

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

**Docket No. DW 23-020**

**Hampstead Area Water Company, Inc.**  
**Request for Step II Adjustment**

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

***Technical Statement Regarding Recovery of Rate Case Expenses Relating to Step I and Step II Adjustments***

December 7, 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 Hampstead Area Water Company, Inc.’s (“HAWC” or “the Company”) of its step-related expenses associated with the filing and adjudication of its Step I and Step II Rate Adjustments. For the factual and policy reasons discussed below, the DOE supports HAWC’s recovery of appropriate expenses related to the filing and adjudication of its approved step adjustments. 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 HAWC’s Recovery of Appropriate Step-Related Expenses

Recovery is Consistent with Past Practice

Recommendation

**Background**

In Docket No. DW 20-117, HAWC’s general rate case proceeding, the Commission approved permanent rates, permanent rate case expenses, and a Step I rate adjustment for the Company.<sup>1</sup> On November 8, 2023, the Commission issued Order No. 26,902 in this proceeding, DW 23-020, approving a Settlement Agreement regarding HAWC’s proposed Step II Rate Adjustment, and requesting the settling parties to brief the legal basis for the recovery of

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<sup>1</sup> Permanent Rates – Order No. 26,635 (June 2, 2022; revised July 20, 2022), and Step I – Order No. 26,809 (April 28, 2023).

HAWC’s step-related expenses. Docket DW 23-020 is a continuation of HAWC’s general rate proceeding in Docket DW 20-117.

The Commission’s Order approving HAWC’s Step I settlement agreement in Docket DW 20-117, also approved review of both the Step I and Step II step-related expenses in the Step II phase of the proceedings.<sup>2</sup> Therefore, the approved Step II Settlement Agreement in the instant docket, DW 23-020, included a provision whereby the Settling Parties agreed and recommended “the Commission approve the Company’s recovery of its reasonable rate case expenses for [the Step II] proceeding, as well as the known expenses for the Step I proceeding incurred on or before August 16, 2023, through a surcharge to customers.”<sup>3</sup> This technical statement describes the factual bases and policies that underly the DOE’s support of HAWC’s recovery of reasonable step-related expenses, in response to the Commission’s direction to the settling parties to file written legal briefs “concerning the legal basis and any precedent for requesting recovery of rate case expenses relating to Step I and Step II adjustments” within 30 days of the date of the Commission’s order.<sup>4</sup>

### **Summary of Step Adjustment Policy Benefits**

Overall, the specific policy benefits of step adjustments for small water utilities, such as HAWC, 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.

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<sup>2</sup> See Revised Settlement Agreement (September 8, 2023) at 9, Section “g Rate Case Expenses Incurred in Step I and Step II” (S/A revised to add additional parties); Order No. 26,902 on November 8, 2023 (approving DOE review of HAWC’s step-related expenses and subsequent Commission review).

<sup>3</sup> Settlement Agreement – Step II Rates (August 17, 2023) at 9.

<sup>4</sup> Order No. 26,902 at 14.

### **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 companies. For the most part, step adjustments for small water utilities are associated with relatively large "non-revenue producing"<sup>5</sup> 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 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 review, 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 HAWC 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 HAWC, 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.

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<sup>5</sup> 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.

### **The DOE Supports HAWC'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 HAWC, a small water utility. As explained above, HAWC'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 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 at hearing. As such, if HAWC 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. Similarly, step-related expenses are not included in the "not to exceed" step adjustment amounts. 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 HAWC. 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 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.

**DOE Recommendation**

In summary, for the factual and policy reasons explained above, the DOE supports HAWC's recovery of appropriate, just and reasonable expenditures the Company incurred relative to the filing and adjudication of Step I and Step II as proposed in the approved Step II Settlement Agreement. See Revised Settlement Agreement (September 8, 2023) at 9, Section "g Rate Case Expenses Incurred in Step I and Step II" (S/A revised to add additional parties); Order No. 26,902 on November 8, 2023 (approving DOE review of HAWC's step-related expenses and subsequent Commission review).