

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Lakes Region Water Company, Inc. – Dockham Shores Division

Docket No. DW 19-177
Request for Change in Rates

SETTLEMENT AGREEMENT

I. INTRODUCTION

This Settlement Agreement (Agreement) is entered into by and among Lakes Region Water Company, Inc. (Lakes Region or the Company), and the Staff of the New Hampshire Public Utilities Commission (Staff) (collectively, the Settling Parties), with the intent of resolving the issues discussed herein. This Agreement constitutes the recommendation of the Settling Parties with respect to the Commission’s determination of a change in rates for Lakes Region’s Dockham Shores Division (Dockham Shores).

II. BACKGROUND

A. DW 16-619: Lakes Region’s Acquisition of Dockham Shores, Initial Financing, and Proposed System Improvements.

On November 10, 2016, the New Hampshire Public Utilities Commission (Commission) issued Order No. 25,964 approving a settlement agreement in Docket No. DW 16-619. *Lakes Region Water Co., Inc. and Dockham Shores Estates Water Company, Inc.*, Order No. 25,964 (November 10, 2016). In that order, the Commission approved Lakes Region’s acquisition of the assets and utility franchise of the former Dockham Shores Estates Water Company, serving 60 customers in the Town of Gilford, New Hampshire. *Id.* at 2, 8. The Commission also authorized Lakes Region to borrow up to \$135,000 to finance the purchase of the utility assets,

and to make significant improvements to the water system. *Id.* at 5, 8. The Order further authorized Lakes Region to submit a filing seeking a subsequent step adjustment in the Dockham Shores' revenue requirement in an amount not to exceed \$6,620, to recover the approximately \$60,000 in capital improvements anticipated in that settlement agreement. *Id.* at 5-6, 8-9. Lakes Region acquired Dockham Shores on July 1, 2017. Lakes Region Water Company, Inc., Petition for Permanent Rate Increase, December 23, 2019 at 1.

B. DW 16-619: Lakes Region's Proposed Step Increase for Dockham Shores.

On December 4, 2018, Lakes Region filed a petition with the Commission for a Step Increase in revenues of \$53,894, or 141.70 percent, from Dockham Shores' customers. *Lakes Region Water Company, Inc. and Dockham Shores Estates Water Company, Inc.*, Order No. 26,272 at 1-2 (July 11, 2019). "The request was based on \$300,599 of total plant additions ... [that] included state and federally mandated structural improvements to Dockham Shores' well meter pits and pump station." *Id.* at 2. The Company stated that unanticipated capital improvements required a greater investment in the system. *Id.* The Commission's Audit Staff reviewed the associated costs, and confirmed that the total requested plant improvements have been placed in service and are used and useful. *Id.* at 3.

Order No. 26,272 approved an annual step increase in revenues from Dockham Shores' customers of \$6,620, or 17.41 percent, pursuant to the previously approved maximum amount of the step adjustment in Order No, 25,964. The Commission further stated that:

the resulting rates are just and reasonable, as required by RSA 374:2, RSA 378:5, and RSA 378:7. The step adjustment will result in an approximate increase of \$27.13 per quarter for an average residential Dockham Shores customer.

We note that the Company 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. *Id.* at 4.

C. DW 19-135: Lakes Region’s Proposed Financing Inclusive of Dockham Shores Improvements.

On August 16, 2019, Lakes Region submitted a petition for approval of \$633,000 in long-term debt from CoBank, ACB (CoBank) to finance improvements at its various systems. Lakes Region Water Company, Inc., Petition for Approval of Long Term Financing, August 16, 2019 (Docket No. DW 19-135). Part of the financing included reimbursement to Lakes Region for \$215,000 the Company spent on the pump station replacement at Dockham Shores *Id.* at 3. On August 14, 2020, Staff filed a letter with the Commission recommending approval of Lakes Region’s proposed financing of \$633,000 at an interest rate up to 6.00 percent.¹ Lakes Region’s request for financing approval remains in pendency before the Commission.

In support of Staff’s recommendation, Staff incorporated a report dated July 14, 2020 by its engineering consultant, Douglas W. Brogan, P.E., included in the Agreement as Attachment A. Commission Staff, Recommendation, August 26, 2020 at 9-15. With regard to the Dockham Shores pump station project, Mr. Brogan stated:

In at least the nine years prior to completion of the new facilities (eight of them prior to Lakes Region ownership), customers of the system suffered through various system outages, water shortages, boil water orders, equipment failures and other problems. Those customers now have well-built facilities that are appropriate to a system of this size and that will likely eliminate such problems and provide reliable, cost-effective service for years to come. *Id.* at 13.

¹ As of April 30, 2020, CoBank indicated that it would provide Lakes Region with a 20-year fixed rate financing option at an interest rate of 4.75%. Commission Staff, Recommendation, August 26, 2020 at 173. Due to potential uncertainty in financial markets, however, Lakes Region recommended that the Commission approve Lakes Region’s proposed financing with CoBank at an interest rate not to exceed 6%. *Id.* at 175.

With regard to the total financing requested for approval by Lakes Region, Mr. Brogan concluded:

The proposed borrowing appears reasonable from the standpoint of the various system upgrade needs addressed. *Id.* at 15.

D. DW 19-177: Lakes Region's Permanent and Temporary Rate Filings for Dockham Shores.

On December 23, 2019, the Company submitted its permanent rate filing. In its filing, Lakes Region requested a permanent increase in the Dockham Shores' annual revenues of \$45,248, effective for service rendered on or after January 31, 2020. The Company proposed an increase in the quarterly fixed charge from \$48.46 (\$193.84 annually) to \$99.41 (\$397.64 annually). Lakes Region also proposed that the Dockham Shores metered rate per hundred gallons of consumption increase from \$1.232 to \$2.550. Based on the average annual consumption of Dockham Shores' customers during 2019, calculated at 41,015 gallons, the proposed rate increase would result in an annual bill increase of approximately \$744.37, from \$699.14 to \$1,443.52, or 106.47 percent, per customer. (*See* Schedule 1, Column 3)

On January 14, 2020, Lakes Region submitted a petition and schedules in support of temporary rates. The Company proposed a temporary annual revenue increase of \$35,019, effective for services rendered on or after January 31, 2020. Lakes Region proposed that the quarterly fixed charge assessed to Dockham Shores' customers, on a temporary basis, increase from \$48.46 (\$193.84 annually) to \$88.89 (\$355.56 annually). The Company also proposed that Dockham Shores' metered rate per hundred gallons of consumption increase, on a temporary basis, from \$1.232 to \$2.250. Based on the average annual consumption of Dockham Shores' customers during 2019 cited above, the proposed temporary rates would result in an annual

increase in customer bills of approximately \$579.25, or 82.85 percent, from \$699.14 to \$1,278.39. (*See* Schedule 1, Column 2)

On January 30, 2020, the Commission issued Order No. 26,329 suspending Lakes Region's proposed tariffs for Dockham Shores and scheduling a prehearing conference on March 4, 2020. The Commission further required Lakes Region to mail a copy of Order No. 26,329 to current and known prospective customers of Dockham Shores, no later than February 15, 2020. The Company was also required to publish the Commission's order in a newspaper with general circulation to the Dockham Shore's area by February 15, 2020. On February 13, 2020, Lakes Region filed affidavits of publication and mailing indicating compliance with the respective notice requirements as of February 10, 2020.

On March 4, 2020, the Commission held a prehearing conference, followed by a technical session. The only parties present were Lakes Region and Staff, and there were no requests for intervention. During the ensuing technical session, the Settling Parties discussed the proposed rate schedules, improvements, financing, as well as other matters. The Settling Parties agreed to a second technical session following Staff's review of Lakes Region's Annual Report and financial results for the year ending December 31, 2019.

On April 7, 2020, the Audit Staff issued a final report of its examination associated with this proceeding. (Attachment B). The Audit Staff's examination included a review of \$40,835 in additional capital improvements made at the Dockham Shores' system subsequent to the previous Staff audit. That report indicated no exceptions relative to the specific capital improvements reviewed.

The Settling Parties joined in a second technical session on June 2, 2019. Subsequent to that meeting, a number of further discussions ensued during which Lakes Region and Staff discussed the Company's rate proposal, which ultimately resulted in this Agreement.

III. TERMS OF AGREEMENT

A. Temporary Rates.

In accordance with RSA 378:27, the Settling Parties agree and recommend the Commission approve temporary rates effective during the pendency of this proceeding at Dockham Shores' current rates, as previously established pursuant to Commission Order No. 26,272 (July 11, 2019) in DW 16-619. Per Lakes Region's current tariff for Dockham Shores (NHPUC No. 7 - Water, First Revised Page 18), the present quarterly fixed charge is \$48.46 (\$193.84 annually) and metered rate per hundred gallons of consumption is \$1.232. The Settling Parties further agree and recommend the Commission approve that such temporary rates shall have an effective date for services rendered on and after February 10, 2020, which is the date Lakes Region provided effective notice of this proceeding to Dockham Shores' customers. The Settling Parties agree that, given the recoupment mechanism afforded under RSA 378:29, such temporary rates are reasonable and in the public interest. The Settling Parties further agree that the temporary rates provide a reasonable return to Lakes Region on its invested plant at Dockham Shores, as shown by the reports of Lakes Region filed with the Commission.

B. Permanent Rates.

The Settling Parties agree that the capital improvements made by Lakes Region at Dockham Shores are prudent, used and useful and that the Company should recover its investment in those capital improvements as well as a reasonable return on its invested plant through customer rates. The Settling Parties further agree that, in compliance with Commission

Order No. 26,340 (March 26, 2020) in DW 18-056, Lakes Region will be filing a rate case with the Commission, encompassing all of its divisions, prior to the conclusion of 2020, utilizing a 2019 test year. As part of that impending rate filing, Lakes Region will be requesting inclusion of Dockham Shores in its consolidated rate structure. As such, the Settling Parties have agreed to permanent rates in the instant proceeding that are equivalent Lakes Region's current consolidated rate. The Settling Parties further agree, however, that permanent inclusion of Dockham Shoes in Lakes Region's consolidated rate structure will be subject to further investigation within the impending rate case filed later this year.

Therefore, in accordance with RSA 378:28, the Settling Parties agree and recommend the Commission approve permanent rates for Dockham Shores in this proceeding that are equivalent with Lakes Region's current Consolidated General Service-Metered Customer rates. Per Lakes Region's current tariff for its Consolidated General Service-Metered Customers (NHPUC No. 7 - Water, First Revised Page 15) the present quarterly fixed charge is \$145.42 (\$581.70 annually) and metered rate per hundred cubic feet (ccf) of consumption is \$5.66.² Based on the average annual consumption of Dockham Shores' customers during 2019 of 54.83 ccf (41,015 gallons ÷ 7.48 gallons/cf ÷ 100), the proposed permanent rates would result in an annual increase in individual customer bills of approximately \$192.87, or 27.59 percent, from \$699.14 to \$892.01. (See Schedule 1, Column 4)

The Settling Parties agree that they are not recommending the Commission include Dockham Shores within the Company's consolidated rate group of systems within the context of the instant rate proceeding. Rather, the Settling Parties recommend that such determination

² By means of comparison with Dockham Shores' current consumption rate of \$1.232 per hundred gallons, Lakes Region's current Consolidated General Service-Metered consumption rate of \$5.66 per ccf equates to a rate measured in hundred gallons of \$0.757 ($\$5.66/\text{ccf} \div 7.4805 \text{ gal's/cf}$), for a \$0.475 per hundred gallons reduction.

should occur within the context of an evaluation of Lakes Region's overall rates during its next general rate proceeding that will commence later this year. (*See* Section III.G. below). The Settling Parties further agree that, under the terms and conditions of this Agreement, the permanent rates proposed in this proceeding are just and reasonable and provide a reasonable return on Lakes Region's plant investment at Dockham Shores in accordance with RSA 374:2, RSA 378:5, RSA 378:7, and RSA 378:28. However, the Settling Parties also agree that, as set forth in Section III.H., in the event that Dockham Shores is not included in Lakes Region's permanent, consolidated rate structure as a result of the impending general rate proceeding, a separate, just and reasonable rate will be established for Dockham Shores

C. Illustration and Comparison of Rate Impacts.

The Settling Parties agree upon Schedule 1 to illustrate and compare the impact of the permanent rates proposed in this Agreement (Column 4) with Dockham Shores' current rates (Column 1). Dockham Shores' current rates (Column 1) are also proposed by the Settling Parties to be the approved temporary rates in this proceeding (*See* Section III.A.). For purposes of comparison, Schedule 1 also illustrates the projected impact of Lakes Region's originally proposed temporary rates (Column 2) and permanent rates (Column 3). Further, Schedule 1 illustrates and compares the rate impacts under the four scenarios based on actual Dockham Shores' total consumption during test year 2018 of 2.509 million gallons (3,354 ccf), as well as total consumption during 2019 of 2.502 million gallons (3,345 ccf).

D. Temporary-Permanent Rate Recoupment.

Pursuant to RSA 378:29, in order to reconcile the difference between temporary rates and permanent rates, the Settling Parties agree and recommend the Commission authorize Lakes Region to charge Dockham Shores' customers a surcharge based on that difference. The

surcharge will be an amount equal to the difference between the revenues actually collected from Dockham Shores' customers during the recoupment period versus the revenues it would have collected had the approved permanent rate been in effect during the recoupment period. The recoupment period is the period between the established effective date for temporary rates (agreed upon by the Settling Parties as the date of customer notice - February 10, 2020) through the issuance date of the Commission's order approving permanent rates in this proceeding.

Upon the issuance of the Commission's order approving permanent rates in this proceeding, Lakes Region agrees to file, within 30 days of that order, a calculation of the temporary-permanent rate recoupment and a surcharge recommendation for the Commission's consideration. The Settling Parties agree that Staff will review Lakes Region's proposal and provide a recommendation for the Commission's consideration prior to the issuance of an order on temporary-permanent rate recoupment.

The resulting surcharge shall be reflected as a separate item on all Dockham Shores customers' bills. Upon issuance of the Commission's order approving a temporary-permanent rate recoupment, Lakes Region agrees to file, within 15 days of that order, a compliance tariff supplement including the approved surcharge relating to the total recoupment of the difference between the level of temporary rates and permanent rates, as well as the average monthly surcharge per customer.

E. Rate Case Expenses.

The Settling Parties agree and recommend the Commission approve Lakes Region's recovery of its reasonable rate case expenses for this proceeding through a surcharge to Dockham Shores' customers. Lakes Region's rate case expenses may include, but are not limited to, legal and consultant expenses, incremental administrative expenses such as copying

and delivery charges, and other such rate case related expenditures allowed under N.H. Admin. R., Puc 1906.01. Lakes Region agrees to file its final rate case expenses and proposal for surcharge recovery, pursuant to Puc 1905.02, no later than 30 days from the date of the Commission's order approving permanent rates in this proceeding. The Settling Parties agree that Staff will review Lakes Region's proposal and provide a recommendation for the Commission's consideration prior to the issuance of an order on rate case expense recovery.

The resulting surcharge shall be reflected as a separate item on all Dockham Shores customers' bills. Upon issuance of the Commission's order approving rate case expense recovery, Lakes Region agrees to file, within 15 days of that order, a compliance tariff supplement including the approved surcharge relating to the total recovery of rate case expenses, as well as the average monthly surcharge per customer.

F. Closure of Docket No. DW 19-177.

The Settling Parties agree and recommend the Commission approve closure of the instant docket after the issuance of orders approving temporary and permanent rates, a temporary-permanent revenue recoupment, and rate case expense recovery as set forth herein. (*See* Sections III.D. and E.; and Section IV.).

G. Consideration of Dockham Shores' Inclusion in Lakes Region's Consolidated Rate.

The Settling Parties agree that Staff will consider Dockham Shores' inclusion in Lakes Region's consolidated rate structure within the context of the Company's impending rate filing to be submitted prior to the conclusion of 2020, and utilizing a 2019 test year, in accordance with Commission Order No. 26,340. (*See* Section III.B.) Lakes Region agrees that it will be providing separate permanent rate schedules in its impending rate case for Dockham Shores under two possible scenarios. The first will be in consideration of Dockham Shores' potential

inclusion in Lakes Region’s consolidated permanent rate structure. The second will be in consideration of Dockham Shores as a stand-alone rate entity with its own permanent rate structure.

H. Stand-alone Rate for Dockham Shores.

In the event that Dockham Shores is not incorporated into Lakes Region’s consolidated rate structure at the conclusion of its impending rate proceeding (*See* Section III.G.), the Settling Parties agree that Staff will examine, in the context of the impending rate case, and strive towards agreement with all parties to that proceeding, an appropriate stand-alone revenue requirement and customer rate for Dockham Shores, on a going-forward basis subsequent to that proceeding, to be submitted for Commission consideration.

I. Acquisition and Financing Costs and Step Increase Costs.

The Settling Parties agree that Staff will examine and evaluate, in the context of the impending rate case, the costs incurred relative to the original acquisition and financing of Dockham Shores, and the costs incurred relative to the initial step increase approved in DW 16-619 (*See* Section II.B.).

J. Audit Costs.

The Settling Parties agree that Lakes Region will not seek recovery of costs incurred relative to the Commission’s audits in DW 16-619 (*See* Section II.B.) and the instant proceeding (*See* Section II.D.). *See Pittsfield Aqueduct Company, Inc.*, Order No. 25,076 at 5 (February 24, 2010) (“audit requests [are] a continuing obligation of utilities under RSA 374:18 and [are] recognized in calculating permanent rates per RSA 378:28...[a]llowing expenses associated with responding to audit requests as a surcharge for rate case expenses would, in effect, amount to a double recovery of these expenses.”).

IV. CONDITIONS

This Agreement is expressly conditioned upon the Commission's approval of all its provisions, without material change or condition. This Agreement is also conditioned upon the Commission's approval of the proposed financing for the Dockham Shores system improvements in Docket No. DW 19-135 without material change or condition. If such approval is not granted, the Agreement shall be deemed to be null and void and without effect and shall not be admissible as evidence or used against any party. The Commission's acceptance of this Agreement does not constitute continuing approval of, or precedent regarding, any particular principle or issue in this proceeding, but such acceptance does constitute a determination that the temporary revenue requirement and temporary rates recommended by the Agreement are just and reasonable.

The discussions that produced this Agreement have been conducted on the understanding that all offers of settlement relating thereto are and shall be confidential, shall be without prejudice to the position of any party or participant representing any such offer or participating in any such discussion, and are not to be used for any purpose.

IN WITNESS WHEREOF, the Settling Parties have caused this Agreement to be duly executed in their respective names by their agents, each being fully authorized to do so on behalf of their principal.

LAKES REGION WATER COMPANY, INC.

By Its Attorneys

NH WATER LAW

Dated: December 3, 2020

By:



Justin C. Richardson, Esq. (12148)

STAFF OF THE NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

Dated: 12.3.2020

By:



Christopher R. Tuomala, Esq.
Staff Attorney