

**STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION**

LAKES REGION WATER COMPANY, INC.

Docket No. DW 22 – 068

Petition for Step I Adjustment

**STIPULATION AND RECOMMENDATION OF PARTIES TO
APPROVE STEP I ADJUSTMENT BY ORDER NISI**

I. INTRODUCTION

This Stipulation and Recommendation of Parties to Approve Step I Adjustment by Order Nisi is entered into this 9th day of March 2023, by and among Lakes Region Water Company, Inc. (“Lakes Region” or “the Company”) and the New Hampshire Department of Energy (“DOE”) (collectively the Settling Parties) based on the following:

II. PROCEDURAL BACKGROUND

A. Initial Filing and Temporary Rates Effective September 23, 2021.

Lakes Region is a regulated utility defined by RSA 362:2 and RSA 362:4, providing water service to approximately 1,813 customers in the communities of Moultonborough, Laconia, Tuftonboro, Thornton, Campton, Conway, Freedom, Gilford, Tamworth, Ossipee, and Albany. On March 26, 2020, the New Hampshire Public Utilities Commission (Commission) issued Order No. 26,340 which directed Lakes Region to “file a rate case no later than December 31, 2020, utilizing a 2019 test year”.

On November 30, 2020, Lakes Region filed a notice of intent to file rate schedules in Docket No. DW 20 – 187. On January 15, 2021, Lakes Region submitted a *Petition for Permanent and Temporary Rate Increases (Petition)*. In its *Petition*, Lakes Region requested an

increase in, and consolidation of, its permanent rates, including the rates for its Consolidated Tariff Systems, Dockham Shores Division, and Wildwood Division. On March 26, 2021, the Commission issued Order No. 26,463, *Order Suspending Proposed Tariffs and Scheduling Prehearing Conference*. Lakes Region published Order No. 26,463 on its website that same day and filed an affidavit of publication on April 20, 2021. On April 7, 2021, the Lake Ossipee Village homeowners (“LOV”) submitted a petition to intervene, to which the Company assented on April 22, 2021. On May 3, 2021, the Commission held a prehearing conference pursuant to Order No. 26,463. The Commission granted LOV’s petition to intervene on August 3, 2021.

On August 30, 2021, Lakes Region, LOV, and the DOE filed a *Settlement Agreement – Temporary Rates*. On September 23, 2021, the Commission approved the *Settlement Agreement – Temporary Rates* in Order No. 26,522, thereby making the temporary rates effective as of September 23, 2021. Lakes Region filed its updated temporary rate tariff pages on October 7, 2021.

B. Permanent Rates Settlement Agreement.

Following approval of temporary rates, Lakes Region, the DOE, and LOV participated in multiple rounds of discovery including data requests, technical sessions and technical session requests pursuant to the procedural schedule approved by the Commission in Docket No. DW 20 – 187. As a result of discovery and discussions during technical sessions, on April 28, 2022, Lakes Region and the DOE entered into a *Permanent Rates Settlement Agreement (Settlement Agreement)* in Docket No. DW 20 – 187 requesting that the Commission approve, among other items, a permanent rate revenue requirement and a proposed Step I Adjustment (Step I).

As shown in Attachments A and C to the *Settlement Agreement* in Docket No. DW 20 – 187, the permanent rate revenue requirement and associated rates would result in a decrease of

the temporary rates approved for three customer rate groups: Waterville Valley Gateway Pool; Unmetered General Customers of the Current Consolidated group; and Metered General Customers of the Current Consolidated group. Those three customer groups comprise approximately 94 percent of the ratepayers Lakes Region serves. Once the permanent rates go into effect, these three customer groups would receive a credit through the recoupment process as provided by the Settlement Agreement and RSA 378:29.¹

The *Settlement Agreement* for permanent rates also includes a proposed Step I Adjustment, subject to review by the DOE Audit Staff and the Settling Parties, and approval by the Commission. The terms of the *Settlement Agreement* provide for a revenue requirement increase for the Company from Step I not to exceed \$144,863, and limits the resulting rate increase to no more than 10.83 percent based on Lakes Region's test year revenues of \$1,337,149. See the schedules in Attachment B to the *Settlement Agreement* in DW 20 – 187.² The Step I Adjustment included three components: “(1) the costs of post-test year plant additions placed in service as of December 31, 2020 and 2021; (2) post-test year Annual Wage Expense increases that were deferred pending review in this proceeding, as set forth in Schedules 1 to 5d in Attachment B; (3) and completion of paving work associated with post-test year plant additions estimated to be completed in the second quarter of 2022”.³

The Settling Parties recognized that, in the event that the decrease resulting from the permanent rate agreement, and the increase proposed by the Step I Adjustment occurred as

¹Conversely, two rate groups that were not previously included in Lakes Region's consolidated rate group but subsequently added, the Wildwood system's unmetered customers and the Dockham Shores system's metered customers, will experience a rate increase resulting from the change from temporary rates to permanent rates. These customers, therefore, would be charged a temporary to permanent rate recoupment charge.

² Settlement Agreement, Paragraph III (C), Page 7.

³ Settlement Agreement, Paragraph III (C), Page 6.

separate rate changes, Lakes Region’s customers could be confused by the conflicting rate changes. Consequently, the Settling Parties agreed and recommended that the permanent rate revenue requirement and the Step I Adjustment rate increase should be implemented on the same effective date. The *Settlement Agreement*, therefore, provided for the Company to continue to charge its approved temporary rates until the date set by the Commission Order approving the Step I Adjustment, subject to the protection of the temporary rate reconciliation mechanism provided by RSA 378:27 and RSA 378:29 which would result in a credit for many (but not all) of the Company’s customers for the period in which temporary rates were in place.

On May 5, 2022, the Commission held a hearing on the *Settlement Agreement* on permanent rates. On May 27, 2022, the Commission issued Order No. 26,663 approving the *Settlement Agreement*, subject to minor revisions subsequently issued by the Commission on July 12, 2022. As a result, Lakes Region is continuing to charge its temporary rates approved in Docket No. DW 20 – 187 as authorized by Order No. 26,663 pending approval of the Step I Adjustment in this proceeding.

C. Petition for Approval of the Step I Adjustment.

On October 19, 2022, Lakes Region submitted, in Docket No. DW 20 – 187, its *Petition for a Step Adjustment (Step I Petition)* pursuant to the *Settlement Agreement* reflecting “ (1) the costs of post-test year plant additions placed in service as of December 31, 2020 and 2021; (2) post-test year Annual Wage Expense increases that were deferred pending review in this proceeding, as set forth in Schedules 1 to 5d in Attachment B [of the Settlement Agreement]; (3) and completion of paving work associated with post-test year plant additions estimated to be completed in the second quarter of 2022”.⁴ Lakes Region included “all applicable materials”

⁴ Settlement Agreement, Paragraph III (C), Page 6.

related to its post-test year plant additions as required by the *Settlement Agreement*,⁵ which reflected \$749,126 in post-test year plant additions,⁶ compared to the \$670,351 identified in the schedules included with the *Settlement Agreement*.⁷ However, Paragraph 4 of Lakes Region’s *Petition* requested that the Commission approve a “step adjustment in the amount of \$144,863, which is the not-to-exceed amount approved by the Commission in the Settlement Agreement”.⁸

On October 20, 2022, the Commission issued a letter acknowledging Lakes Region’s *Step I Petition* and opened a new proceeding, Docket No. DW 22 – 068, to consider whether it should be approved. The DOE entered an appearance on November 2, 2022, and proposed a procedural schedule for review on November 3, 2022. On November 4, 2022, Lakes Region filed a *Partially Assented to Motion to Consolidate Step Adjustment and Rate Case* in both the rate case Docket No. DW 20 – 187 and in the Step I Adjustment (Docket No. DW 22 – 068) noting that: “opening a new docket creates a procedural issue in that the notice and hearing required by RSA 378:7 were satisfied in the prior Docket No. DW 20 – 187. As a result, Lakes Region requests that the Commission consolidate this proceeding with the record and service list in Docket No. DW 20 – 187 in which notice and a hearing were provided.” The DOE assented. Intervenor LOV in Docket No. DW 20 – 187 did not respond or take a position on the motion to consolidate or file an appearance in Docket No. DW 22 – 068.

On November 18, 2022, the Commission issued Order No. 26,728, *Order Denying Motion to Consolidate Dockets* in both Docket Nos. DW 20 – 187 and DW 22 – 068. However, in denying Lakes Region’s motion to consolidate the proceedings, the Commission stated the following: “To the extent that administrative notice is required, we note that the proposed Step 1

⁵ Settlement Agreement, Paragraph III (C), Page 7.

⁶ Petition, Schedule 3.

⁷ See Settlement Agreement, Attachment B, Schedule 3,

⁸ *Petition*, Paragraph 4; Settlement Agreement, Paragraph III (C), Page 7.

adjustment stems from the Settlement reached in Docket No. DW 20 – 187 and therefore take administrative notice of the record in that proceeding.” Page 3.⁹

On December 13, 2022, the Commission issued a *Commencement of Adjudicative Proceeding and Notice of Prehearing Conference* in this docket and provided notice of a prehearing conference to be held on February 1, 2022. The Commission further ordered that “Lakes Region shall notify all entities and individuals desiring to be heard at this hearing by publishing a copy of this order of notice on its website no later than two business days after the date of issue, such publication to be documented by affidavit filed with the Commission on or before January 3, 2023.” On December 22, 2022, Lakes Region filed an *Affidavit of Publication* showing that it provided notice to all customers by publication of the Commission’s order on its web site on December 14, 2022.

On December 20, 2022, the DOE Audit Division issued its *Final Audit Report* regarding Lakes Region’s proposed Step I Adjustment (See Attachment A). In its *Final Audit Report*, the DOE Audit Division found that the Company had incorrectly “combined a trade-in value of a magnetic locator, \$700 with the cost of a new magnetic locator, \$884 and reflected the sum of \$1,584 as the value of the new locator.”¹⁰ As a result, the DOE Audit Division concluded that the Company had overstated its plant in service account by \$700 and recommended that: “[t]he Company should update the filing with the correct amount of \$884 and adjust the general ledger and continuing property records to reflect the \$884.”¹¹

On February 1, 2023, the Commission held a prehearing conference in this proceeding. In

⁹ RSA 541-A:33, V provides that: “Official notice may be taken of ... (b) The record of other proceedings before the agency.” This proceeding therefore, in effect, represents a continuation of Docket No. DW 20 – 187 in which notice and a hearing were provided to all customers.

¹⁰ December 20, 2022, Final Audit Report, Page 36.

¹¹ December 20, 2022, Final Audit Report, Page 36.

response to a record request by the Commission during that hearing, the DOE filed a copy of the DOE Audit Division's *Final Audit Report* on February 1, 2023. During the technical session held immediately subsequent to the prehearing conference, the DOE requested that Lakes Region make certain adjustments to its schedules filed in support of its Petition for a Step Adjustment. On February 8, 2023, Lakes Region filed updated schedules reflecting the DOE Audit Division's December 20, 2022 *Final Audit Report* and other changes requested by the DOE.

II. TERMS

A. Step I Adjustment and Combined Revenue Requirement with Permanent Rates.

The Settling Parties to this Stipulation respectfully recommend that the Commission authorize implementation of a Step I Adjustment consisting of the three previously approved components totaling \$144,863, which represents a 10.83 percent increase in the pro forma 2019 test year revenues of \$1,337,149, as set forth in the schedules accompanying this Stipulation. (See Attachment B) The proposed Step I Adjustment equals the not-to-exceed amount for Step I as contained in the permanent rate Settlement Agreement approved by Commission Order No. 26,663, but is less than the amount calculated for Step I in Attachment B. As such, the Settling Parties agree that the combined effect of the Permanent Rate Revenue Requirement of \$41,678 approved in Order No. 26,663 and the proposed Step I Adjustment of \$144,863 would result in a total increase in Lakes Region's revenue requirement of \$186,541 ($\$41,678 + \$144,863$). The resulting revenue requirement, after approval of Step I, would be \$1,523,690, which is an approximate 13.95 percent increase in Lakes Region's pro forma 2019 test year revenues of \$1,337,149.

B. Proposed Rate Impact.

The Settling Parties to this Stipulation agree that the following chart indicates the impact to ratepayers of the Step I Adjustment as compared to the Permanent Revenue Requirement rates. The rate design is based upon a quarterly rate and a consumption charge on a per one hundred cubic feet (ccf) of water. The Settling Parties agree that these rates are based on calculations included as Attachment C to this Stipulation. The Settling Parties further agree that the following rates are just and reasonable and in the public interest and recommend that they be approved by the Commission.

Rate Group	Approved Permanent Rate Revenue Requirement Base Charge	Proposed Combined Permanent Rate and Step I Revenue Requirement Base Charge	Approved Permanent Rate Revenue Requirement Consumption Charge	Proposed Combined Permanent Rate and Step I Revenue Requirement Consumption Charge
Consolidated Tariff Systems (Divisions with Consumption Charge)	\$148.31	\$163.89	\$5.77	\$6.38
Consolidated Tariff Systems (Divisions without Consumption Charge)	\$190.10	\$210.07	N/A	N/A
Consolidated Tariff System (Waterville Valley Gateway – Pool)	\$442.70	\$489.21	N/A	N/A
Dockham Shores	\$148.31	\$163.89	\$5.77	\$6.38
Wildwood	\$190.10	\$210.07	N/A	N/A

C. Request for Commission Approval by Order Nisi.

The Settling Parties to this Stipulation further request that the Commission approve the proposed Step Adjustment without further process via order nisi, as authorized by Puc 203.20. The Settling Parties contend that there are no contested issues in this matter, and that the Commission has already held a hearing regarding the resulting rate change from the Step I Adjustment when it considered the Settlement Agreement in Docket No. DW 20 – 187. Consistent with that approved *Settlement Agreement*, the provided calculations support the proposed Step I Adjustment and will result in just and reasonable rates, as the Step I Adjustment amount is equal to the not-to-exceed limit previously approved by the Commission. Therefore, due process does not require a separate hearing to approve the resulting rates.

Puc 203.20 states:

- (b) The commission shall approve a disposition of any contested case by stipulation, settlement, consent order or default, if it determines that the result is just and reasonable and serves the public interest.
- (c) The parties to any proceeding before the commission shall, by stipulation in writing filed with the commission or entered in the record at the hearing, agree upon the facts or any portion thereof involved in the hearing when such facts are not in dispute among the parties.
- (d) If a stipulation is filed and is not contested by any party, the stipulation shall bind the commission as to the facts in question, and the commission shall consider the stipulation as evidence in the decision of the matter.

The Commission has already authorized a Step I Adjustment amount of up to \$144,863, and the proposed final amount of the Step I Adjustment is that amount. Additionally, a thorough review of the calculations and components has been completed, as the Settling Parties have met and exchanged discovery, satisfying the Commission's and the *Settlement Agreement's* requirements that all costs included in the Step I Adjustment were deemed to be prudently incurred. This document stipulates that the rates that will result from approval of the Step I

Adjustment are just, reasonable and in the public interest, and no facts in this stipulation are in dispute. Eliminating the hearing and approving the Step I Adjustment via order nisi would save the Settling Parties and the Commission valuable time and resources, and consequently minimize costs to customers. Therefore, this stipulation should be entered into the record as evidence pursuant to Puc 203.20(d), and the Commission should issue an order nisi approving the Step as authorized by Puc 203.20(b).

D. Effective Date For Step I Rate Adjustment.

The Settling Parties agree that the Step I Adjustment shall be implemented by the Company by the later of April 1, 2023, or the first day of the first month following the issuance of an order by the Commission approving this Stipulation.

E. Temporary to Permanent Rate Recoupment.

The Settling Parties to this Stipulation recognize that the Commission authorized a temporary rate increase for the Company, for service rendered as of September 23, 2021. *Lakes Region Water Company, Inc.*, Order No. 26,533 (September 23, 2021). As the Settling Parties agree that implementation of the Permanent Rate Revenue Requirement and resulting rates will be a decrease for most customers' temporary rates, a majority of the Company's customers will receive a credit for the difference between the temporary rates effective on September 1, 2021 on a service rendered basis and Step I Adjustment effective on April 1, 2023 or the first day of the first month following the issuance of an order by the Commission approving this Stipulation.

As such, the time period for the temporary-to-permanent rate recoupment shall be from September 23, 2021 through the effective date of the Commission's order approving the Step I Adjustment rates. The Settling Parties also agree that the temporary-to-permanent rate recoupment will apply solely to the Permanent Rate Revenue Requirement, which will result in a

credit to most customers, and not the Step I Adjustment revenue requirement and its resulting rate increase which, if implemented and considered the final rate for temporary to permanent rate recoupment purposes, would result in a surcharge to customers. RSA 378:29.

The Company agrees to file its temporary-to-permanent rate calculation and proposed credit/recoupment within 30 days of the Commission's order approving the Step I Adjustment and its resulting rates. The DOE agrees to review the temporary-to-permanent rate submission, which includes the possibility of propounding discovery, and submit a report to the Commission, for Commission approval of the resulting credit or surcharge.

F. Rate Case Expenses

The Settling Parties to this Stipulation agree and recommend the Commission approve Lakes Region's recovery of its reasonable rate case expenses for this proceeding through a surcharge to 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 the Step I Adjustment in this proceeding. The Settling Parties agree that the DOE will review Lakes Region's proposal and make a filing with the Commission regarding rate case expense recovery.

Any rate case expense recovery approved by the Commission shall be reflected as a separate surcharge on all customers' bills. The Settling Parties agree, however, that the surcharge may be offset by the possible credit an individual customer may be entitled to from the temporary-to-permanent rate recoupment. As such, the Settling Parties agree that the final report

provided by the DOE should combine both its review of the temporary-to-permanent rate recoupment, described in the prior section, and rate case expenses.

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, if applicable.

The Settling Parties agree that for administrative efficiency purposes, Lakes Region shall revise the “Division” paragraph of its “General Service – Metered” Tariff Page 15 to read as follows:

DIVISION

FAR ECHO HARBOR, PARADISE SHORES, WEST POINT, WATERVILLE
VALLEY GATEWAY, HIDDEN VALLEY, WENTWORTH COVE,
PENDLETON COVE, DEER RUN, WOODLAWN GROVE, ECHO LAKE
WOODS, BRAKE HILL, DOCKHAM SHORES, AND, CUSTOMERS IN THE
LAKE OSSIPPEE VILLAGE, INDIAN MOUND OR DEER COVE DIVISIONS
IN WHICH THE COMPANY HAS INSTALLED A METER.

The proposed tariff amendment will allow the Company to properly charge its customers affected by a meter installation at the appropriate time without the need to complete metering of an entire division before tariff submission.

IV. CONDITIONS

A. This Stipulation is expressly conditioned upon the Commission’s acceptance of all its provisions, without change or condition. If the Commission does not accept the Stipulation in its entirety, without change or condition, or if the Commission makes any findings that go beyond

the scope of this Stipulation, and the Settling Parties are unable to agree with said changes, conditions, or findings, the Stipulation shall be deemed withdrawn and shall not constitute any part of the record in this proceeding and shall not be used for any other purpose.

B. The Settling Parties agree that the Commission’s acceptance of the Stipulation does not constitute continuing approval of, or precedent for, any particular issue in this proceeding other than those specified herein.

C. This Stipulation may be executed in multiple counterparts, which together shall constitute an agreement.

IN WITNESS WHEREOF, the Settling Parties have caused this Stipulation 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 Attorney,

NH WATER LAW



Dated: March 9, 2023

By: _____
Justin C. Richardson, Esq.

NH DEPARTMENT OF ENERGY

Dated: March 9, 2023

By: /s/ Suzanne G. Amidon, Esq.
Suzanne G. Amidon, Esq.
Hearings Examiner/Counsel
Department of Energy/Regulatory Division