

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 08-086

EASTMAN SEWER COMPANY, INC.

**Petition for Financing Authority
and
Temporary and Permanent Rate Proceeding**

Order Approving Temporary Rates

ORDER NO. 24,927

December 30, 2008

APPEARANCES: Stephen P. St. Cyr & Associates, Inc. by Stephen P. St. Cyr for Eastman Sewer Company, Inc.; and Staff of the Public Utilities Commission by Marcia A. B. Thunberg, Esq.

I. PROCEDURAL HISTORY

Eastman Sewer Company, Inc. (ESC) is a regulated utility that provides sewer service to 533 residential customers and two commercial customers in the Town of Grantham. On June 24, 2008, ESC filed a notice of its intent to file rate schedules. On August 18, 2008, ESC filed revised tariff pages designed to increase its annual revenues by \$56,386, or 46.28%, over its current authorized level of rates. ESC requested that \$33,241 of the \$56,386 be applied to its capital reserve fund to finance system improvements.¹ ESC's petition also requested authorization, pursuant to RSA 369, to borrow \$238,850 from either a bank or from the Eastman Community Association in order to finance system improvements. This loan would be for a 10 year term at an interest rate of 7%. ESC's petition also requested temporary rates. The proposed

¹ ESC's capital reserve fund was established by the Commission in ESC's initial rate case, Docket No. DR 90-170. The Commission found that ESC was undercapitalized because the vast majority of the original sewer plant had been expensed for tax purposes, and thus the Commission ordered the establishment of the fund. The \$10,008 collected annually through customer rates is deposited to a separate account and is used exclusively for capital improvements. *Eastman Sewer Company*, Order No. 20,390, 77 NH PUC 93 (1992).

temporary rates would increase ESC's revenues by \$20,960 or 18.74%. Because ESC proposed no increase to its capital reserve fund for temporary rates, the overall bill impact of temporary rates to a residential customer is approximately 17.20%.

On September 18, 2008, the Commission issued Order No. 24,896, which suspended the taking effect of ESC's proposed tariff pages, pending investigation and decision thereon; scheduled a prehearing conference for October 29, 2008 to address procedural matters regarding ESC's requests; and ordered the company to publish notice of the hearing. On October 6, 2008, ESC provided notice to all customers by mailing a summary of the Commission's Order No. 24,896 to all its customers.

On October 29, 2008, ESC amended its filing. Citing an increase in the estimated costs of the capital improvements, ESC now proposes to borrow \$344,534 on the same terms as indicated earlier. As a result of this increased borrowing, ESC proposes to increase its rates to recover additional revenues in the amount of \$73,653, or an overall increase of 60.45%. ESC did not change its temporary rate request in light of these amendments.

The prehearing conference was held as scheduled on October 29, 2008. There were no requests for intervention. Staff and ESC met in a technical session after the prehearing conference and developed a proposed procedural schedule which Staff filed on October 30, 2008. The Commission approved the schedule by a Secretarial Letter dated November 5, 2008.

On December 11, 2008, Staff and ESC filed a settlement agreement on temporary rates. Staff and ESC presented this agreement at the December 17, 2008 hearing.

II. TERMS OF SETTLEMENT AGREEMENT

A. REVENUE REQUIREMENT

Staff and ESC recommend the Commission approve an 18.74% overall increase in ESC's revenues on a temporary basis. Exh. 4 at 3. This increase in revenues would result in an effective rate increase for residential customers of 17.20%. In support of this request, ESC states that based on its 2007 test year, it was earning a negative rate of return and its net operating income was -\$9,748. Exh. 1 at 5. ESC stated that its rate of return continues to erode due to significant increases in operating costs. Staff and ESC state that this revenue requirement recommendation is the same as that requested by ESC in its filing, represents a reasonable compromise of all issues relating to establishment of temporary rates for ESC, and results in rates for ESC's customers that are just and reasonable. Exh. 4 at 3. The average residential customer bill would increase by approximately \$38.35 annually under temporary rates. Exh. 1 at 68.

B. EFFECTIVE DATE

Staff and ESC recommend the Commission approve an effective date for temporary rates of October 6, 2008 on a service rendered basis. This is the date on which customers were notified of ESC's request for new rates in this proceeding.

C. RECONCILIATION

Staff and ESC agree that temporary rates will be subject to reconciliation pursuant to RSA 378:29 after the final determination of rates in this proceeding.

III. COMMISSION ANALYSIS

Pursuant to RSA 378:27, the Commission may approve temporary rates for the duration of the proceeding if, in its opinion, the public interest so requires and the reports of the public

utility on file with the Commission 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 is less stringent than that for permanent rates. *Appeal of Office of Consumer Advocate*, 134 N.H. 651, 660 (1991).

We have reviewed ESC's filing as well as the evidence and testimony presented regarding temporary rates and we find it reasonable to approve an 18.74% increase in ESC's rates, on a temporary basis. Based on ESC's reports on file with the Commission, ESC is under-earning and is in a negative earnings position based on its 2007 test year. The 18.74% increase recommended by Staff and ESC is slightly less than one-third of the total increase ESC seeks for permanent rates. According to its amended filing, ESC seeks to increase its revenues by \$25,649 to cover operational expenses and to increase its capital reserve rate by \$48,004. Exh. 2 at 2. ESC states that such an increase, on a permanent basis, would allow it to earn a 10% rate of return, based on its pro forma 2007 test year. Exh. 2 at 10 and 13.

We conclude that the temporary rate increase is reasonable and, under the circumstances, may ultimately serve to mitigate rate shock to customers and reduce the amount of a subsequent recoupment between temporary and permanent rates. For these reasons, we find the proposed 18.74% increase in ESC's revenue requirement to be in the public interest and the resulting temporary rates to be just and reasonable. We note that the reconciliation mechanism found in RSA 378:29 protects customers in that temporary and permanent rates will be fully reconciled once a final permanent rate determination is made.

With respect to the effective date of the temporary rate increase, we note that ESC and Staff request that temporary rates be effective on a service rendered basis as of October 6, 2008. We acknowledge that this proposed effective date precedes the date of the temporary rate

hearing; however, 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. *See, Appeal of Pennichuck Water Works*, 120 NH 562, 567 (1980). In this case, ESC filed its notice of intent to file rate schedules on June 24, 2008. We issued Order No. 24,896 on September 18, 2008, notifying the public of ESC's filings, suspending ESC's proposed tariffs, and scheduling a prehearing conference. On October 6, 2008, customers were individually noticed by ESC. In light of this notice, we find that implementing the temporary rate on a service-rendered basis, effective October 6, 2008, is just and reasonable and consistent with our authority.

In conclusion, we find that the terms of the settlement agreement will result in just and reasonable temporary rates for customers and that they represent an appropriate balancing of ratepayer interests and the interests of ESC. Accordingly, we adopt and approve the terms of the settlement agreement.

Based upon the foregoing, it is hereby

ORDERED, that Eastman Sewer Company, Inc.'s request to increase its revenue requirement, on a temporary basis, by 18.74% is GRANTED; and it is

FURTHER ORDERED, that Eastman Sewer Company, Inc. may charge customers the temporary rates discussed herein, for service rendered on or after October 6, 2008; and it is

FURTHER ORDERED, that Eastman Sewer 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 thirtieth day of
December, 2008.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

Debra A. Howland
Executive Director