

STATE OF NEW HAMPSHIRE
BEFORE THE
NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION
Docket No. DW 22-068

Lakes Region Water Company, Inc.
Request for Step Adjustment

Technical Statement of Jayson P. Laflamme, Director – Water Group, Division of Regulatory Support, New Hampshire Department of Energy

Technical Statement Regarding Recovery of Step-Related Expenses Associated with Step I Adjustment

December 21, 2023

Pursuant to RSA 12-P:2, IV, please accept this Technical Statement in support of the New Hampshire Department of Energy’s (“DOE”) position regarding the proposed recovery by Lakes Region Water Company, Inc. (“LRWC” or “the Company”) of its step-related expenses associated with the filing and adjudication of its Step I Adjustment. For the factual and policy reasons discussed below, the DOE supports LRWC’s recovery of appropriate expenses related to the filing and adjudication of its approved step adjustment. This technical statement includes the following sections:

Background

Summary of Step Adjustment Policy Benefits

Step Adjustments are Valuable Tools for Regulating Small Water Utilities

The DOE Supports LRWC’s Recovery of Appropriate Step-Related Expenses

Recovery is Consistent with Past Practice

Recommendation

Background

In Docket No. DW 20-187, LRWC’s general rate case proceeding, the Commission approved a settlement agreement providing for 1) the establishment of permanent rates, 2) the filing of a Step I rate adjustment, and 3) the recovery of rate case expenses relating to the establishment of both permanent rates and the step adjustment.¹ In Docket No. DW 22-068, a continuation of LRWC’s general rate proceeding, the Commission approved a settlement agreement establishing the Company’s Step I Adjustment and authorizing LRWC to file for recovery of its rate case expenses related to both the permanent rate and the step adjustment

¹ Commission Order No. 26,633 (May 27, 2022; revised July 12, 2022).

proceedings.² On October 26, 2023, LRWC filed a settlement agreement in both dockets for recovery its rate case expenses and temporary-to-permanent rate reconciliation relative to the permanent rate proceeding in DW 20-187 and its expenses incurred relative to the approval of its step adjustment in DW 22-068. On November 21, 2023, the Commission issued Order No. 26,905 in DW 20-187 approving LRWC's recovery of rate case expenses and temporary-to-permanent rate reconciliation relative to the permanent rate proceeding. On the same date, the Commission also issued a procedural order in DW 22-068, requesting the settling parties to submit legal briefs "concerning the legal basis and any precedent for requesting recovery of expenses relating to the step adjustment proceeding" within thirty days of the date of the Commission's order.³

This technical statement describes the factual bases and policies that underly the DOE's support of LRWC's recovery of reasonable step-related expenses, in response to the Commission's direction to the settling parties in its November 21, 2023 procedural order.

Summary of Step Adjustment Policy Benefits

Overall, the specific policy benefits of step adjustments for small water utilities, such as LRWC, and their relatively small number of customers are as follows:

- Extends the timeframe between general rate proceedings:
 - Reduces the overall time and expense associated with general rate proceedings not only for the utility but for the PUC, DOE, OCA, etc. This often translates into savings for customers.
 - Greater overall rate gradualism for customers.
- Mitigates regulatory lag:
 - Assists in allowing a small water utility from not under-earning immediately after the conclusion of a general rate proceeding.
 - Assists small water utilities with limited resources to remain financially viable.
 - Further incentivizes a utility to make necessary plant additions to improve the adequacy and safety of its water supply and distribution system for the benefit of customers.
- Reduces overall rate shock to customers:
 - Appropriate planning as to the timing of certain step adjustments can be utilized as a tool to achieve greater rate gradualism for customers relative to large projects that may extend over multiple years.

Step Adjustments are Valuable Tools for Regulating Small Water Utilities

From the perspective of the DOE's Water Group of the Division of Regulatory Support, the concept of step adjustments has proven to be a valuable tool towards the goal of balancing the interests of the utility and its customers in numerous rate cases filed by small water

² Commission Order No. 26,790 (March 27, 2023).

³ Procedural Order (November 21, 2023) at 2.

companies. For the most part, step adjustments for small water utilities are associated with relatively large “non-revenue producing”⁴ plant additions placed into service by the utility during the *one-to-two-year period* subsequent to the approved test year associated with a general rate proceeding. The nature of these plant additions are mainly investments necessary to improve the safe and adequate supply and distribution of water to customers and are often the result of a regulatory recommendation or mandate. As such, step adjustment proceedings are most often limited in scope and may also be associated with capital improvements recently addressed in a general rate proceeding. Therefore, the time period to file for and adjudicate a step adjustment rate increase is usually much shorter than the time period applicable to permanent rate reviews, with more immediate results than would be the case if the utility were required to wait until its next, future, full rate case proceeding. Thus, providing for a relatively expeditious rate recovery via a step adjustment(s) for small water utilities with limited resources mitigates regulatory lag, especially since small water utilities have a greater sensitivity to this type of delay.

Small water utilities place value on their ability to recover step-related expenses before their next rate cases. This is because small water utilities are less likely to have professional skill on staff, such as attorneys and other professional consultants, and therefore are more likely to contract for these services. Where these professional skills are only provided for to the extent of the normal utility operations of a small water company, the cost of attorney and consultant services provided relative to general rate cases and step adjustment proceedings are not recovered in final approved permanent rates. That is the case in these dockets. For example, while LRWC includes the costs for legal hours related to the standard generic legal tasks of its normal operating activities in its revenue requirement, the costs associated with the legal advice it received relative to its rate case and step increase proceedings are not included in its revenue requirement. Even the DOE must avail itself of contracted professionals for some aspects of permanent rate proceedings and step increases, and small water utilities, including LRWC, can only recover those costs via rate case expense and step-related expense surcharges as they are not provided for in approved permanent customer rates.

Finally, small water utilities are “small” by definition. As such, large capital expenses are spread over a limited customer base. Step increases, and their associated expenses, allow utilities and/or agencies to spread these cost increases over a longer period of time, resulting in more gradual rate increases for small utility customers.

The DOE Supports LRWC’s Recovery of Appropriate Step-Related Expenses for Step I and Step II Adjustments

The DOE’s Water Group supports such a recovery as it pertains to LRWC, a small water utility. As explained above, LRWC’s legal, administrative, and other consulting expenses incurred relative to obtaining approval for a step adjustment are, for the most part, separate and distinct from its normal utility operating expenses and are not included in the approved revenue requirement upon which customer rates are based. Further, final step-related expenses are

⁴ In instances where a plant addition might result in additional revenues for the utility, the projected additional revenues are deducted from the calculated revenue requirement associated with the step adjustment.

normally incurred subsequent to the rate case expenses associated with a utility's general rate proceeding that are recoverable under the N.H. Admin. R. Puc 1900 rules. Final step-related expenses are not known until after the step adjustment is adjudicated. As such, if LRWC is not allowed recovery of its expenses associated with the filing and adjudication of its step adjustments, it would be forced to incur diminished revenues specifically related to these types of step adjustment administrative expenditures, as these are not included in permanent rates. While the magnitude of the expenditures related to obtaining approval for step increases is normally not as great as typical rate case expenses, nonetheless, they can be significant costs especially for small water utilities who have no choice but to hire outside legal counsel and other consultants relative to step adjustment proceedings. Small water utilities with limited financial resources would be especially sensitive to such a loss, which could significantly diminish the benefits of step adjustments that were identified previously for small water utilities and could be a substantial disincentive for small utilities such as LRWC whose requested step-related expenses of \$19,245 represent 5.11% of its total approved Net Operating Income Requirement.⁵

⁶ This would result in more frequent rate cases, potentially extend the timeframe for needed capital improvements and result in more significant rate increases following standard permanent rate case proceedings.

Recovery of Step-Expenses is Consistent with Past Precedent

Small water utility recovery of step-related expenses is also consistent with past precedent. The Commission has previously issued orders approving the recovery of expenditures incurred by water utilities in the process of obtaining approval for step adjustments via customer surcharges. Prior orders evidencing step-related expense approval for small water utilities include the following:

- Docket No. DW 08-065, Hampstead Area Water Company, Inc., Commission Order No. 25,077 (February 25, 2010) at 5.
- Docket No. DW 08-070, Lakes Region Water Company, Inc., Commission Order No. 24,925 (December 30, 2008) at 9 and 15, and Order No. 24,954 (March 27, 2009) at 4.
- Docket No. DW 08-070, Lakes Region Water Company, Inc., Commission Order No. 25,197 (February 18, 2011) at 4, and Order No. 25,226 (May 27, 2011) at 3.
- Docket No. 13-213, West Swanzey Water Company, Commission Order No. 25,606 (December 19, 2013) at 5.
- Docket No. DW 17-118, Hampstead Area Water Company, Inc., Commission Order No. 26,248 (May 6, 2019) at 3.

⁵ \$19,245 step-related expenses ÷ \$376,631 total approved net operating income requirement (\$307,258 [permanent rates] + \$69,373 [Step I]) = 5.11%.

⁶ By way of further example, in DW 23-020, Hampstead Area Water Company has filed for recovery of \$65,988 in step-related expenses, representing 15.08% of its total approved net operating income requirement. (\$65,988 ÷ \$437,664 [\$328,060 (permanent rates) + \$105,969 (Step I) + \$3,635 (Step II)]) = 15.08%

DOE Recommendation

In summary, for the factual and policy reasons explained above, the DOE supports LRWC's recovery of appropriate, just and reasonable expenditures the Company incurred relative to the filing and adjudication of Step I as proposed in the Permanent Rates Settlement Agreement in Docket No. DW 20-187 (See Section M at 15) approved by Commission Order No. 26,633 (May 27, 2022; revised July 12, 2022), the Step I Settlement Agreement in Docket No. DW 22-068 (See Section F at 11) approved by Commission Order No. 26,790 (March 27, 2023), and the Settlement Agreement of Parties Regarding Temporary-to-Permanent Rate Revenue Reconciliation and Rate Case Expenses filed in DW 20-187 and DW 22-068 on October 26, 2023.