000, the costs were required to maintain service. As explained by Lakes Region President Thomas A. Mason, if Lakes Region had proceeded with its original proposal, it would have only been a temporary fix and the entire pump station would have needed to be entirely replaced 3 to 4 years later. The original proposal would have been more costly to customers, not less.

15. In short, all of the plant improvements were prudent, used and useful, and necessary to maintain service in compliance with RSA 374:1. Lakes Region requests that the Commission approve its rates as just and reasonable under RSA 378:7 & 28.

16. The Commission should be aware that Lakes Region plans to file a petition for a general rate increase to all customers in 2020 based on a 2019 test year. Lakes Region intends to request that rates for both Dockham Shores and Wildwood customers be consolidated with those of existing customers. Lakes Region recommends that the Commission and Staff consider options for rate consolidation in this proceeding in anticipation of that filing. Consolidated rates benefit all customers by reducing 'rate shock' that can occur when significant capital improvements are required in a particular system. Over time, this benefits all customers as each system is upgraded over time.

WHEREFORE Lakes Region requests that the Commission approve its permanent rate increase and grant such other relief as justice may require.

Respectfully submitted,

**LAKES REGION WATER
COMPANY, INC.**

By its Counsel,

UPTON & HATFIELD, LLP



Dated: December 23, 2019

Justin C. Richardson
NHBA #12148
159 Middle Street
Portsmouth, NH 03801
(603) 436-7046
jrichardson@uptonhatfield.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was this day forwarded via Electronic Mail to Commission Staff and the Office of Consumer Advocate, pending the establishment of an official Service List for this matter.

A handwritten signature in black ink, appearing to read "Justin Richardson", with a long horizontal flourish extending to the right.

Justin C. Richardson