

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 20-117

HAMPSTEAD AREA WATER COMPANY

Request for Change in Rates – Step I

Order Approving Settlement on Step I Adjustment

O R D E R N O. 26,809

April 28, 2023

This order approves a settlement agreement (Settlement) reached between Hampstead Area Water Company, Inc. (HAWC) and the NH Department of Energy (DOE) regarding a step adjustment to HAWC's permanent rates. The resulting rate adjustment will increase meter charges by 8.1 to 8.2 percent, and the consumption charge by 11.9 percent, and will be subject to reconciliation pending further review by DOE and the Commission.

1. PROCEDURAL HISTORY

HAWC filed a petition for an increase in permanent rates on November 24, 2020, in this docket. On May 9, 2022, HAWC filed a settlement reached with DOE and the Town of Atkinson on permanent rates (Rate Case Settlement). The Rate Case Settlement included a provision for two separate step adjustments to permanent rates (Step I and Step II), based on capital investments completed in 2020 and 2021, respectively. On January 25, 2023, HAWC, DOE, and the Town of Atkinson (Step I Settling Parties)¹ signed a settlement on the first step adjustment (Step I Settlement). A hearing on the Step I Settlement was held on April 12, 2023. During the April 12

¹ On March 29, 2023, HAWC informed the Commission in a footnote to the Joint Witness List for the April 12, 2023 hearing that the Town of Hampstead had indicated its intent to join the Step I Settlement as a settling party; however, an updated signature page from Hampstead has not been filed with the Commission at this time. At the April 12, 2023 hearing, the Commission acknowledged from the bench the Town of Hampstead's intent to join as a settling party.

hearing, DOE noted certain corrections required to be made to Attachment B (Step I, Schedule 1) to the Step I Settlement. Those corrections were filed on April 19, 2023.

2. SETTLEMENT ON STEP I ADJUSTMENT

The Settlement on Permanent Rates, approved by Order No. 26,635 on June 1, 2022 earlier in this docket,² proposed that the Step I adjustment be based on the following elements:

(1) post-test year plant additions placed in service in 2020, including plant additions related to the Southern New Hampshire Regional Water Project (SNHRW Project);

(2) HAWC's purchase of Manchester Source Development Charge (MSDC) capacity credits from Manchester Water Works in 2020, that were added to rate base as a deferred debit and amortized over 39 years, the remaining life of the SNHRW Project; and

(3) certain operating income adjustments to the final calculation of the Step I rates to resolve audit issues identified in DOE's Final Audit Report. See Exh. 20 at BP 4, Footnote 5. The Settlement terms incorporated the parties' agreement that the proposed Step I adjustment, subject to review by DOE Audit staff and Step I Settling Parties, would result in an increase not to exceed \$258,450 in the Company's revenue requirement, utilizing a rate of return of 4.50%, which represents an 11.53% increase to the revenue requirement. Accordingly, the Company's rate base would increase by no greater than \$2,368,015, for a total not to exceed \$7,660,606. Settlement at Bates Page 3.

The Settling Parties further recommended a rate design for Step I similar to that approved for permanent rates. Thus, the rate design will include customer charges based on pipe size; volumetric charges; and private fire protection charges based on pipe size. The Step I Settlement included a table of proposed changes in charges as a result of the proposed Step I adjustment. The private fire protection charges will not change. Step I Settlement at Bates Page 6, II.e.

² Order No. 26,635 was issued on June 1, 2022, and revised for clarification on June 10 and July 20, 2022.

STEP I			
Rate Group	Permanent Rate Revenue Requirement Rate	Proposed Step I Rate	Percentage Change
Meter Charge			
5/8 inch meter	\$11.92	\$12.89	8.1%
3/4 inch meter	\$27.87	\$30.15	8.2%
1 inch meter	\$54.45	\$58.91	8.2%
1 ½ inch meter	\$107.61	\$116.42	8.2%
2 inch meter	\$139.50	\$150.93	8.2%
Consumption Charge (per ccf)			
	\$6.90	\$7.72	11.9%
Private Fire Protection Charge			
1 ½ inch pipe	\$2.49	\$2.49	0%
2 inch pipe	\$5.31	\$5.31	0%
3 inch pipe	\$15.43	\$15.43	0%
4 inch pipe	\$32.87	\$32.87	0%
6 inch pipe	\$95.49	\$95.49	0%

The Settling Parties agreed that only the meter and consumption charges would be adjusted pursuant to the Step I increase, and that the private fire protection rate will not be adjusted. The Settling Parties further agreed to keep the municipal fire protection charge level to minimize budgeting challenges due to fluctuations in rates, and HAWC will absorb the projected revenue shortfalls of \$22,821 for Step I and \$33,887 for Step II. Settlement at Bates Page 7, para. II.f.

Finally, in accordance with the Permanent Rates Settlement, the Step I Settlement does not change or modify the Stay Out Provision of the Settlement Agreement on Permanent Rates approved in Order No. 26,635. Thus, the earliest that HAWC may file its next full permanent rate proceeding would be January 1, 2025, based on a 2024 test year. See Exh. 20, Step I Settlement at Bates Page 8, para. II.g.

3. POSITIONS OF NON-SIGNATORY PARTIES

During the April 12, 2023 hearing, Intervenor Karen Steele objected to the Step I Settlement and submitted two exhibits in support of her objection, including Exhibit 21 regarding Pipeline Water Consumption, derived from information available on the NH Department of Environmental Services (NHDES) “OneStop” website, and Exhibit 22 regarding the NH Attorney General’s memorandum to NHDES dated April 22, 2019, regarding approval of the “Southern Interconnect Agreement”³ pursuant to RSA ch. 53-A. DOE expressed concern regarding Exhibits 21 and 22, noting that Exhibit 21 relates to data for the years 2021 and 2022, while the Step I adjustment at issue in this proceeding is based on 2020 data. Accordingly, DOE recommended that the Commission take administrative notice of testimony submitted by Harold Morse in Docket DW 19-147 in lieu of accepting Exhibit 21. HAWC concurred with DOE’s concern regarding Exhibits 21 and 22, but noted that Exhibit 22 appears to be an accurate representation of NHDES’s memorandum approving the “Southern Interconnect Agreement.” DOE and HAWC each objected to and moved to strike Exhibits 21 and 22.

The Office of the Consumer Advocate did not provide a position statement or participate in the hearing for the Step I portion of this docket proceeding. According to HAWC’s January 25, 2023 filing of the Step I Settlement, the Town of Danville (Danville) objected to the Settlement; however, Danville did not participate in the April 12, 2023 hearing.

³ The “Southern Interconnect Agreement” is known formally as the Southern New Hampshire Regional Water Interconnection Project. See Exh. 22.

4. RATE CASE EXPENSES INCURRED IN STEPS 1 AND 2

In the hearing held on April 12, 2023, regarding the proposed Step I Adjustment, DOE recommended that the rate case expenses incurred by the Company for the Step I proceeding in the current docket be presented together with rate case expenses that may be incurred in the adjudication of HAWC's Step II proceeding in Docket No. 23-020. HAWC did not object to DOE's position. Accordingly, the Settling Parties agreed that rate case expenses related to Steps I and II, both of which stem from the Settlement on Permanent Rates approved earlier in this docket by Order No. 26,635, shall be reviewed and adjudicated together after a final decision on Step II is rendered in Docket No. 23-020. No other party objected to the proposed combined adjudication of rate case expenses for Steps I and II.

5. COMMISSION ANALYSIS

A. Legal Standard

RSA 378:7 authorizes the Commission to establish just and reasonable rates for a utility after conducting a hearing. In determining just and reasonable rates, the Commission must balance the consumers' interest in paying rates no higher than are required with the investors' interest in obtaining a reasonable return on investment. *Hampstead Area Water Company*, DW 05-112, Order No. 24,734 at 53-54 (citing *Eastman Sewer Co.*, 138 NH 221, 225 (1994)). The utility seeking to increase rates bears the burden of proving the necessity of the increase. RSA 378:8.

The Commission has approved step adjustments for limited use as a mechanism between full rate cases to allow a utility to collect additional revenue on investments that are non-revenue producing and are made to improve safe and reliable service. See *Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty*, Order No. 26,661 (July 29, 2022) at 4, citing *Public Service Company of New Hampshire*

d/b/a Eversource Energy, Order No. 26,504 (July 30, 2021) at 5. Step adjustments are generally limited in scope and permit recovery for investments similar to those that have been reviewed in the underlying rate case that established the step adjustment provision. *Id.* Utilities have the burden of showing that capital investments included in a step adjustment are prudent, in service, and used and useful. *Id.*

Accordingly, HAWC has the burden to show that the step adjustment presented in this proceeding incorporates only investments that were placed in service and were used and useful in the applicable test year, and that the rates proposed to collect the revenue requirement associated with those investments are calculated accurately. *Liberty Utilities (Granite State Electric Corp. d/b/a Liberty Utilities*, Order No. 26,494 (July 1, 2021) at 5-6.

Informal disposition by stipulation may be made of any contested case at any time prior to the entry of a final decision or order. RSA 541-A:31, V(a). Pursuant to Puc 203.20(b), the Commission shall approve the disposition of a contested case by stipulation “if it determines that the result is just and reasonable and serves the public interest.” Nonetheless, the Commission cannot approve a settlement without independently determining that the result comports with applicable standards.

Aquarion Water Company of New Hampshire, Inc., Order No. 26,659 (July 29, 2022) at 10 (citing *Pennichuck Water Works*, Order No. 26,070 (Nov. 7, 2017) at 14.

Pursuant to RSAs 374:2, 378:7, and 378:28, the Commission may approve permanent rates if it finds they are just and reasonable and reflect capital improvements that are found to be prudent, used, and useful. In determining whether rates are just and reasonable, the Commission acts as arbiter between the interests of customers and the regulated utility. RSA 363:17-a.

B. Discussion

The Settling Parties testified during the April 12, 2023 hearing in support of the Step I Settlement provisions as just and reasonable. Intervenor Karen Steele testified in opposition to the Step I Settlement, arguing that the proposed rate adjustments do not appear to account for water supply that may have been made available through the “Southern Interconnect Agreement” project (Interconnect Project) endorsed by the New Hampshire Department of Environmental Services (NHDES). The Company witnesses provided further testimony and clarification on the issues raised by Ms. Steele. We found the discussion by the parties regarding the issues Ms. Steele raised to be informative; however, we do not base our decision here on the efficacy of HAWC’s participation in the Interconnect Project. Rather, our decision is based on the testimony provided by the Company’s witnesses, and by DOE’s witness, in support of the need for an adjustment in general rates, as presented in the Step I Settlement.

Finally, we take administrative notice of the testimony of Mr. Morse, as submitted on September 9, 2019, in Docket DW 19-147.

C. Conclusions of Law

We have reviewed the evidence presented in support of the Step I adjustment through written and oral testimony, as supported by DOE’s audit report and the discovery responses from HAWC attached to that report. We deny the pending motion to strike and give Exhibits 21 and 22 the weight they deserve for purposes of a decision on the Step I adjustment proposed in the Step 1 Settlement.

Based on the record, we find the revenue requirement presented in the Step I Settlement to be just and reasonable, as required by RSA 378:7. Through its testimony and the discovery responses incorporated in DOE’s audit report, HAWC has demonstrated that the proposed Step I adjustment to permanent rates is necessary

and accurately reflects investments that were placed in service and used and useful in 2020, as well as the capacity credits purchased from Manchester Water Works in 2020, and certain adjustments to operating income as presented in the Settlement to resolve audit issues identified in DOE's Final Audit Report.

Accordingly, we find that HAWC has met its burden of proving the necessity of the increased rates through the proposed step adjustment under RSA 378:8. We thus find that the rates proposed to collect the revenue requirement associated with the identified 2020 investments are just and reasonable. Therefore, we approve the Step I adjustment as presented in the Step I Settlement and supported by testimony provided by the Settling Parties at the April 12, 2023 hearing.

Based upon the foregoing, it is hereby

ORDERED, that the Settlement regarding the proposed Step I adjustments to HAWC's permanent rates for an increase not to exceed \$258,450 in the Company's revenue requirement using a rate of return of 4.50 percent to reflect: (1) post-test year plant additions placed in service in 2020; (2) the Company's purchase of Manchester Source Development Charge (MSDC) capacity credits; and (3) accounting adjustments made to 2020 net operating income requirements, is **APPROVED**; and it is

FURTHER ORDERED, that Exhibits 21 and 22 submitted by Intervenor Karen Steele are **ADMITTED** to the record in this docket for informational purposes; and it is

FURTHER ORDERED, that, pursuant to N.H. Code Admin. Rules Puc 1603, HAWC shall submit properly annotated revised tariff pages within 15 days of the date of this order; and it is


FURTHER ORDERED, that DOE shall review the annotated revised tariff pages and submit to the Commission its assessment of the annotated changes within 10 days of the Company's submission of the revised tariff pages; and it is

FURTHER ORDERED, that HAWC's request for recovery of rate case expenses accrued in the adjudication of its Step I request in this docket shall be combined with its request for recovery of rate case expenses incurred in its Step II adjustment in Docket No. 23-020 when such expenses are finalized by HAWC and reviewed and accepted by DOE for the Step II adjustment in Docket No. 23-020; and it is


FURTHER ORDERED, that HAWC shall provide all necessary documentation and reports in support of regulatory costs underlying its proposed recovery of rate case expenses for Steps I and II in a combined filing after the proposed Step II adjustment has been adjudicated and a decision on Step II has been issued, as stipulated in the Settlement approved in Order No. 26,635; and it is

FURTHER ORDERED, that all other provisions of the Settlement, including commitments made by DOE to review HAWC's filings and provide reports to the Commission, and the preservation of Stay Out provision approved in Order No. 26,635, are **APPROVED** and shall remain in effect unless and until the Commission rules otherwise, pursuant to the subsequent submission by the Settling Parties of any petitions requesting alteration of those commitments.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of April, 2023.



Daniel C. Goldner
Chairman



Carleton B. Simpson
Commissioner

Service List - Docket Related

Docket#: 20-117

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