

1 **STATE OF NEW HAMPSHIRE**

2 **PUBLIC UTILITIES COMMISSION**

3 **February 1, 2023** - 9:01 a.m.
4 21 South Fruit Street
5 Suite 10
6 Concord, NH

7 RE: **DW 22-068**
8 **LAKES REGION WATER COMPANY, INC.:**
9 Petition for Step Adjustment.
 (*Prehearing conference*)

10 **PRESENT:** Chairman Daniel C. Goldner, *Presiding*
11 Commissioner Pradip K. Chattopadhyay
 Commissioner Carleton B. Simpson

12 F. Anne Ross, Esq./*PUC Legal Advisor*

13 Tracey Russo, *Clerk*

14
15 **APPEARANCES:** **Reptg. Lakes Region Water Company, Inc.:**
16 Justin C. Richardson, Esq.
 (*New Hampshire Water Law*)

17 **Reptg. New Hampshire Dept. of Energy:**
18 Suzanne G. Amidon, Esq.
19 Jayson Laflamme, Dir./Water Group
 (*Regulatory Support Division*)

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23 Court Reporter: Steven E. Patnaude, LCR No. 52

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P R O C E E D I N G

CHAIRMAN GOLDNER: Okay. Good morning, everyone. I'm Commissioner Goldner. I'm joined today by Commissioner Simpson and Commissioner Chattopadhyay.

We're here this morning for a prehearing conference by Order of Notice issued on December 13th, 2022, in Docket DW 22-068. The authority to convene a prehearing conference is derived from RSA 541-A:31, VI(c), and Puc 203.15(c), which include the broad goal of simplification of the issues in contested cases.

So, let's take appearances, beginning with the Lakes Region Water Company.

MR. RICHARDSON: Good morning, Commissioners, Chairman Goldner, Commissioner Chattopadhyay, and Commissioner Simpson. Justin Richardson, with New Hampshire Water Law, here on behalf of Lakes Region Water Company. With me at the table, I have Mr. Stephen St. Cyr, our utility rate consultant, and Leah Valladares, who is the Company's Utility Manager.

Mr. Mason was ill this morning, and sends his regrets that he could not be here in

1 person.

2 CHAIRMAN GOLDNER: Okay. Thank you
3 very much. And the New Hampshire Department of
4 Energy?

5 MS. AMIDON: Good morning. Suzanne
6 Amidon, for the Department. With me today is
7 Jayson Laflamme, who is the Director of the
8 Water.

9 CHAIRMAN GOLDNER: Very good. So,
10 April 28th, 2022, Lakes Region and the Department
11 of Energy entered into a settlement agreement
12 approving permanent rates in this proceeding,
13 which allowed for a single Step I Adjustment to
14 include (a) the cost of plant additions placed in
15 service as of December 31st, 2021; (b) limited
16 post-test year annual wage expense increases; and
17 (c) paving costs to be completed during the
18 second quarter of 2022, which the Company
19 deferred due to a customer legal dispute
20 concerning the Balmoral Improvement Association's
21 right-of-way and easement rights in that system.

22 On May 27th, 2022, the Commission
23 issued Order Number 26,633, the permanent rates
24 settlement, which approved the April 28, 2022

1 Settlement Agreement.

2 Do the parties have any preliminary
3 comments to submit concerning the request for the
4 step increase this morning?

5 MR. RICHARDSON: None from the Company.

6 CHAIRMAN GOLDNER: Okay.

7 MS. AMIDON: As to the request, no. We
8 do have a position. I'm assuming that you're
9 getting to that later?

10 CHAIRMAN GOLDNER: I think we can, yes.

11 MS. AMIDON: Okay.

12 CHAIRMAN GOLDNER: We can. That will
13 be fine.

14 So, yes. I mean, if you'd like to
15 state the position now, that would be fine, or we
16 can do it after?

17 MS. AMIDON: Then, why don't I go ahead
18 then.

19 CHAIRMAN GOLDNER: Yes.

20 MS. AMIDON: Since I've already gotten
21 your, obviously, your rapt interest in this.

22 CHAIRMAN GOLDNER: Thank you.

23 MS. AMIDON: Okay. Pursuant to the
24 procedural schedule, the Department has commenced

1 discovery of the Petition, and we'll investigate
2 it thoroughly. But, initially, we don't take a
3 position one way or another.

4 However, though, one matter has come to
5 our attention, which is the difference between
6 the step as filed here in this docket, and the
7 step agreed to in the Settlement Agreement
8 approved by the Commission in the rate case,
9 which is Order Number 26,633, dated May 27th,
10 2022, in Docket DW 20-187.

11 The Department was a party to the
12 Settlement Agreement. And among the attachments
13 to the Settlement Agreement, at Attachment B,
14 Schedule 3, which is Bates 043-044 of the
15 Settlement Agreement, is a list of 2021 projects
16 that the Company and the Staff agreed would be
17 included in the step. The total of the
18 investment for these 2021 projects was
19 "\$670,351". And you can see why I'm reading
20 this, because I have numbers.

21 Based on that total, the parties
22 agreed, and the Commission approved, a cap on the
23 revenue requirement associated with these capital
24 investments of \$144,863. This approximate

1 \$144,000 is the costs that would be included in
2 customer rates in the step increase specifically
3 agreed to in the Settlement Agreement.

4 In this filing, however, the Company
5 has included additional 2021 projects not
6 specified in the Settlement Agreement, such that
7 the total capital investment is listed as
8 "\$749,126", on Schedule 1 of the attachments to
9 Mr. St. Cyr's testimony, instead of the 670,000
10 that was agreed to by the Department in the
11 Company's rate case.

12 There is no explanation in the
13 testimony as to why this additional capital plant
14 is included in this step, or why the Company
15 appears to be -- or, you know, could be
16 interpreted as appearing to alter the terms of
17 the Settlement Agreement.

18 We don't have any additional
19 information to offer to explain this matter to
20 the Commission. But we do want the Commission to
21 be aware of this issue, in the event that the
22 Department ultimately concludes that these
23 additional investments should be removed from the
24 step filing, and instead included in the

1 Company's next rate case for recovery.

2 Thank you very much. That's our
3 position at this point on this docket.

4 CHAIRMAN GOLDNER: Thank you. Mr.
5 Richardson, if you'd like to make any comments,
6 that would be fine?

7 MR. RICHARDSON: Absolutely. Thank
8 you, Mr. Chairman.

9 And we welcome the comments from the
10 Department of Energy. I think there may be a
11 little confusion. Because the schedule that was
12 in Attachment B to the Settlement Agreement, in
13 Docket Number 20-187, included estimates, which
14 made up the \$670,000.

15 But, if you look at what was done in
16 this proceeding was, when the final numbers were
17 available, because the Settlement Agreement was
18 submitted in March of 2022, before the Annual
19 Report was done and before all the Company's
20 year-end financials has been updated, there was
21 an additional \$78,000.

22 However, we acknowledged in our
23 Petition, and I'm looking at Paragraph 4, and it
24 explains what's in the schedules. And then, the

1 last sentence of the Paragraph 4 says: "The
2 Company is therefore asking for a step adjustment
3 in the amount of \$144,863, which is the
4 not-to-exceed amount approved by the Commission
5 in the Settlement Agreement."

6 So, we, in order to give the Commission
7 and to give the Department of Energy complete
8 information, we included all of the 2021 and 2022
9 plant additions which were made, which are
10 reflected in the Annual Reports, that the numbers
11 match up. However, we recognize that the amount
12 that we're seeking in this case cannot exceed the
13 Settlement Agreement.

14 The Department of Energy has already
15 issued discovery on the changes, between what was
16 available based on estimates in the Settlement
17 Agreement versus the actuals that are now
18 reflected in the Company's books. And we think
19 we're within the parameters that were
20 anticipated, and don't intend to ask for any
21 modification to the Settlement Agreement.

22 We think this is a good project. It's
23 a fairly straightforward approach. We're using
24 the same model that has been used in the Aquarion

1 settlement agreement, which was negotiated
2 contemporaneously with this one. The only
3 difference is is that, in Aquarion, the
4 settlement agreement is being reviewed
5 administratively within the same docket. This
6 one has been broken out, which is fine. But
7 we're basically following the same parameters,
8 and treating this as a continuation of that
9 proceeding. And we're acting under the authority
10 that was approved in the Settlement Agreement.

11 So, we think this is a pretty
12 straightforward approach. And we look forward to
13 working with the Department of Energy and any
14 other interested party who may appear.
15 Obviously, we have not seen anyone yet. But
16 that's our plan to move forward.

17 CHAIRMAN GOLDNER: Okay. Thank you
18 very much.

19 We'll move to any Commissioner
20 questions, beginning with Commissioner Simpson.

21 CMSR. SIMPSON: I don't have any
22 questions today. I guess I would just address
23 the point about step adjustments.

24 As a general practice, for your

1 information, we're moving towards adjudicating
2 step adjustments in new proceedings, due to the
3 vastness of rate case records, and the
4 administrative efficiency that we feel that that
5 affords.

6 I hope that you understand that that
7 doesn't mean that we discount evidence from the
8 rate case docket. We're just -- we open a new
9 docket purely to review step adjustments. And
10 that's been a practice that we're implementing.

11 So, I just offer that for your
12 understanding. And, if you have a question,
13 please, Attorney Richardson?

14 MR. RICHARDSON: Absolutely. The
15 Company acknowledges that. And I believe we
16 submitted a Motion to Consolidate, which the
17 Commission denied.

18 CMSR. SIMPSON: Uh-huh.

19 MR. RICHARDSON: But, in so doing,
20 issued an administrative notice of the prior
21 proceeding, which is helpful.

22 And, for the record, when we filed this
23 proceeding, we provided a copy of both the Order
24 of Notice and subsequent orders and materials in

1 the step filing to the parties in the underlying
2 rate case. So, everyone has been advised of it.

3 I can't, obviously, speak for the Lake
4 Ossipee Village Homeowners Association, who were
5 a party in that proceeding, except to say that we
6 did keep them informed and advised of the
7 information, and they have not -- they have
8 elected not to come here today.

9 CMSR. SIMPSON: Okay. That's all I
10 have, Mr. Chairman. Thank you.

11 CHAIRMAN GOLDNER: Very good. Let's
12 move to Commissioner Chattopadhyay.

13 CMSR. CHATTOPADHYAY: Thank you. Very
14 quickly, for the DOE.

15 There must be an audit that will not
16 happen, right, for a step increase, usually, do
17 you do it or not do it? So, we're talking about
18 whether the Audit Division sort of takes a look
19 at the numbers?

20 MR. LAFLAMME: There was an audit done,
21 and a Final Report was issued a number of weeks
22 ago, in December, I believe.

23 CHAIRMAN GOLDNER: Can you please file
24 that with the Commission, Mr. Laflamme?

1 MR. LAFLAMME: December 20th. Sure.

2 CHAIRMAN GOLDNER: Thank you.

3 MR. LAFLAMME: Yes.

4 CHAIRMAN GOLDNER: I'm sorry, Attorney
5 Amidon, did --

6 MS. AMIDON: No. What I wanted to add
7 is, I believe it was in that audit that these
8 additional projects were identified. So, it
9 would be appropriate for the Department to file
10 that with you in this docket. And we'll do that
11 later today.

12 CHAIRMAN GOLDNER: Just as a general
13 matter, does the Department, as a matter of
14 practice, file audits with the Commission on any
15 procedure or any docket that they're auditing?

16 MS. AMIDON: To my knowledge, those are
17 filed in connection with rate cases. I have not
18 seen the audit report filed with the Commission,
19 unless there was an item that the audit
20 uncovered, which required a response from the
21 utility, and the utility didn't agree with the
22 guidance of the audit. That's been the most
23 case.

24 But, no, there's no standard practice.

1 It's usually an exception.

2 CHAIRMAN GOLDNER: I think that's
3 probably something we'll want to do something
4 about outside this docket. I think, from the
5 Commission's perspective, it's helpful to be able
6 to know, even if Audit has confirmed that
7 everything is correct, it gives a higher
8 confidence or a high confidence that everything
9 is in order.

10 So, I think our general request would
11 be to always file the audit, even if the finding
12 is that everything is in perfect order.

13 MR. LAFLAMME: It's been our standard
14 practice that, if a settlement is reached in a
15 proceeding, such as this, then the audit would be
16 attached to that settlement.

17 CHAIRMAN GOLDNER: Okay. Okay. So, in
18 this particular case -- in this particular case,
19 when would we have -- when will we normally have
20 seen the audit, given the layout of this
21 particular docket?

22 MR. LAFLAMME: I believe that the
23 filing of a settlement would be in March, I
24 believe.

1 CHAIRMAN GOLDNER: In March, yes.

2 MR. LAFLAMME: Yes.

3 CHAIRMAN GOLDNER: That's what I'm
4 looking at here, too. So, your normal procedure
5 would be, go do the discovery process, finish
6 everything, even though you already have the
7 audit, you might have a further finding. And,
8 so, you would file a final audit in March, is
9 that my understanding here?

10 MR. LAFLAMME: Well, we would attach a
11 copy of the audit to a filing with the
12 Commission.

13 CHAIRMAN GOLDNER: I see. So, there's
14 no -- you don't expect to have any further
15 findings in the audit, it's just your normal
16 procedure would be to attach the audit, which has
17 already happened in this case, in your final
18 filing?

19 MR. LAFLAMME: That is correct.

20 CHAIRMAN GOLDNER: Okay. All right.
21 Thank you.

22 MS. AMIDON: But, just as a final word,
23 I'm sure the Department would be interested in
24 trying to do whatever to help complete the record

1 for the Commission, which is its statutory duty.
2 So, you know, should there be some kind of
3 uniform adoption of a rule or whatever to submit
4 those audits, I think that we would have to
5 consider that.

6 MR. LAFLAMME: Also, the audits are
7 done by the Safety Division, which is a separate
8 department from the Water Group.

9 CHAIRMAN GOLDNER: Okay. Thank you.
10 You just know that we place a very high value on
11 the audit. And, so, that's something that we're
12 always interested in. And maybe there is some
13 refinement of the current procedure that we could
14 explore in the future. But thank you for the
15 comments today, that's very helpful.

16 I'm sorry, Commissioner Chattopadhyay.
17 I've taken over your question-and-answer period.

18 CMSR. CHATTOPADHYAY: No problem.

19 So, I mean, as you probably might be
20 aware, and it's a little bit, from my end at
21 least, at least about the fact that, when I moved
22 from the OCA to this position, there were many
23 dockets that I was kind of recused from. So,
24 that may create a little bit of, you know, lack

1 of understanding from my end what's exactly going
2 on.

3 So, but, because this is a separate
4 docket, I greatly appreciate your point about,
5 you know, at least we will be able to look at the
6 audit in this docket itself, when you file
7 something.

8 *[Atty. Amidon indicating in the*
9 *affirmative.]*

10 CMSR. CHATTOPADHYAY: That's extremely
11 helpful.

12 The other thing that I would talk about
13 is, again, this is a prehearing conference. It's
14 pretty early in the process. But, given what I
15 heard from the DOE, this question just comes up,
16 okay?

17 So, in the Settlement, there was a list
18 of projects that was, you know, "blessed", within
19 quotes, is that correct?

20 MR. LAFLAMME: Yes.

21 CMSR. CHATTOPADHYAY: And do you have a
22 sense of, if we were sticking to just those
23 projects, what the costs would be? Would it be
24 that -- would it still be beyond or at least at

1 the cap that you had agreed upon in the
2 Settlement, or would it be less, you know, less
3 than that?

4 MR. LAFLAMME: Our rough estimate,
5 back-of-the-envelope calculation, would indicate
6 that, if it were just those projects, the final
7 amount would be approximately the cap, the cap
8 amount.

9 CMSR. CHATTOPADHYAY: Okay. Thank you.
10 That's all I have.

11 CHAIRMAN GOLDNER: All right. Very
12 good.

13 I'll just move quickly to the topic of
14 "rate case expenses". Attorney Richardson, I
15 believe, out of an abundance of caution, you've
16 filed the rate case expenses both in this docket
17 and in the rate case docket, 20-187. My
18 encouragement would just to be to file them in
19 20-187, the rate case, and not in this docket,
20 because it's not a part of the step that was
21 agreed to in the Settlement. So, we would just
22 address it in the rate case docket.

23 MR. RICHARDSON: And that's fine
24 administratively. The reason for filing it in

1 this docket was primarily because the Settlement
2 Agreement anticipates that there will be, once
3 the step adjustment is approved in this
4 proceeding, that's when the rate recoupment will
5 occur. And, since the permanent rates that were
6 set in the rate case were less than what the
7 temporary rates were, there will be an offsetting
8 credit, with a recoupment credit to the customers
9 being offset on the rate case expenses.

10 So, we wanted to make sure that the
11 information was available in both proceedings as
12 part of the record. So that whichever proceeding
13 is used to address the rate case expenses has the
14 continuation of the record in that regard.

15 We can continue to file in either both
16 proceedings or only in the other one, based on
17 what the Commission prefers.

18 CHAIRMAN GOLDNER: Okay. Thank you.
19 Just a moment. Let me consult with Attorney
20 Ross.

21 *[Chairman Goldner and Atty. Ross*
22 *conferring.]*

23 CHAIRMAN GOLDNER: Okay. Thank you,
24 Attorney Richardson. Yes, just to clarify. So,

1 we will address the rate case expenses in the
2 rate case docket. But, in terms of filing it in
3 both dockets, including this docket, for
4 information, is fine. So, thank you.

5 Okay. Let's move quickly to the
6 procedural schedule. Oh, I'm sorry. I'm sorry,
7 Attorney Amidon.

8 MS. AMIDON: Mr. Chairman, I apologize.
9 I want to be clear. Would you like the
10 Department to send the Commission the audit at
11 this point in the proceeding, or do you want to
12 wait until we would normally file it, which is in
13 connection with any Staff memorandum or
14 settlement, either case? Which is the preferred
15 avenue for you?

16 CHAIRMAN GOLDNER: Yes. Let me consult
17 with the other Commissioners.

18 MS. AMIDON: Yes. Okay.

19 CHAIRMAN GOLDNER: And just a second
20 please.

21 *[Chairman Goldner, Cmsr. Simpson, and*
22 *Cmsr. Chattopadhyay conferring, along*
23 *with Atty. Ross as well.]*

24 CHAIRMAN GOLDNER: All right. Thank

1 you, Attorney Amidon, for the offer. We will
2 take you up on the offer to file it early. And
3 that way, if we have any questions, we can
4 address it early in the process, rather than
5 later.

6 MS. AMIDON: Right. And, so, the
7 letter, just to inform you, the letter will
8 probably be signed by Mr. Laflamme, and he can --
9 he might be able to answer any questions you have
10 about it, because he's more familiar with this
11 whole proceeding than I am. I'm just coming in
12 at this late date. So, I just thought I would
13 let you know.

14 CHAIRMAN GOLDNER: Thank you. Thank
15 you. That's perfect. Thank you for the
16 flexibility on that.

17 Okay. On the procedural schedule, the
18 parties proposed a procedural schedule on
19 November 3rd, 2022. And, you know, so, given the
20 passage of time, do the parties wish to modify
21 the schedule or proceed with the schedule as
22 stated on November 3rd?

23 MS. AMIDON: We're fine with the
24 schedule as proposed.

1 MR. RICHARDSON: The Company concurs.

2 CHAIRMAN GOLDNER: Okay. Very good.

3 Are there any other issues the parties wish to
4 address before we adjourn?

5 MR. RICHARDSON: If I might respond to
6 Commissioner Chattopadhyay's questions to the
7 Department of Energy?

8 As part of the Settlement Agreement,
9 there was an Attachment B, Schedule 3, which
10 listed all of the assets that were part of what
11 was originally a Step I and Step II proposal;
12 Step I being the 2020 plant additions, Step II
13 being the 2021 additions. So, 2020 and '21, in
14 two separate; they were ultimately consolidated.

15 And there hasn't been a change to the
16 scope, in that they were plant additions that
17 occurred in particular years. They were
18 consolidated into a single step. We're following
19 the cap that was agreed to in the Settlement
20 Agreement. And we, obviously, recognize that any
21 plant improvements are subject to the statutory
22 criteria, that they have to be used and useful,
23 and prudent, and all of those other statutory
24 criteria which the Commission administers.

1 So, that's our viewpoint on this issue.
2 And we'll, obviously, work with the Department of
3 Energy to get a goal of a settlement agreement in
4 front of you.

5 And we have no objection to filing the
6 Audit Report, which has been done already.

7 Thank you.

8 CHAIRMAN GOLDNER: Okay. Thank you,
9 Attorney Richardson.

10 Just checking in with the Department of
11 Energy, if there's any other final comments or
12 any response to Attorney Richardson's comments?

13 MS. AMIDON: Thank you, no. I've just
14 been musing about other things with my colleague
15 here. Thank you very much.

16 CHAIRMAN GOLDNER: Commissioners, any
17 other questions?

18 *[Cmsr. Simpson and Cmsr. Chattopadhyay*
19 *indicating in the negative.]*

20 CHAIRMAN GOLDNER: Okay. I'll thank
21 everyone. And we are adjourned.

22 ***(Whereupon the prehearing conference***
23 ***was adjourned at 9:24 a.m., and a***
24 ***technical session was held thereafter.)***