

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Bedford Waste Services Corporation

Docket No. DW 22-058

Rate Proceeding

SETTLEMENT AGREEMENT ON PERMANENT RATES

June 28, 2023

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1. INTRODUCTION

This settlement agreement on permanent rates (Agreement) is entered into by and between Bedford Waste Services Corporation (Bedford, or the Company) and the New Hampshire Department of Energy (DOE), (together, the Settling Parties). For the reasons explained below, in the opinion of the Settling Parties, this Agreement is just and reasonable and in the public interest. *See* RSA 378:7-8; RSA 378:28. The Settling Parties recommend that the Commission approve this Agreement.

2. PROCEDURAL BACKGROUND

2.1. On September 15, 2022, Bedford filed its Notice of Intent to file rate schedules with the New Hampshire Public Utilities Commission (Commission). The Commission acknowledged this filing and opened the instant docket on September 19, 2022.

2.2. On September 20, 2022, the DOE filed its notice of appearance.

2.3. On October 17, 2022, Bedford filed its rate schedules to increase its permanent rates and filed a petition for approval of temporary rates. Bedford also filed testimony and supporting materials in accordance with PART Puc 1604.

2.4. In its filing, Bedford sought an initial increase in its revenue requirement of \$19,488 from \$48,292 to \$67,780, resulting in a permanent increase in annual customer rates of \$245.89 (\$61.47 per quarter) from \$623.08 (\$155.77 per quarter) to \$868.97 (\$217.24 per quarter), or 39.46 percent. Additionally, Bedford sought two subsequent step adjustments encompassing the Company's investment in, and expenses related to, its 2022 and 2023 pump replacements, respectively. Bedford estimated that each step adjustment would increase its revenue requirement by an additional \$7,214, resulting in two additional rate increases of 14.84 percent each. Altogether, Bedford's rate filing requested a total estimated increase in its annual revenue

requirement of \$33,916, resulting in an estimated increase in annual customer rates of \$430.87 (\$107.72 per quarter) from \$623.08 (\$155.77 per quarter) to \$1,053.95 (\$263.49 per quarter), or 69.15 percent.

2.5. With respect to temporary rates, Bedford requested an increase in its annual revenue requirement on a temporary basis of \$9,469 from \$48,292 to \$57,761, resulting in an increase in annual customer rates during the pendency of the rate proceeding of \$117.45 (\$29.36 per quarter) from \$623.08 (\$155.77 per quarter) to \$740.53 (\$185.13 per quarter), or 18.85 percent.

2.6. On November 1, 2022, the Commission issued Order No. 26,717, suspending the effect of Bedford's tariffs for 12 months; commencing an adjudicative proceeding; and scheduling a prehearing conference for December 14, 2022. The Commission ordered Bedford to send a copy of the order to all customers and publish the order on the Company's website. The Commission also ordered that any intervention requests be filed no later than November 28, 2022.

2.7. On November 15, 2022, the DOE filed a position statement recommending the Commission consider Bedford's concurrent financing docket in Docket No. DW 22-054 in conjunction with the rate case docket. The DOE included, with its recommendation, copies of data responses received from Bedford in the DW 22-054 financing docket.

2.8. On December 14, 2022, the Commission held a prehearing conference attended by Bedford and the DOE. No petitions to intervene were filed. In a technical session following the prehearing conference, Bedford and the DOE developed a proposed procedural schedule to govern the remainder of the proceeding.

2.9. On December 15, 2022, Bedford timely filed its affidavit of mailing that, on November 10, 2022, it had mailed a copy of the Commission's order to its 78 customers.

2.10. Also on December 15, 2022, Bedford filed its response to a record request issued by the Commission at the prehearing conference for the live Excel workbooks associated with its rate filing.

2.11. On December 20, 2022, the DOE filed the proposed procedural schedule with the Commission, which the Commission approved by a procedural order on December 21, 2022. Additionally, the Commission scheduled a hearing on temporary rates for March 23, 2023, a hearing on permanent rates under a settlement track on July 19, 2023, and a hearing on permanent rates, if necessary, under an alternative litigation track on August 29, 2023.

2.12. On January 24, 2023, the DOE filed an assented to request to modify certain technical session and discovery dates per the previously approved procedural schedule. On January 26, 2023, the Commission approved these requested modifications.

2.13. On January 30, 2023, Attorney Marcia Brown filed an appearance as legal counsel for Bedford.

2.14. On February 9, 2023, the Commission issued a procedural order rescheduling the hearing on permanent rates under the settlement track from July 19, 2023 to July 12, 2023.

2.15. On March 16, 2023, Bedford filed a settlement agreement on temporary rates which Bedford and the DOE presented to the Commission at a hearing held on March 23, 2023. That settlement agreement proposed an increase in Bedford's annual revenues from customer rates on a temporary basis of \$7,867 from \$48,600 to \$56,467, resulting in an increase in annual customer rates during the pendency of the rate proceeding of \$100.86 (\$25.22 per quarter) from \$623.08 (\$155.77 per quarter) to \$723.94 (\$180.99 per quarter), or 16.19 percent. The settlement agreement on temporary rates also proposed an effective date of November 17, 2022 on a service-rendered basis.

2.16. On March 23, 2023, Bedford filed its response to a record request issued by the Commission at the March 23, 2023 hearing for the Excel version of the temporary rate settlement agreement attachments. The record request response was marked as Exhibit 4.

2.17. On March 29, 2023, the Commission issued Order No. 26,793 approving the settlement agreement on temporary rates.

2.18. On March 30, 2023, Bedford filed compliance tariff implementing temporary rates.

2.19. On April 28, 2023, the Commission issued a letter of compliance stating the temporary rate tariff complied with the Commission's rules.

2.20. On May 31, 2023, the DOE filed an assented to request to extend the date on which to file a settlement agreement on permanent rates from June 1, 2023 to June 28, 2023. On the same date, the Commission issued a procedural order approving the requested modification.

2.21. On June 14, 2023, pursuant to RSA 366, Bedford filed a copy of its affiliate agreement with Lamontagne Management Corporation (LMC) with the Commission. The contracted services and the rates contained in that affiliate agreement correspond with the proposed revenue requirement in this Agreement.

3. SCOPE OF STIPULATION

3.1. This Agreement on permanent rates is entered into by the Settling Parties, as identified above: Bedford and the DOE.

3.2. This Agreement constitutes the Settling Parties' recommendation to the Commission with respect to permanent rates in this docket.

3.3. The Settling Parties agree that this Agreement constitutes resolution of the issues specified herein only.

3.4. This Agreement shall not be deemed an admission by any Settling Party that any

allegation or contention in this proceeding by any Settling Party, other than those specifically agreed to herein, is true and valid. This Agreement shall not be construed to represent any concession by any Settling Party hereto regarding positions taken, nor shall this Agreement be deemed to foreclose any party from taking any position in any future proceedings. The conditions agreed to in this Agreement are settlement positions that reflect a compromise.

3.5. The pre-filed testimony and supporting documentation previously relied upon in this proceeding by the Settling Parties are not expected to be the subject of cross-examination by the Settling Parties, which would normally occur in a litigated case. The Settling Parties agree that all such pre-filed testimony and supporting documentation, including Settling Parties' data responses or responses to Commission record requests should be admitted as full exhibits for the purpose of consideration of this Agreement and be given the weight the Commission deems appropriate. Consent by the Settling Parties to admit all such pre-filed testimony without challenge does not constitute agreement by any of the Settling Parties that the content of the pre-filed testimony (or other documentation) is accurate or that the views of the witnesses should be assigned any particular weight by the Commission.

3.6. The resolution of any specific issues in this Agreement does not indicate the Settling Parties' agreement to such resolution for purposes of any future proceedings, nor does the reference to any other document bind the Settling Parties to the contents of, or recommendations in, that other document for purposes of any future proceeding. Admissions into evidence of any witnesses' testimony or supporting documentation shall not be deemed in any respect to constitute an admission by any party to this Agreement that any allegation or contention in this proceeding is true or false, except that the sworn testimony of any witness shall constitute an admission by such witness.

4. TERMS OF AGREEMENT

4.1. Permanent Rate Revenue Requirement

The Settling Parties agree and recommend the Commission approve a total annual permanent rate revenue requirement of \$66,335 resulting in a net annual operating income requirement of \$6,976 as depicted in Schedule 1 of Attachment A. This represents an increase of \$17,735, or 36.49 percent, over Bedford's 2021 test year revenues derived from customer rates of \$48,600. Compared to Bedford's temporary rate increase of \$7,867, or 16.19 percent, over existing rates, which the Commission approved in Order No. 26,793 on March 29, 2023, this represents an additional increase in revenues derived from customer rates of \$9,868, or 20.30 percent. The total revenue requirement is derived from a pro forma rate base of \$97,187 detailed in Schedule 3 of Attachment A, a rate of return of 7.18 percent detailed in Schedule 4 of Attachment A, and rate base and operating income adjustments detailed in Schedules 1A, 1B, and 3A of Attachment A.

4.2. Impact on Customer Rates

The proposed revenue requirement will result in an annual customer rate of \$850.45 (\$212.61 per quarter). This represents an increase of \$227.37 (\$56.84 per quarter) in Bedford's previously approved permanent rates of \$623.08 (\$155.77 per quarter) and an increase of \$126.51 (\$31.63 per quarter) in Bedford's temporary rates currently in effect of \$723.94 (\$180.99 per quarter). Pursuant to page 7 of its tariff, Bedford bills customers quarterly, in arrears. Therefore, customers will pay quarterly installments of \$212.61. The proposed tariff pages are attached hereto as Attachment G. The Settling Parties agree and recommend the Commission find that this rate impact is just and reasonable pursuant to RSA 378:7.

4.3. Effective Date and Temporary to Permanent Rate Recoupment

4.3.1. By Commission Order No. 26,793 dated March 29, 2023, the Commission approved an effective date for reconcilable temporary rates of November 17, 2022. Under RSA 378:29, reconciliation of the proposed permanent rates, once approved, to the existing temporary rates will be calculated from November 17, 2022 to the effective date of the Commission's order approving permanent rates.

4.3.2. Bedford agrees to file, for the Commission's and the DOE's review, its reconciliation of temporary and permanent rates with the Commission no later than thirty (30) days from the date of the Commission's order approving Bedford's revenue requirement and resulting permanent rates. The DOE agrees that it will have an opportunity to review Bedford's Temporary to Permanent Rate recoupment proposal and provide a recommendation to the Commission for its consideration.

4.4. Rate Case Expenses

4.4.1. The Settling Parties agree and recommend the Commission approve Bedford's recovery of its reasonable and prudently incurred rate case expenses for this proceeding on permanent rates through a separate customer surcharge. Bedford'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 expenses allowed under Puc 1906.01.

4.4.2. Bedford agrees to file its final rate case expense recovery request, pursuant to Puc 1905.02, no later than thirty (30) days from the date of the Commission's order in this proceeding approving Bedford's revenue requirement and resulting customer rates. The DOE agrees that it will have an opportunity to review Bedford's proposed rate case expenses and provide a recommendation to the Commission for its consideration.

4.5. Step Increases for Pump Replacements in 2022 and 2023

4.5.1. Step 1 – 2022 Pump Replacements

4.5.1.1. The Settling Parties agree that it is just and reasonable for the Commission to allow for the inclusion of Bedford's 2022 pump replacements and related expenses in customer rates as an initial step adjustment to its permanent rate revenue requirement recommended in this Agreement.

4.5.1.2. The proposed Step 1 pump replacement costs are depicted on Schedule 1 of Attachment B and includes \$31,506¹ of additional Plant in Service resulting in an anticipated increase in Bedford's annual net operating income of \$7,061.² If approved, Step 1 is anticipated to result in an annual rate of \$940.98 (\$235.25 per quarter) per customer. This represents an additional increase of \$90.53 (\$22.63 per quarter), or 10.64 percent, in the proposed permanent rate of \$850.45 (\$212.61 per quarter) indicated in Section 4.2 of this Agreement. See Schedule 2 of Attachment B.

4.5.1.3. The Settling Parties agree and recommend that the Commission immediately approve both the proposed permanent rates (Sections 4.1) and Step 1 so that the rates pertaining to both will go into effect concurrently. The Settling Parties agree that the DOE Audit Division is currently reviewing Step 1 and anticipate a Final Audit Report on Step 1 in the coming weeks. The DOE agrees to file the Final Audit Report on Step 1 with the Commission upon its issuance.

¹ See Bedford's response to DOE 2-8 in Attachment E for the invoices supporting the \$31,506.

² This represents an additional increase of 14.53 percent to Bedford's 2021 test year revenues derived from customer rates of \$48,600. Coupled with Bedford's proposed permanent rate increase of \$17,735 (See Section 4.1), the combined estimated revenue increase after Step 1 will be approximately \$24,796 (\$17,735 + \$7,061), resulting in a total revenue requirement of \$73,396 (\$48,600 + \$24,796). This represents a 51.02 percent increase in Bedford's 2021 test year revenues derived from customer rates.

4.5.1.4. The Settling Parties agree that Step 1 shall not be subject to reconciliation with the temporary rates previously approved in this proceeding by Commission Order No. 26,793 dated March 29, 2023.

4.5.2. Step 2 – Limited 2023 Pump Replacements

4.5.2.1. The Settling Parties agree that it is just and reasonable to allow recovery of a second step adjustment limited to the actual cost of and expenses associated with Bedford's first three pump replacements that occur during 2023. Although these costs are beyond twelve months of Bedford's 2021 Test Year, the Settling Parties wish to extend the time between general rate cases and believe this Limited Step 2 will aid in accomplishing that goal.

4.5.2.2. The estimated Step 2 pump replacement costs are depicted on Schedule 1 of Attachment C and is anticipated to include approximately \$12,000 of additional Plant in Service resulting in an estimated increase in Bedford's annual net operating income of \$2,689.³ If approved, Step 2 is currently estimated to result in an annual rate of \$975.46 (\$243.87 per quarter) per customer. This represents an additional increase of \$34.48 (\$8.62 per quarter), or 3.66 percent, in the estimated rate resulting from Step 1 of \$940.98 (\$235.25 per quarter) indicated in Section 4.5.1.2 of this Agreement. See Schedule 2 of Attachment C.

4.5.2.3. Bedford agrees to submit a compliance filing in this proceeding for the Limited Step 2 to corroborate the actual costs and impact to the revenue requirement, in

³ This represents an additional increase of 5.53 percent based on Bedford's 2021 test year revenues derived from customer rates of \$48,600. Combined with Bedford's proposed permanent increase of \$17,735 (See Section 4.1) and the estimated Step 1 increase of \$7,061 (See Section 4.5.1.2) the total estimated revenue increase after Step 2 will be approximately \$27,485 (\$17,735 + \$7,061 + \$2,689), resulting in a total revenue requirement of \$76,085 (\$48,600 + \$27,485). This represents a 56.55 percent increase in Bedford's 2021 test year revenues derived from customer rates.

accordance with New Hampshire Code of Administrative Rules, Puc 1604.08, as soon after its first three 2023 replacement pumps have been installed but not later than December 31, 2023. Bedford's Limited Step 2 filing will be subject to review and audit by the DOE. Thereafter, a recommendation will be made to the Commission for its consideration regarding approval of the Limited Step 2.

4.5.2.4. The Settling Parties agree and recommend that the Limited Step 2 would not become effective any earlier than Bedford's April 1, 2024, First Quarter billings, provided that Bedford's first three 2023 pump replacements are used and useful and in service to customers and that the pump replacement costs were prudent, just, and reasonable.

4.5.2.5. The Settling Parties agree that the Limited Step 2 shall not be subject to reconciliation with the temporary rates previously approved in this proceeding by Commission Order No. 26,793 dated March 29, 2023.

4.5.2.6. The Settling Parties agree that Bedford should be entitled to recovery of its reasonable and prudently incurred expenses related to the filing and adjudication of the Limited Step 2 via a separate customer surcharge; such expenses to be filed within thirty days of Commission approval of the Limited Step 2 surcharge.

4.6. Management Fees and Affiliate Agreement

On June 14, 2023, pursuant to RSA 366, Bedford filed a copy of its affiliate agreement with Lamontagne Management Corporation (LMC) with the Commission. The contracted services and the rates contained in that affiliate agreement correspond with the proposed revenue requirement in this Agreement. The Settling Parties agree and recommend the Commission find that the services and rates contained in the affiliate agreement with LMC and reflected in the

calculation of Bedford's total revenue requirement proposed in this Agreement are just and reasonable.

4.7. Annual Reporting of Accounts Receivable

4.7.1. In *Bedford Waste Services Corporation*, Order No. 24,479, dated July 1, 2005, in Docket No. DW 04-144, the Commission required Bedford to include with its annual report filings an Aged Accounts Receivable Report. To comply, Bedford has provided a detailed Accounts Receivable Aging Report that included customers' names along with each customer's specific aged accounts receivable balance due.

4.7.2. The Settling Parties agree and recommend that beginning with Bedford's 2023 Annual Report, in lieu of the detailed Accounts Receivable Aging Report that has been provided by the Company since 2005, Bedford would, instead, only provide the respective amounts by total reflected in Bedford's year-end accounts receivable balance that are a) current, b) 1-30 days past due, c) 31-60 days past due, d) 61- 90 days past due, and e) over 90 days past due. Bedford agrees to file this report contemporaneously with its Annual Report. The Settling Parties agree to reassess and provide a subsequent recommendation regarding this reporting requirement to the Commission prior to the conclusion of Bedford's next general rate proceeding.

4.8. Depreciation Fund Account

4.8.1. In *Bedford Waste Services Corp.*, Order No. 23,388, dated January 7, 2000, in Docket No. DW 99-051, the Commission required Bedford to maintain a Depreciation Fund Account into which Bedford would place "any revenues in excess of (1) operation and maintenance expenses and (2) interest and repayment of principal". In *Bedford Waste Services Corporation*, Order No. 24,479, dated July 1, 2005, in Docket No. DW 04-144, the Commission further allowed that deposits to the Depreciation Fund Account shall "reflect deductions for State

and Local Property Taxes paid during that given year.” As of December 31, 2022, however, the balance of Bedford’s Depreciation Fund Account was \$0. See Bedford’s responses to DOE 1-18 and DOE 2-7 (Attachment E, pages 171 and 175).

4.8.2. For purposes of the year 2023 and following until the conclusion of Bedford’s next general rate proceeding, the Settling Parties agree and recommend that Bedford should continue to file an Annual Calculation of Deposits to the Depreciation Fund Account contemporaneously with its Annual Report. The Settling Parties further agree to reassess the effectiveness of the Depreciation Fund Account and provide a subsequent recommendation to the Commission regarding the continuation of the Depreciation Fund Account prior to the conclusion of Bedford’s next general rate proceeding.

4.9. Financings

4.9.1. In Docket No. DW 22-054, Bedford’s most recent financing case, a Settlement Agreement was filed by the Company and the DOE that introduced the following proposed debt instruments:

(1) A long-term note with Bedford’s sole-shareholder, Robert S. LaMontagne, in the amount of \$186,207.24 payable in equal monthly installments over 15 years at a fixed interest rate of 6.80 percent. The purpose of which was to refinance a loan with Merrimack County Savings Bank as well as a short-term shareholder loan, and to pay past-due operating costs.

(2) A non-interest bearing advance from the Shareholder in the amount of approximately \$30,000 for prudently incurred rate case expenses related to Bedford’s rate proceeding in the instant docket.

(3) A working capital line-of-credit from the Shareholder in an amount not to exceed \$12,000, relative to Bedford’s working capital requirements, at a variable interest rate based on the Wall Street Journal prime rate plus 0.50 percent.

In Commission Order No. 26,800, issued on April 12, 2023, the Commission approved the proposed long-term note with Bedford’s sole-shareholder in the amount of \$186,207.24.

Regarding the other two proposed debt instruments, the Commission's order anticipated a recommendation for approval of these included in this Agreement.

4.9.2. The Settling Parties agree and recommend the Commission approve the following two debt instruments between Bedford and Robert S. LaMontagne (See Attachment D):

4.9.2.1. Amount: Actual amount of rate case expenses approved by the Commission.
Term: This note will terminate six months after the conclusion of Bedford's rate case expense recovery period approved by the Commission.
Interest Rate: 0.00 percent
Use of proceeds: rate case expenses for Docket No. DW 22-058.

4.9.2.2. Amount: \$12,000.
Term: 7 years. The necessity of this line of credit will also be reviewed in Bedford's next rate proceeding.
Interest Rate: Wall Street Journal prime rate, plus 0.50 percent, variable
Use of proceeds: working capital needs starting with Limited Step 2 2023 pump replacements.

4.9.3. The Settling Parties agree, pursuant to RSA 369:1, the use of the proceeds and the notes' effect on rates is consistent with the public good and will produce just and reasonable rates pursuant to RSA 378:7.

4.10. Reassessment of Leach Fields

Bedford's last assessed the condition of its leach fields in October of 2021. See Bedford's response to DOE 2-10 (Attachment E, pp. 200-233). The Settling Parties agree and recommend that Bedford should reassess the condition of its leach fields and file a report as to the results of that assessment with the Commission and the DOE no later than January 1, 2027.

4.11 Miscellaneous Tariff Revision to Page 6a

The Settling Parties agree and recommend the Commission approve Bedford's proposed revision to Original Page 6a of its Tariff to include the actual attorney fees incurred by Bedford in the amount of collection costs to be reimbursed by customers. This proposed tariff change can be seen in Attachment G.

5. CONDITIONS

5.1 This Agreement is expressly conditioned upon the Commission's acceptance of all its provisions, without change or condition. If the Commission does not accept the Agreement in its entirety, without change or condition, or if the Commission makes any findings that go beyond the scope of this Agreement, and any of the Settling Parties notify the Commission within five business days of their disagreement with any such changes, conditions, or findings, the Agreement shall be deemed to be withdrawn, in which event it shall be deemed to be null and void and without effect, and shall not constitute any part of the record in this proceeding and shall not be used for any other purpose.

5.2 The Commission's approval of this Agreement shall not constitute continuing approval of, or precedent regarding, any particular principle or issue in this proceeding, but such approval does constitute a determination that the terms of this Agreement are consistent with RSA 378:7, :8, and :28.

5.3 The rights conferred and the obligations imposed on the Settling Parties by this Agreement shall be binding on or inure to the benefit of any successors in interest or assignees as if such successor or assignee was itself a signatory party. The Settling Parties agree to cooperate in advocating that this Agreement be approved by the Commission in its entirety and without modification.

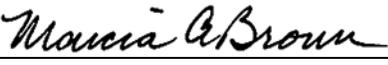
5.4 The discussions that produced this Agreement have been conducted on the explicit understanding that all offers of settlement relating thereto are and shall be confidential, shall be without prejudice to the position of any party or participant representing any such offer or participating in any such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

IN WITNESS WHEREOF, the Settling Parties to this Agreement have caused the Agreement to be duly signed in their respective names by their fully authorized agents.

BEDFORD WASTE SERVICES CORPORATION

By its Attorney,

Dated: June 28, 2023



Marcia A. Brown, Esq.

N.H. DEPARTMENT OF ENERGY

By its Attorneys,

Dated: June 28, 2023



Matthew Young, Esq.