



OFFICE OF THE CONSUMER ADVOCATE
21 S. Fruit St., Suite 18
Concord, N.H. 03301-2429

Website:
www.oca.nh.gov

October 10, 2022

New Hampshire Public Utilities Commission
Clerk's Office
21 S. Fruit Street, Suite 10
Concord, New Hampshire 03301

RE: DW 20-117 Hampstead Area Water Company, Inc.
Request for Change In Rates
OCA position; temp-to-perm recoupment for private fire protection

Dear Sir or Madam:

Pursuant to the Office of the Consumer Advocate's (OCA) enabling statute, RSA 363:28, the OCA is submitting this letter in support of the Department of Energy's (DOE) Report on Rate Case Expenses and Temporary to Permanent Rate Reconciliation for the above-referenced matter.

The OCA was an active participant in DW 20-117, Hampstead Area Water Company, Inc.'s (the Company) Request for Change in Rates, and joined a Settlement agreement in that matter. The OCA reviewed the DOE's report on rate case expenses and temporary to permanent rate reconciliation as well as the Company's response to the report. Upon review, the OCA supports the DOE's findings and recommendations, including the objection to any proposed temporary to permanent rate recoupment surcharge for the 1,102 residential fire protection customers added to the Company's General Private Fire Protection Service.

While the resolution of the rate case added residential fire protection customers to Company's General Private Fire Protection Service any temporary to permanent rate recoupment from those customers is retroactive rate making. As stated in the Company's response to the DOE report, at the time of its request for temporary rates the cost of service study was not completed. Therefore, there was no clear way to evaluate a just and reasonable rate for these customers. To impose recoupment on customers that were not subject to any rate prior to Order No. 26, 635, dated June 2, 2022, is in violation of well-established precedent that a public utility may not impose a rate increase on a retroactive basis. *See Appeal of Pennichuck Water Works*, 120 N.H. 562, 566 (1980) ("it is a basic legal principle that a rate is made to operate in the future and cannot be made to apply retroactively") (quoting *Southwest Gas Corp. v. Public Service Comm'n*, 474 P.2d 379, 383 (Nev. 1970)).

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For these reasons, the OCA opposes the Company's request to recoup \$63,388 from residential fire protection customers and further opposes any request to recover this amount from other customer classes.

Sincerely,

A handwritten signature in blue ink that reads "Julianne Desmet". The signature is written in a cursive style with a large, looped initial "J".

Julianne Desmet
Staff Attorney

cc: Service List via electronic mail