

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

**New Hampshire Department of Energy’s Partially Assented-To Position Statement Regarding the
Company’s Proposed Recovery of Step I and Step II Expenses**

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February 29, 2024

Pursuant to RSA 12-P:2, IV, please accept this position statement as the New Hampshire Department of Energy’s (“DOE” or “the Department”) Report on Step Expense Recovery in the above referenced matter. See Step II Settlement Agreement (August 17, 2023) at 9 (Department to provide a report); revised September 8, 2023 (additional signature added); [Unnumbered] Order (December 20, 2023) (requiring the Department to file its analysis and recommendations on step expenses on or before February 29, 2024).

In summary, for the reasons explained below, the Department recommends that the New Hampshire Public Utilities Commission (“Commission”) approve the Hampstead Area Water Company Inc.’s (“HAWC” or “the Company”) step expenses for Step I and Step II in the cumulative amount of \$61,096.14 via a surcharge of \$3.68 per each of the 4,146 customers for a period of four months, to commence as specified below. DOE’s recommendation was assented-to by four parties and objected to by one party. Karen Steele does not assent to this recommendation. By and through counsel, the Company and the Office of the Consumer Advocate assent to the DOE’s recommendation. Similarly, the Town of Hampstead, by and through Laurie Warnock, Chair, Town Select Board, and the Town of Atkinson, by and through John Apple, Town Administrator, assent to the DOE’s recommendation.

I. Procedural Background

By way of background, the Step I and Step II rate adjustments were initially described in the Settlement Agreement on Permanent Rates in Docket No. DW 20-117, approved by the Commission in Order No. 26,635 (June 2, 2022) at 6-8 (revised June 10, 2022) (approving settlement agreement on permanent rates including two step adjustments). The Step I Settlement Agreement was also approved in Docket No. DW 20-117. See Order No. 26,809 (April 28, 2023) at 9 (requiring the Company to “provide all necessary documentation and reports in support of regulatory costs underlying its proposed recovery of [step] expenses for Step I and II

in a combined filing after the proposed Step II adjustment has been adjudicated and a decision on Step II has been issued. . . .”).

On March 6, 2023, pursuant to Commission Order, the Step II rate adjustment was adjudicated in a new and separate docket. See Docket No. DW 20-117, Tab # 166, Commission Clerk notation in the virtual docket, dated March 1, 2023 (filing the Company’s “Step II Final Costs and Schedule” in a new docket); Procedural Order Re: New Docket (March 6, 2023) in Docket No. DW 23-020.

On November 8, 2023, the Commission approved the Step II Settlement Agreement, and made HAWC’s” Step II Rate Adjustment effective immediately. See Order No. 26,902 (November 8, 2023), at 13 in Docket No. DW 23-020 (revised on December 5, 2023). The Commission also directed HAWC and the Department to file legal briefs concerning the legal basis and any precedent for requesting step expenses relating to Step I and Step II adjustments on or before December 7, 2023. *Id.* Finally, the same Order also directed the Company to file its step expenses for Step I and Step II on or before December 7, 2023. See *id.*

On December 7, 2023, HAWC made a filing seeking recovery of \$65,987.79 for expenses incurred relative to the adjudication of its Step I rate adjustment in Docket No. DW 20-117 and Step II rate adjustment in Docket No. DW 23-020. The Company’s initial submission proposed recovery of these expenses via a surcharge of \$3.82 per customer per month, over [any] four-month period.¹ On December 7, 2023, HAWC and the DOE also filed legal briefs regarding the recovery of step expenses.

On December 20, 2023, the Commission agreed that “. . . the parties ha[d] requested an implied waiver of Puc chapter 1900” by including proposed terms for the submission and review of step expenses in the Step I Settlement Agreement, and granted that waiver. See [unnumbered] Order on Step Adjustment Rate Expenses and Denying Motion to Clarify (December 20, 2023). The Commission also directed the Department to, among other things, file its analysis and recommendations regarding the Company’s proposed step expense recovery on or before February 29, 2024. See *id.*

II. Department Analysis

The Department reviewed the Company’s initial December 7, 2023 filing, encompassing the Company’s expenses relative to Steps I and II, and propounded two rounds of discovery on January 2, 2024 and January 26, 2024 to which the Company timely responded. See Attachment 1 (Company’s redacted responses to DOE Set 4 data requests (DRs) with attachments; Attachment 2 (Company’s responses to DOE Set 4 DRs with attachments 4.6 and 4.7 marked “confidential” by HAWC, Attachment 3 (Company’s redacted responses to DOE Set 5 DRs with

¹ The Department notes that the \$3.82 per customer, if multiplied by 4,146 customers (the count provided in DR 4-1), would not result in an overall recovery of \$65,987.79. In the course of discovery however, HAWC made a subsequent updated request (as described later in this Position Statement) and therefore, in the opinion of the Department, no correction to HAWC’s initial proposed recovery, or clarification of the customer count used in that calculation, is needed.

attachments), and Attachment 4 (Company's responses to DOE Set 5 DRs with attachment 5.3 marked "confidential" by HAWC). The Parties also held a step expense technical session on January 25, 2023.

In the course of discovery, the Company indicated an error had been made in its initial calculations. Though the Company had submitted a complete list of charges in that initial December 7, 2023 filing, inadvertently, not all of those charges were included in the \$65,978.79 originally proposed total. As such, effective January 12, 2024, as indicated in its response to DOE DR 4-1, the Company revised, and increased, the amount of its proposed Step I and Step II expenses to \$69,452.66. As a result, the Company also proposed an amended monthly charge of \$4.19 per each of the 4,146 customers over four months.² Specifically, the Company's attachments indicated Step I totaled \$26,835.89 (\$25,106.39+\$1,729.50) + Step II totaled \$42,616.77 (\$29,431.33 \$10,334.33 + \$2,851.11).³

Subsequent to the Company's responses to DOE Set 4, and as a result of the Technical Session between the parties on January 25, the Company removed the following items from its proposed step expense recovery request⁴: 1) expenses incurred by the Company but not related to either Step I or Step II of \$24.05; 2) expenses incurred by the Company related to responding to DOE Audit Requests of \$2,745.78; 3) expenses incurred by the Company totaling \$4,277.17 (\$3,590.80 + \$571.88 + \$114.49)⁵ relative to Step I but incurred *after* August 16, 2023⁶; and 4) expenses incurred to date by the Company relative to its "Motion to Recover Lost Step I Revenue during 65 Day Suspension of Order No. 26,809" in the amount of \$1,309.52 in Docket No. DW 20-117⁷.

The Company's motion to recover "Lost Step I Revenue" is currently pending before the Commission in Docket No. DW 20-117. As such, in the opinion of the Department, recovery of expenses related to that motion are premature. Based on information and belief, HAWC reserves the right to seek recovery of these expenses, and possibly additional expenses related to the motion, if incurred.

As a result of its review, and the adjustments indicated above, the Department supports recovery of Step I and Step II expenses totaling \$61,096.14 (Step I: \$20,663.44 + Step II: \$40,432.70), via a surcharge of \$3.68 per customer per month for four months. See Attachment 5, Staff of DOE Calculations (Calculation of recommended monthly surcharge and verification of *de minimus* rounding variance); see also Attachment 1 and 2, Company's Response to DR 4-6

² See Position Statement Attachment 1, Company's Response to DOE DR 4-1.

³ See Position Statement Attachment 1 and 2, Company's Response to DOE DR 4-6, including DR attachment, Page 2, "December Actuals & Revised Estimate to Complete".

⁴ See Position Statement Attachment 3 and 4, Company's response to DOE DR 5-3.

⁵ See Position Statement Attachment 1 and 2, Company's response to DOE DR 4-6, including DR attachment, Page 2, "December Actuals & Revised Estimate to Complete".

⁶ See Step II Settlement Agreement, dated August 17, 2023 (revised September 8, 2023 for more signatures), page 9, section G, approved by Order No. 26,902 (November 8 2023), whereby the Settling Parties agreed to an end-date to the timeframe of eligible Step I expenses up to and including August 16, 2023, the date of reinstating the Step I adjustment, as explained in Order No. 26,874 (August 16, 2023) in Docket No. DW 20-117.

⁷ Step I Rates were initially authorized by Order No. 26,809 (4/28/2023), and subsequently suspended by Order No. 26,846 (6/14/2023), but reinstated by Order No. 26,874 (August 16, 2023) (rejecting motion for rehearing).

and Attachment 3 and 4, Company's Response to DR 5-3 and 5-4. The recommended \$61,096.14 step expense recovery is the result of \$61,782.51 less additional expenses of \$571.81 and less \$114.49 incurred after 8/16/2023 relative to Step 1, but not listed in the Company's response to DOE DR 5-3.

As a result of discussions amongst the parties, in order to avoid a scenario whereby the collection of a Step I and Step II expense surcharge would overlap with the collection of the permanent rate case expense surcharge previously approved by the Commission relative to the Company's then-newly authorized permanent rates in DW 20-117, the Company agreed that the Step I and Step II expense surcharge would commence after the later of a Commission Order approving the Step I and Step II expense surcharge or the final billing of the permanent rate case expense surcharge, anticipated on or about May 2024.⁸

III. Department's Partially Assented-To Recommendation

For the reasons explained above, the Department recommends that the Commission approve the Company's recovery of Step I and Step II expenses totaling \$61,096.14 via a surcharge of \$3.68 per customer per month for four months, commencing as described above. See Attachment 5.

The Department provided a draft of this position statement to the Company and all other parties on February 20, 2024. As stated above, the DOE's recommendation was assented to by four parties, and objected to by one party. Karen Steele does not assent to this recommendation. By and through counsel, the Company and the Office of the Consumer Advocate assent to the DOE's recommendation. Similarly, the Town of Hampstead, by and through Laurie Warnock, Chair, Town Select Board, and the Town of Atkinson, by and through John Apple, Town Administrator, assent to the DOE's recommendation.

⁸ See Order No. 26,718 (11/3/2022) in Docket No. DW 20-117, at 9, which authorized the recovery of permanent rate case expenses through a \$4.37 monthly surcharge over 18 months.