

**DW 05-137**

**LAKES REGION WATER COMPANY, INC.**

**Petition for Permanent and Temporary Rates**

**Order Approving Temporary Rates**

**ORDER NO. 24,624**

**May 15, 2006**

**APPEARANCES:** Thomas Mason, Jr. and Thomas Mason, Sr. on behalf of Lakes Region Water Company, Inc.; Orr & Reno, P.A., by Douglas L. Patch, Esq. on behalf of Property Owners Association of Suissvale; Office of the Consumer Advocate by F. Anne Ross, Esq. on behalf of residential ratepayers; and Marcia A. B. Thunberg, Esq. for the Staff of the New Hampshire Public Utilities Commission.

**I. PROCEDURAL HISTORY**

On December 19, 2005, Lakes Region Water Company, Inc. (Lakes Region) filed with the New Hampshire Public Utilities Commission (Commission) proposed tariff pages and supporting documentation increasing its permanent rates for customers in the following divisions (collectively, the Consolidated Tariff System): Far Echo Harbor, Paradise Shores, West Point, Waterville Valley Gateway, Hidden Valley, Wentworth Cove, Pendleton Cove, Deer Run, Woodland Grove, Echo Lake Woods, Brake Hill Estates, and Tamworth. Lakes Region also requested, among other things, Commission approval to incorporate the following divisions into the Consolidated Tariff System: 175 Estates, Deer Cove, Lake Ossipee Village, and Indian Mound.

On January 6, 2006, the Commission issued Order No. 24,576, which suspended the proposed tariff revisions and scheduled a Prehearing Conference and Technical Session for January 26, 2006. On January 25, 2006, the Office of the Consumer Advocate (OCA) notified

the Commission of its intent to participate in the docket on behalf of residential ratepayers, consistent with RSA 363:28.

Following the Prehearing Conference and Technical Session, on January 30, 2006, the Staff of the Commission (Staff) filed a letter with the Commission proposing an agreed-upon procedural schedule. The schedule required Lakes Region to file a temporary rate request no later than February 3, 2006, and proposed a hearing on temporary rates for March 16, 2006. This schedule was approved by secretarial letter dated February 7, 2006.

On February 3, 2006, Lakes Region filed a petition requesting approval to impose temporary rates during the remainder of the Commission's investigation of the proposed permanent rates. On February 21, 2006, Lakes Region amended its temporary rate filing, as well as its permanent rate filing, with a Revised Report of Proposed Rate Changes. On February 23, 2006, the Commission issued a supplemental order of notice which noted the revised rate change information and scheduled a temporary rate hearing for March 21, 2006, at 10:00 am. The order of notice required Lakes Region to notify customers of the hearing no later than March 6, 2006.

On March 10, 2006, Lakes Region, OCA, and Staff filed a Settlement Agreement with the Commission.

On March 18, 2006, upon learning of the Lakes Region's difficulty in meeting the March 6, 2006 notification deadline, the Commission published a display ad notifying customers that the March 21, 2006 hearing had been postponed until April 21, 2006.

On April 21, 2006, the Commission held a hearing at which Lakes Region, OCA, and Staff presented a Settlement Agreement relating to proposed temporary rates. Staff witnesses James L. Lenihan and Jayson P. Laflamme testified in support of the temporary rate Settlement Agreement.

## II. POSITIONS OF THE PARTIES AND STAFF

Lakes Region, OCA, and Staff signed a Settlement Agreement resolving issues relating to temporary rates. The terms of the Settlement Agreement are summarized as follows:

### A. Revenue Requirement

Lakes Region, OCA, and Staff agreed to a revenue requirement for the Consolidated Tariff Systems, 175 Estates, Deer Cove, Lake Ossipee Village, and Indian Mound in the amount of \$580,719. This revenue requirement constitutes a \$65,564, or 12.73 percent, increase over test year revenues. By individual system, this proposed increase is as follows:

<u>System</u>	<u>Test Year</u>	<u>Proposed</u>	<u>% Increase</u>
Consolidated Tariff Systems	\$432,081	\$436,955	1.13%
175 Estates	\$ 18,291	\$ 18,291	0.00%
Deer Cove	\$ 11,883	\$ 15,406	29.65%
Lake Ossipee Village	\$ 30,115	\$ 72,565	140.96%
Indian Mound	<u>\$ 22,785</u>	<u>\$ 37,502</u>	<u>64.59%</u>
Total	\$515,115	\$580,719	12.73%

### B. Temporary Customer Rates

Lakes Region, OCA, and Staff propose to apply the revenue requirement to customers, on a temporary basis, as follows:

<u>Unmetered Customers</u>	<u>Annual Charge</u>	<u>Quarterly Rate</u>
Consolidated Tariff Systems:		
Waterville Valley Gateway – Pool	\$ 789.81	\$ -
Tamworth Water Works	\$ 392.94	\$ 98.24
175 Estates	\$ 397.65	\$ 99.41
Deer Cove	\$ 302.08	\$ 75.52
Lake Ossipee Village	\$ 332.87	\$ 83.22
Indian Mound	\$ 426.16	\$ 106.54

### Metered Customers

Consolidated Tariff Systems:	
Minimum Charge per Customer per Quarter	\$ 71.64
Or Annual Flat Rate	\$ 286.56
Minimum Rate per 100 cubic feet Consumed	\$ 3.19

C. Effective Date

Lakes Region, OCA, and Staff initially recommended the temporary rates be effective March 6, 2006. This recommendation was changed to be for service rendered on or after the effective date of the order approving temporary rates.

D. Reconciliation

Lakes Region, OCA, and Staff agreed that temporary rates will be subject to reconciliation pursuant to RSA 378:29 after the final determination of rates in this docket.

### III. COMMISSION ANALYSIS

Pursuant to RSA 378:27, the Commission may authorize temporary rates for the duration of the proceeding if the public interest so requires and the records of the utility indicate it is not earning a reasonable return on its property used and useful in the public service. The standard for approval of temporary rates, which are fully reconcilable, is less stringent than that for permanent rates. *Appeal of Office of Consumer Advocate*, 134 N.H. 651 (1991).

We have reviewed the evidence presented regarding temporary rates and we find it reasonable to approve an increase in Lakes Region's rates, on a temporary basis. Lakes Region has demonstrated that, based on its books and records presently on file with the Commission, it is underearning. Staff testified that according to its 2004 annual report Lakes Region is underearning especially with respect to the Deer Cove, Lake Ossipee Village, and Indian Mound systems. Hearing Transcript of April 21, 2006 (4/21/06 Tr.) at 20 lines 15-22. This condition ultimately disadvantages both Lakes Region and its ratepayers. Lakes Region, OCA, and Staff agree to increased rates on a temporary basis to levels that are less than originally proposed by Lakes Region. Staff testified that Lakes Region had originally requested temporary rates which would have resulted in a 9.58 percent rate of return, Lakes Region's last approved rate of return. However, Staff concluded that the proposed 8.32 percent rate of return contained in the temporary rate Settlement Agreement more accurately reflected Lakes Region's current cost of

debt in light of Lakes Region's recent debt refinancing. 4/21/06 Tr. at 23 lines 1-5. The Settlement Agreement proposed different rate increases for Lakes Region's tariffs and Staff explained that the differences were due to each tariffed system having a different revenue requirement. 4/21/06 Tr. at 24 lines 3-9.

We find, as a general matter, that the proposed rate increases are appropriate, just, and reasonable. The temporary rates set forth in the Settlement Agreement mitigate potential rate shock to customers and reduce the magnitude of any recoupment between temporary rates and permanent rates at the conclusion of this docket. However, we are concerned by the magnitude of the temporary increases to customers of the Lake Ossipee Village and Indian Mound systems which, on a percentage basis, are significantly larger than the increases proposed for the other systems.

Therefore, in order to accomplish the purpose of the Settlement Agreement (easing rate shock and reducing the extent to which customers must pay a surcharge to reconcile the temporary rates with whatever permanent rates are ultimately approved) without requiring the customers of Indian Mound and Lake Ossipee Village to bear a disproportionate share of near-term effects of rate increases, we have, in effect, capped the temporary increases for these two systems, which were proposed to be the highest as an absolute rate level and as a percentage increase, respectively. Specifically, we have limited the annual charge for Indian Mound customers to the next highest annual charge, which is applicable to customers of 175 Estates. Similarly, we have pegged the annual charge for Lake Ossipee Village to that of the system with the next highest annual charge, Deer Cove. As a result, the Indian Mound temporary increase will be 53.58% instead of 64.59% and the Lake Ossipee Village temporary increase will be 118.67% instead of 140.96%.

These changes have the effect of revising the revenue requirement and temporary rates set forth in the Settlement Agreement as follows:

Revenue Requirement

<u>System</u>	<u>Test Year</u>	<u>Proposed</u>	<u>% Increase</u>
Consolidated Tariff Systems	\$432,081	\$436,955	1.13%
175 Estates	\$ 18,291	\$ 18,291	0.00%
Deer Cove	\$ 11,883	\$ 15,406	29.65%
Lake Ossipee Village	\$ 30,115	\$ 65,853	118.67%
Indian Mound	\$ 22,785	\$ 34,993	53.58%
Total	\$515,115	\$571,498	10.94%

Temporary Customer Rates

<u>Unmetered Customers</u>	<u>Annual Charge</u>	<u>Quarterly Rate</u>
Consolidated Tariff Systems:		
Waterville Valley Gateway – Pool	\$ 789.81	\$ -
Tamworth Water Works	\$ 392.94	\$ 98.24
175 Estates	\$ 397.65	\$ 99.41
Deer Cove	\$ 302.08	\$ 75.52
Lake Ossipee Village	\$ 302.08	\$ 75.52
Indian Mound	\$ 397.65	\$ 99.41

Metered Customers

Consolidated Tariff Systems:	
Minimum Charge per Customer per Quarter	\$ 71.64
Or Annual Flat Rate	\$ 286.56
Minimum Rate per 100 cubic feet Consumed	\$ 3.19

We recognize that the percentage increase for rates may change as we consider Lakes Region's proposed allocation of the increase in its permanent rate case. For instance, Lakes Region has requested to include certain tariffed systems in its Consolidated Tariff System. We have yet to consider Lakes Region's permanent rate case and at such time the record will be more fully developed. The reconciliation mechanism found in RSA 378:29 will adequately protect customers in the event we decide that different permanent rate increases should be

applied to certain rate groups. This provision reconciles temporary rates collected from customers during the Commission's investigation against approved permanent rates such that customers will ultimately pay no more than the approved permanent rates.

With respect to the effective date of the temporary rate increase, we note that the Settlement Agreement was modified at hearing to propose that the temporary rates become effective as of the date of their approval. RSA 378:27 allows the Commission to authorize effective dates as early as the date on which the petition for a permanent rate change is filed.

*Appeal of Pennichuck Water Works*, 120 NH 562, 567 (1980). Lakes Region filed a notice of intent to file rate schedules on August 18, 2005, and filed revised tariffs on December 19, 2005. We issued Order No. 24,576 on January 6, 2006, notifying the public of Lakes Region's rate case filing, suspending Lakes Region's proposed tariffs, and establishing a prehearing conference and temporary rate hearing. Additional notice that rates would be subject to change was provided by the supplemental order of notice, dated February 23, 2006, and on April 5, 2006.<sup>1</sup> It was on the last date – April 5, 2006 – that customers were fully and adequately placed on notice of the pendency of this proceeding and of Lakes Region's request to increase rates. Given that Lakes Region issues bills on a quarterly basis and is currently underearning, it is both administratively efficient and consistent with the public interest to make the temporary rates effective April 5, 2006.

**Based upon the foregoing, it is hereby**

**ORDERED**, that Lakes Region Water Company, Inc.'s request for temporary rate increases is **GRANTED**, on a service rendered basis effective for service rendered on or after April 5, 2006, as detailed above; and it is

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<sup>1</sup> At hearing, Lakes Region supplied documentation corroborating that on April 5, 2006 it had notified customers of the proposed rate change. 4/21/06 Tr. at 6 lines 18-23.

**FURTHER ORDERED**, that Lakes Region Water Company, Inc. shall submit tariff pages in compliance with this order within 15 days of the date of this order.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of May, 2006.

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Thomas B. Getz  
Chairman

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Graham J. Morrison  
Commissioner

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Clifton C. Below  
Commissioner

Attested by:

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Lori A. Normand  
Assistant Secretary