

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

HAMPSTEAD AREA WATER COMPANY, INC.

DW 23-020

Request for Change in Rates

SETTLEMENT AGREEMENT – STEP II RATES

This Settlement Agreement for Step II Rates (*Step II Settlement Agreement*) is entered into this 17th day of August 2023, by and between the New Hampshire Department of Energy (DOE), The Hampstead Area Water Company, Inc. (HAWC or the Company), the town of Atkinson, and the town of Hampstead (together, “the Step II Settling Parties”). The purpose of this settlement is to, among other things, recommend the second of two step adjustments for approval by the New Hampshire Public Utilities Commission (PUC or Commission), pursuant to RSA 378 and Order No. 26,635 (June 2, 2022) (approving Settlement Agreement on permanent rates) in Docket No. DW 20-117, as subsequently revised by the Commission on June 10, 2022 and again on July 20, 2022 as the “Second Revised Order No. 26,635” (still dated June 2, 2022). See the following link, [20-117 2022-07-20 ORDER 26635.PDF \(nh.gov\)](#). The “Second Revised Order No. 26,635” shall hereinafter be referenced as “Order No. 26,635.” The Step II Settling Parties agree to this joint submission to the Commission to seek its approval of this *Step II Settlement Agreement*.

I. BACKGROUND AND PROCEDURAL HISTORY¹

HAWC is a regulated public utility defined by RSA 362:2 and RSA 362:4, providing water service to approximately 4,000 customers in the communities of Atkinson, Chester, Danville, East

¹ For the Commission’s convenience and to avoid repetition, the Step II Settling Parties condensed the procedural history for this matter that was outlined in the previous *Settlement Agreement on Permanent Rates* at Tab 113 of the Virtual File Room, available at the following link: [20-117 2022-05-09 HAWC SETTLEMENT-AGRMT.PDF \(nh.gov\)](#).

Kingston, Fremont, Hampstead, Kingston, Newton, Nottingham, Plaistow, Salem, Sandown, and Strafford.

In Docket No. DW 20-117, a Settlement Agreement on Permanent Rates was filed on May 9, 2022. *See* Tab 113. On May 11, 2022, the Commission conducted a hearing on the merits of the previously filed Settlement Agreement. On June 2, 2022, the Commission approved the Settlement Agreement on Permanent Rates by Order No. 26,635, *see* Tab 120. As previously stated, this Order was subsequently revised on June 10, 2022, *see* Tab 124, and July 20, 2022, *see* Tab 135.

Order No. 26,635 approved permanent rates and allowed for the Company to submit two successive step adjustment filings no sooner than June 20, 2022. Both step adjustments were subject to audit and review by the DOE and had implementation dates no sooner than December 16, 2022 for Step I, and June 16, 2023 for Step II.

On September 1, 2022, the Company filed for its Step I adjustment to rates in Docket No. DW 20-117. After audit and discovery conducted by the DOE, a proposed “Settlement Agreement – Step I Rates” was submitted to the Commission on January 25, 2023. A hearing on the merits of the Step I Settlement was held on April 12, 2023. The Commission issued an *Order Approving Settlement on Step I Adjustment* dated April 28, 2023, Order No. 26,809, at Tab 178. Order No. 26,809 further allowed for the Company to combine its request for recovery of rate case expenses accrued in the adjudication of Step I with its request for recovery of rate case expenses incurred in Step II, once finalized. On June 14, 2023, however, the Commission issued Order No. 26,846, Tab 191, suspending Order No. 26,809 while the Commission considered a motion for rehearing filed by Intervenor Karen Steele, at Tab 181. By Procedural Order dated June 30, 2023, Tab 192, the Commission extended the suspension of Order No. 26,809 indefinitely. The Commission denied

Ms. Steele's Motion for Rehearing on August 16, 2023, Order No. 26,874, implicitly lifting the suspension of Step I rates as of that date.

On March 1, 2023, HAWC submitted a "Step II Final Costs and Schedules Filing" with the Commission, seeking approval of the Step II adjustment. Tab 166 of Docket No. DW 20-117, (see also Tab 1 of Docket DW 23-020 "Request for Step II Adjustment"). On March 6, 2023, the Commission issued a Procedural Order indicating that it had established a new docket, DW 23-020, and informed HAWC that it "may request a step II adjustment by filing a petition pursuant to New Hampshire Code of Administrative Rules, Puc 202.01(a)." See Dkt. No. DW 23-020, Tab 3 (hereinafter references to a "Tab" shall be in docket No. DW 23-020 unless otherwise noted). On March 17, 2023, the Company filed its Petition for Step II Adjustment to permanent rates in the new docket. See Tab 7.

On March 20, 2023, a Petition for Intervention was filed by Karen S. Steele. Tab 8. On March 21, 2023, HAWC filed an Objection to Petition of Karen Steele for Intervention. Tab 9.

On April 6, 2023, the Commission issued a Commencement of Adjudicative Proceeding and Notice of Prehearing Conference that scheduled a prehearing conference for May 2, 2023. Tab 11. On April 6, 2023, HAWC filed an Affidavit of Publication stating that the Commission's order was published on its website on April 6, 2023. Tab 13. On April 20, 2023, the Board of Selectmen of the Town of Hampstead filed a Petition for Intervention. Tab 14.

On April 28, 2023, the DOE's Division of Enforcement Audit Staff issued its Final Audit Report concerning HAWC's proposed Step II Adjustment, based upon the Company's initial filing. A copy of the DOE's Audit Report on Step Adjustment II is included in this Settlement Agreement as Attachment A.

A prehearing conference was held as scheduled on May 2, 2023. This was immediately followed by a technical session where the parties discussed a procedural schedule for the proceeding.

On May 4, 2023, the Commission issued a Prehearing Order in which the Petitions for Intervention of both the Town of Hampstead and Karen Steele were granted. The Commission further ordered that if the Town of Atkinson wished to participate in this proceeding, it should file a petition for intervention pursuant to Puc 203.17. Tab 16. On May 16, 2023, the Town of Atkinson submitted its Petition for Intervention, which remains pending. Tab 18

On May 17, 2023, HAWC filed a “Step II Final Costs and Schedules Submission”. In its cover letter, the Company stated that its submission was made in response to issues identified in the DOE Audit Staff’s Final Audit Report. Tab 20.

On May 19, 2023, the DOE filed an Assented-to Proposed Procedural Schedule. Tab 21. On May 22, 2023, the Commission issued a procedural order approving the proposed procedural schedule. Tab 22.

On June 14, 2023, HAWC filed a request for a hearing date in this proceeding subsequent to September 5, 2023. Tab 23. On July 3, 2023, the Commission issued a procedural order scheduling a hearing date for September 13, 2023. Tab 24.

On July 21, 2023, the DOE filed an assented-to request to amend the procedural schedule, in light of pending updates to Company schedules, revenue requirement, and cost-of-service analysis. On August 3, 2023, the DOE filed a second assented-to request to amend the procedural schedule. The Commission granted both requests, on July 25, 2023, and August 3, 2023, respectively, adjusting the filing deadline for any settlement agreement to August 10 and then to August 17, 2023.

The Parties participated in three rounds of discovery as well as several technical sessions. The parties also engaged in settlement discussions that ultimately led to the foregoing proposed Step II settlement.

TERMS OF STEP II SETTLEMENT AGREEMENT

a. Overview

In summarizing the terms of the *Settlement Agreement on Permanent Rates* in Docket No. DW 20-117 Order No. 26,635 (July 20, 2022) at 14, Tab 135, states the following regarding the Step II Adjustment:

The stepped approach is intended to lessen the overall rate impact on customers when new permanent rates, inclusive of approved step increases, are approved. Accordingly, the Settling Parties recommended that the maximum combined effect of...Step II (not to exceed \$220,023) [and when combined with the Permanent Rate and Step I revenue requirement increases] would be a total maximum revenue requirement increase of \$776,792. Upon approval of Step II, the resulting revenue requirement would not exceed \$3,018,955. . . .

Further details regarding the Step II Adjustment are contained in the Settlement Agreement on Permanent Rates filed in DW 20-117, Tab 113 at 7, as follows:

The Settling Parties agree that the Company shall be allowed a step adjustment, Step II, primarily based upon three components: (1) the costs associated with post-test year plant additions placed in service between January 1 through December 31, 2021. The Settling Parties agree that the Company may file its Step II petition any time after June 20, 2022, and that the resulting rates, subject to Commission approval, will be effective no earlier than June 16, 2023. . . .

The Settling Parties agree that the proposed Step II adjustment, subject to DOE Audit Staff and Settling Parties' review, will result in an increase not to exceed \$220,023 in the Company's revenue requirement, utilizing a rate of return of 3.38 percent.

b. Step II Adjustment Revenue Requirement

The Step II Settling Parties agree and recommend that the Commission approve a Step II Adjustment in the Company's revenue requirement of \$202,069, which is less than the not-to-

exceed \$220,023 amount for Step II contained in the *Settlement Agreement on Permanent Rates* approved by Commission Order No. 26,635 at 13-14, 20-21. The Step II Settling Parties agree that a calculation of the proposed Step II adjustment is contained in Attachment B “Step Adjustment Calculation”. See Attachment B Revenue Requirement Schedules, Schedule 1. The Step II Settling Parties further agree that the proposed Step II Adjustment represents an approximate 9.01% percent increase over the Company’s *pro forma* 2019 test year water revenues of \$2,242,163.

The Step II Settling Parties agree that the foregoing proposed Step II Adjustment, i.e., \$202,069 represents a reasonable compromise of all issues relating to the Step II Adjustment.² The sums expressed above and provided for in Attachment B are the result of compromise and settlement and are liquidations of all revenue requirement issues pertaining to Step II. The Step II Settling Parties also agree that the proposed Step II Adjustment will result in rates for HAWC’s customers that are just and reasonable and serve the public interest within the meaning of RSA 374:2 and RSA 378:7. The Step II Settling Parties further agree that the proposed Step II Adjustment accurately reflects HAWC’s investment in plant that is prudent, used and useful, and is based on a reasonable rate base and a just and reasonable rate of return thereon, in compliance with RSA 378:27-29, and Order No. 26,635.

c. Maximum Combined Effect of Step II Adjustment

The Step II Settling Parties agree that this proposed Step II Adjustment meets the combined effect as approved by the Commission in Order No. 26,635 at 13-14, 20-21, that is, not to exceed

² Because Step I rates were suspended between June 14 and August 16, 2023, the Settling Parties note that rate case expenses associated with further proceedings, if any, regarding Step I have not been fully resolved in this docket. Step I Company expenses have only been accounted for through the date specified in this Settlement Agreement.

a total of \$220,023, which it does not. The Step II Settling Parties recommend that the Commission approve the Step II Adjustment.

d. Effective Date of Step II Adjustment Rate Revenue Requirement Increase

The Step II Settling Parties agree and recommend the Commission approve an effective date for the rates resulting from Step II that coincides with the date of the Commission order approving this *Step II Settlement Agreement* on a service-rendered basis. Unless otherwise ordered by the Commission, the Settling Parties agree that the Company will file compliance tariff pages consistent with the Step II Settlement Agreement within 15 days of the Commission Order approving that Settlement.

e. Resulting Rates

The Step II Settling Parties agree and recommend that the Commission approve maintaining a similar rate design after implementation of Step II as was approved for permanent rates by Order No. 26,635, including customer charges based on pipe size, volumetric charges, and private fire protection charges based on pipe size. The Step II Settling Parties further agree and recommend the Commission approve, as just and reasonable, the rates contained in the following table, which are based on the proposed increase in the Company's annual revenue requirement after implementation of Step II. The Step II Settling Parties agree that the proposed rates, shown in the following table, are based upon a monthly rate and a consumption charge per ccf of water consumed.

The Step II Settling Parties also agree that the table on the following page shows the Proposed Step II Rates as compared to the approved Step I Rates in DW 20-117. The Step II Settling Parties further agree that the proposed Step II rates presented in the following table are consistent with the *Settlement Agreement on Permanent Rates* approved by the Commission in

Order No. 26,635. See Tab 113 (Settlement Agreement on Permanent Rates) and Tab 135 (Order No. 26,635) (July 20, 2022).

The Step II Settling Parties, furthermore, note that only the meter and consumption charges will be adjusted due to the Step II increase to the Company’s revenue requirement and that both the municipal/public and private fire protection rates will not be adjusted, as was previously agreed to by the Settling Parties with regard to the Company’s Step I rates.

Step II Settling Parties’ Proposed Step II Rates (including Step I Rates)

STEP II				
Rate Group	Step I Rate	Proposed Step II Rate	Incremental Rate (Step I to Step II)	Percentage Change from Step I
Meter Charge				
5/8 inch meter	\$12.89	\$14.24	\$1.35	10.5%
3/4 inch meter	\$30.15	\$33.30	\$3.15	10.4%
1 inch meter	\$58.91	\$65.07	\$6.16	10.5%
1 ½ inch meter	\$116.42	\$128.61	\$12.19	10.5%
2 inch meter	\$150.93	\$166.73	\$15.80	10.5%
Consumption Charge (per ccf)				
	\$7.72	\$8.41	\$0.69	8.9%
Public Fire Protection (billed annually)				
Per hydrant ³	\$1,185.00	\$1,185.00	\$0.00	0.00%
Private Fire Protection Charge				
1 ½ inch pipe	\$2.49	\$2.49	\$0.00	0%
2 inch pipe	\$5.31	\$5.31	\$0.00	0%
3 inch pipe	\$15.43	\$15.43	\$0.00	0%
4 inch pipe	\$32.87	\$32.87	\$0.00	0%
6 inch pipe	\$95.49	\$95.49	\$0.00	0%

See Attachment C, Cost of Service Study Schedules.

f. Municipal/Public Fire Protection Rate and Amended Tariff Language

³ Based upon the number of hydrants in the Company’s test year and applied to the COSS for each town. Order No. 26,635 at 15, 20 (July 2022) (Second revised Order No. 26,635)

The Step II Settling Parties also note that pursuant to the *Settlement Agreement on Permanent Rates*, with the increase in rates through the proposed Step II Adjustments, the municipal fire protection rates would fluctuate. That fluctuation would make it difficult for the intervenor towns of Hampstead and Atkinson to budget properly. As such, and the same as the Step I approved rates, the Step II Settling Parties recommend, and the Company, as a Settling Party, agrees, to keep the municipal fire protection charge level. The Step II Settling Parties also recommend, and the Company, as a Settling Party agrees, that the Company will also absorb the resulting revenue shortfall, projected to total \$33,887 for this Step II.

g. Rate Case Expenses Incurred in Steps I and II

Pursuant to Order No. 26,809 (April 28, 2023) the Commission permitted the Company to seek to recover rate case expenses from Step I within the docket for Step II. The Settling Parties agree and recommend the Commission approve the Company's recovery of its reasonable rate case expenses for this proceeding, as well as the known expenses for the Step I proceeding incurred on or before August 16, 2023, through a surcharge to customers. The Company's rate case expenses may include, but are not limited to, 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. The Company agrees to file its Step I rate case expenses as of August 16, 2023 and its final rate case expenses for Step II 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 II Settlement Agreement* in this proceeding. The Settling Parties agree that the DOE will review the Company's proposal and provide a report for the Commission's consideration prior to the issuance of an order on rate case expense recovery, as described herein.

Upon issuance of the Commission's order approving rate case expense recovery, as described above the Company 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 Parties agree that whether Step I rate case expenses incurred on or after August 16, 2023, are recoverable is reserved.⁴

h. Stay Out Provision

The Step II Settling Parties agree and recommend that the Commission affirm that this *Step II Settlement Agreement* does not change or modify the Stay Out Provision contained in the *Settlement Agreement on Permanent Rates* approved in Order No. 26,635 such that the earliest the Company would be able to file its next full permanent rate proceeding would be January 1, 2025, utilizing a 2024 test year. *See* Order No. 26,635 at 17.

II. MISCELLANEOUS

a. This *Step II Settlement Agreement* is expressly conditioned upon the Commission's acceptance of all its provisions, without change or condition. If the Commission does not accept the *Step II Settlement Agreement* in its entirety, without change or condition, or if the Commission makes any findings that go beyond the scope of this *Step II Settlement Agreement*, and the Step II Settling Parties (or Settling Party) are unable to agree with said changes, conditions or findings, the *Step II Settlement Agreement* shall be deemed to be withdrawn and shall not constitute any part of the record in this proceeding and shall not be used for any other purpose. Any Settling Party

⁴ The Step II Settling Parties agree that after August 16, 2023, the Company may incur Step I rate case expenses until the order on the Motion for Rehearing filed by intervenor Karen Steele is final as a matter of law. The Step II Settling Parties agree that the Company may wish to seek recovery of those additional Step I rate case expenses in this docket and/or in Docket No. DW 20-117.

wishing to withdraw from the Settlement shall notify the Commission and other parties within ten business days of any Commission order approving this *Step II Settlement Agreement*.

b. The Step II Settling Parties agree that the Commission's approval of this *Step II Settlement Agreement* shall not constitute continuing approval of, or precedent for, any particular principle or issue, but such acceptance does constitute a determination that the terms of this agreement are just and reasonable and consistent with the public interest.

c. This *Step II Settlement Agreement* shall not be deemed an admission by any of the Step II Settling Parties that any allegations or contentions in this proceeding by any other party, other than those specifically agreed to here, is true and valid. This *Step II Settlement Agreement* shall not be construed to represent any concession by any Settling Party regarding positions taken with respect to the Company's proposals in this docket, nor shall this *Step II Settlement Agreement* be deemed to foreclose any Settling Party in the future from taking any position in any subsequent proceedings.

d. The Step II submissions and supporting documentation (including but not limited to the Company's discovery responses) previously provided in this proceeding are not expected to be subject to cross-examination by the Step II Settling Parties, which would normally occur in a fully litigated case. The Step II Settling Parties agree that all such supporting documentation should be admitted as full exhibits for the purpose of consideration of this Settlement Agreement and be given such weight as the Commission deems appropriate. Consent by the Step II Settling Parties to admit all such submissions and supporting documentation without challenge does not constitute agreement by any of the Step II Settling Parties that the content of the submissions and supporting documentation are accurate or that the views of the witnesses should be assigned any particular weight by the Commission. The resolution of any specific issues in this Settlement

Agreement did not indicate the Step II Settling Parties' agreement to such resolution for the purposes of any future proceedings, nor does the reference to any other document bind the Step II Settling Parties to the contents of, or recommendation in, that document for the purposes of any future proceeding.

e. The Step II Settling Parties agree to forego cross-examining witnesses regarding any submissions and documentation in this docket and, therefore, the admission into evidence of any witness's testimony or supporting documentation shall not be deemed in any respect to constitute an admission by any party to this Settlement Agreement that any allegation or contention in this proceeding is true or false, except that the sworn testimony of any witness, including responses to data requests, shall constitute an admission by such witness.

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

g. The discussions that produced this Step II Settlement Agreement have been conducted on the understanding that all offers of settlement and settlement discussions relating to this docket shall be confidential, shall not be admissible as evidence in this proceeding, 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. The content of these negotiation, including any documents prepared during such negotiations for the purpose of reaching a settlement, shall be privileged and all offers of settlement shall be without prejudice to the position of any party presenting such offer.

h. This *Step II Settlement Agreement* may be executed by facsimile and in multiple counterparts each of which shall be deemed an original, and all of which, taken together, shall constitute one agreement binding on all Step II Settling Parties. This Settlement Agreement may be executed by electronic signature.

IN WITNESS WHEREOF, the signatories below have executed this Stipulation, each being fully authorized to do so, as of the day indicated below.

The Hampstead Area Water Company, Inc.
By its Attorney,

Date: August 17, 2023

/s/ Anthony S. Augeri
Anthony S. Augeri, Esq.

NH Department of Energy
By its Attorney,

Date: August 17, 2023

/s/ Mary E. Schwarzer
Mary E. Schwarzer, Esq.
Staff Attorney/ Hearings Examiner

The Town of Atkinson

Date: August 29, 2023

/s/ John Apple
John Apple, Town Administrator
Its duly authorized representative

The Town of Hampstead

Date: August 29, 2023

/s/ Laurie Warnock
Laurie Warnock, Member, Select Board
Its duly authorized representative

Attachment A

DOE Audit Report Dated April 28, 2023 for Step II

Attachment B

Step II Adjustment Calculations -- Rates and Schedules

Attachment C

Step II Cost of Service Study Schedules