

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 07-115

FRYEBURG WATER COMPANY, INC.

Petition for Rate Increase

Order Approving Settlement Agreement

ORDER NO. 24,873

July 9, 2008

APPEARANCES: Upton & Hatfield, LLP by Justin C. Richardson, Esq. for Fryeburg Water Company, Inc.; and Marcia A.B. Thunberg, Esq. for Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

Fryeburg Water Company, Inc. (Fryeburg) is a New Hampshire and Maine regulated public utility with its principal place of business in the town of Fryeburg, Maine, serving approximately 700 customers in that community. Fryeburg also serves approximately 67 New Hampshire customers in the adjacent town of East Conway, and is therefore subject to RSA 362:2 and 362:4 governing the provision of water service within New Hampshire.

On October 19, 2007, Fryeburg filed a notice of intent to file rate schedules, and on November 20, 2007, filed a copy of a Maine Public Utilities Commission order, including financial schedules, approving a stipulation regarding Fryeburg's rates.¹ The Maine order approved an increase in annual revenue for the Company of \$84,000. The approved increase in revenue will raise general rates for the Maine customers by 16.02 percent and 24.71 percent for fire protection rates. In its New Hampshire petition, Fryeburg requests comparable rates be

¹ It has been customary over the years for Fryeburg to file its rate case in Maine and, when concluded, file its case in New Hampshire. We note that the Maine Public Utilities Commission has jurisdiction over 92.2 percent of Fryeburg's customers, and this Commission has generally adopted the Maine commission's decisions. *See, Fryeburg Water Co., 75 NH PUC 133 (1990).*

approved for its customers in East Conway. According to Fryeburg, the increase in rates is driven primarily by investments in necessary plant assets as well as increases in operating costs.

On January 11, 2008, the Commission issued Order No. 24,816, suspending the application of new rates to Fryeburg's New Hampshire customers and scheduling a prehearing conference for February 6, 2008. On January 22, 2008, the Commission approved Fryeburg's request to provide individual notice to its New Hampshire customers. The prehearing conference was held as scheduled.

On February 6, 2008, Staff filed a proposed procedural schedule that provided for discovery and a hearing. The Commission approved the procedural schedule on February 11, 2008. On May 14, 2008, the Commission rescheduled the hearing on the merits from June 3, 2008 to June 19, 2008. On May 23, 2008, Staff and Fryeburg filed a settlement agreement, presenting it at the June 19, 2008 hearing.

II. SETTLEMENT AGREEMENT

The settlement agreement entered into by Fryeburg and Staff recommends the Commission accept the Maine-approved rates, but adjusted downward to account for construction work in progress (CWIP). CWIP is not allowed in rate base in New Hampshire pursuant to RSA 378:30-a. In the Maine proceeding, which concluded in the fall of 2007, the approved revenue requirement was \$568,463, which represented a 17.3 percent increase over Fryeburg's 2006 test year revenues. According to Attachment B to the settlement agreement, Fryeburg and Staff calculated the reduction to the revenue requirement from exclusion of CWIP in the rate base to be \$3,900, after taxes. At hearing, Fryeburg testified that this results in increases to New Hampshire customer rates by 13 percent to 15.5 percent, depending on the rate block. Fryeburg testified that Maine customers subject to quarterly billing will pay a minimum

of \$38.10 under the new rates while New Hampshire customers, after the adjustment for CWIP, would pay a minimum quarterly rate of \$37.70 if the settlement is approved. The minimum monthly bill for New Hampshire customers with 5/8 inch service would be \$12.57 for the first 400 cubic feet. Exh. 6 at 1. Seasonal customers with 5/8 inch service would pay \$105.95 for the first 2,400 cubic feet. *Id.*

Fryeburg intends to adopt the entire tariff that was approved in Maine and which is attached to the settlement agreement. 6/19/08 Tr. at 15 lines 15-21. This tariff contains charges for returned checks, connections, reconnections, and collection fees. Exh. 4 at 16-25. Fryeburg and Staff propose an effective date for the rates of July 1, 2008, on a bills-rendered basis.

Fryeburg and Staff also propose a step adjustment, similar to what was approved in Maine. The step adjustment is for capital projects that Fryeburg has placed or will place in service after November 15, 2007. It is anticipated that Fryeburg will file its step adjustment request with the Maine Public Utilities Commission in November 2008 and, once approved by the Maine commission, Fryeburg will file its step adjustment request in New Hampshire. According to the settlement agreement, Staff would review the filing and make a recommendation to the Commission. Fryeburg and Staff expect that, as of the effective date of this step increase, rates for New Hampshire customers would then be the same as those charged to Maine customers.

The agreement also calls for Fryeburg to recover its rate case expenses in this docket from its New Hampshire customers. Fryeburg estimated in the agreement that its expenses were approximately \$16,000. Fryeburg and Staff propose rate case expenses be recovered through a surcharge applied to customer bills over a 30-month period. Once the Commission receives

Fryeburg's rate case expense filing, Staff would review it and make a recommendation to the Commission as to the amount of expenses and surcharge.

III. COMMISSION ANALYSIS

RSA 378:7 authorizes the Commission to fix rates pursuant to an order after a hearing. In determining just and reasonable rates, the Commission must balance the consumers' interest in paying no higher rates than are required with the investors' interest in obtaining a reasonable return on their investment. *Eastman Sewer Co.*, 138 N.H. 221, 225 (1994). In circumstances where a utility seeks to increase rates, the utility bears the burden of proving the necessity of the increase pursuant to RSA 378:8.

A. Revenue Requirement

We first consider the revenue requirement proposed in the settlement agreement presented by Fryeburg and Staff. Fryeburg and Staff propose the Commission adopt the revenue requirement approved by the Maine Public Utilities Commission, \$568,463, less \$3,900 to account for CWIP. We note that, in Maine, this represents an increase of 17.3 percent over Fryeburg's 2006 test year revenues. The increase is slightly less for New Hampshire customers. At hearing, Staff and Fryeburg testified that the increase is necessary due to significant capital improvements and increased expenses. Capital improvements will be ongoing as noted in the construction schedule set forth in Attachment C of the settlement agreement and as modified by Exhibit 5. Exh. 4 at 27-32.

At hearing, Staff explained the need for the CWIP adjustment. According to Fryeburg's original construction plans, it intended to complete in the fall of 2007 a loop project relating to a new reservoir. 6/19/08 Tr. at 19 lines 1-14. This project was included in Fryeburg's rate base in the Maine proceeding, although the project was ultimately not completed. Fryeburg instead

devoted its resources to a different project known as the Drift Road main replacement. To accommodate the RSA 378:30-a prohibition of CWIP in rate base, Fryeburg and Staff removed the cost of the loop project, added the cost of the Drift Road project, and adjusted the revenue requirement accordingly. This adjustment was detailed on Attachment B to the settlement agreement. Exh. 4 at 26. We agree with this adjustment. In addition, having reviewed the record in this matter, we find that the plant, equipment, and capital additions placed in Fryeburg's rate base are prudent, used, and useful in accordance with RSA 378:28 and we find the resulting revenue requirement to be just and reasonable.

B. Rates

According to Exhibit 6, Fryeburg charges a quarterly rate, monthly rate, and seasonal rate. The proposed quarterly rate for 5/8 inch service is \$37.70 for the first 1,200 cubic feet. The proposed monthly rate for 5/8 inch service is \$12.57 for the first 400 cubic feet. The proposed seasonal rate for 5/8 inch service is \$105.95 for the first 2,400 cubic feet. The existing rates are \$33.30, \$11.10, and \$93.20 respectively. Having reviewed the record, we find these increases to be reasonable given the recent capital improvements Fryeburg has undertaken. Accordingly, we find the proposed customer rates to be just and reasonable.

C. Step Increase

Fryeburg and Staff propose the Commission accept the step adjustment method adopted in the Maine proceeding regarding additional capital improvements Fryeburg has undertaken or will undertake after November 15, 2007. Fryeburg and Staff state that, in November 2008, Fryeburg will file for a step increase with the Maine commission that will include in rate base projects detailed in the construction schedule attached to the settlement agreement as Attachment C, and as modified by Exhibit 5. As explained at hearing, the step increase is expected to result

in a request for additional revenues for Fryeburg of \$16,337. 6/19/08 Tr. at 24 lines 8-18. Exh. 5 at 6. It is expected that this step filing will create the basis for eliminating the difference between the Maine and New Hampshire rates and rates will thus become the same. The looping project presently considered as CWIP will either be completed, or will be removed from Fryeburg's rate base at the time of the step increase filing. Staff will review Fryeburg's step adjustment filing, as well as the decision of the Maine commission, and will file a recommendation for our consideration. We consider this proposal for reviewing recently-made plant additions in the context of a step increase to customer rates to be sound and we therefore approve it. Customers will be protected by the fact that plant additions will be reviewed to ensure that they are prudent, used, and useful and costs associated with those additions will be audited before any change in rates is considered. The benefit to Fryeburg with this arrangement is that it is encouraged, by the ability to earn its authorized rate of return on this added plant, to make capital improvements in a timely manner to ensure safe and adequate service is provided to customers. We therefore accept this method for consideration of a step increase to rates.

D. Rate Case Expenses

Lastly, we consider the proposal to recover Fryeburg's rate case expenses. These expenses are estimated to be \$16,000 and, based on that estimate, Fryeburg and Staff propose that a surcharge be applied to customer bills over a 30-month period. We defer ruling on this issue because the rate case expenses are merely an estimate at present and Fryeburg has not yet submitted documentation corroborating these expenses. We will thus await Staff's review and audit of Fryeburg's rate case expense filing before approving an expense amount, surcharge amount and recovery period.

E. Conclusion

Having reviewed the record in this proceeding, including the settlement agreement and the supporting testimony presented at the June 19, 2008 hearing, we find the terms of the settlement agreement to be reasonable and for the public good. We find that the terms will result in just and reasonable rates and that they represent an appropriate balancing of ratepayer interests and the interests of Fryeburg's investors. Accordingly, we approve the settlement agreement.

Based upon the foregoing, it is hereby

ORDERED, that the terms of the settlement agreement are hereby adopted and APPROVED as discussed herein; and it is

FURTHER ORDERED, that Fryeburg Water Company, Inc. is authorized to collect from customers permanent rates, as discussed herein; and it is

FURTHER ORDERED, that Fryeburg Water Company, Inc. file with the Commission a compliance tariff identifying the approved permanent rates and incorporating the changes to rates, fares, and charges noted in the tariff attached to the settlement agreement within ten (10) days of the date of this order; and it is

FURTHER ORDERED, that Fryeburg Water Company, Inc. shall file with the Commission documentation of its rate case expenses within thirty (30) days from the date of this order.

By order of the Public Utilities Commission of New Hampshire this ninth day of July,
2008.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary