

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 18-047

ABENAKI WATER COMPANY, INC.

Investigation to Determine Rate Effects of Corporate Tax Reductions

Order to Record Deferred Liabilities

ORDER NO. 26,251

May 10, 2019

In this order, the Commission directs Abenaki to record annual and cumulative regulatory liabilities for each of its utility systems, except Rosebrook Water System, to track tax savings realized from recent corporate tax rate decreases. The Commission also orders Abenaki to record a regulatory liability equivalent to each water system's respective calculated excess deferred income tax reserves.

I. BACKGROUND AND PROCEDURAL HISTORY

Abenaki Water Company, Inc. (Abenaki or the Company), is a regulated public utility as defined by RSA 362:2 and RSA 362:4. The Company includes four separate systems, each with distinct rates: Belmont Water System (BWS), Belmont Sewer System (BSS), Bow Water System (BOW), and Rosebrook Water System (RBS).

Effective January 1, 2018, federal and state corporate tax rates decreased. The enactment of the "Tax Cuts and Jobs Act" (TCJA) reduced the federal corporate income tax rate from 35 percent to 21 percent. *See Investigation to Determine Rate Effects of Federal and State Corporate Tax Reductions*, Order No. 26,096 (January 3, 2018). At the state level, the Business Profits Tax (BPT) was reduced from 8.2 percent to 7.9 percent, and the Business Enterprise Tax (BET) was reduced from 0.72 percent to 0.675 percent. *Id.* In Docket No. IR 18-001, the

Commission opened an investigation into public utility treatment of the effects of the corporate tax rate reductions and directed each utility, including Abenaki, to file a proposal addressing those effects no later than April 1, 2018. *Id.* Given the changes in state and federal tax law, each affected utility was ordered to calculate its interim tax savings and record a deferred liability. *Id.* The Commission further directed that each filing include financial information sufficient to establish a revenue requirement reflecting the effects of those changes on customer rates. *Id.* Abenaki responded on March 30, 2018.

The Office of the Consumer Advocate (OCA) filed a letter of participation on April 9, 2018, but took no position. Commission Staff (Staff) developed its recommendation with the assistance of Blue Ridge Consulting Services, Inc. (Blue Ridge). Staff submitted its recommendation, with Blue Ridge's report attached, on April 5, 2019.

Abenaki's initial filing and any subsequent docket filings, other than information for which confidential treatment is requested of or granted by the Commission, are posted on the Commission's website at <http://www.puc.state.nh.us/Regulatory/Docketbk/2018/18-047.html>.

II. POSITIONS

A. Abenaki

1. Tax Savings

Abenaki filed the anticipated annual tax savings for each of its four systems. In response to discovery propounded by Staff, Abenaki revised its annual tax savings calculation for each system to the following: \$6,768 for BWS, \$3,102 for BSS, \$1,349 for BOW, and \$15,877 for RBS. Abenaki proposed that those annual savings amounts be recorded as a deferred liability until rates are established in the respective system's next rate case, or as otherwise ordered.

2. Excess Deferred Income Tax (EDIT)

Abenaki also calculated a combined EDIT reserve of \$39,500 for the four systems. Abenaki proposed to return the EDIT reserve amount to customers through an amortization mechanism based on the calculated weighted average remaining life of the underlying assets, which was calculated to be 27.92 years. The Company's combined EDIT reserve would be reduced by \$1,415 annually until exhausted.

B. Staff

1. Tax Savings

Adopting Blue Ridge's calculations, Staff determined Abenaki's tax savings for each system by applying the Federal Energy Regulatory Commission's (FERC) formula for tax reductions to each system's most recently approved revenue requirement. Blue Ridge and Staff noted that the proposed calculations are consistent with multiple recent Commission rulings, including Abenaki's RBS. *Abenaki Water Company, Inc. – Rosebrook Water System*, Order No. 26,171 (August 31, 2018); *Abenaki Water Company, Inc. – Rosebrook Water System*, Order No. 26,205 (December 27, 2018). Both Blue Ridge and Staff noted that the revenue requirement approved for RBS in Order No. 26,205 already reflects an appropriate reduction in federal and state corporate taxes. Staff therefore recommended an annual tax savings adjustment of \$0 for RBS.¹

For the other three systems, Staff calculated the following annual tax savings, applying the FERC formula to each Company's most recently approved revenue requirement: \$5,327 for

¹ Abenaki included an annual tax savings for RBS in its initial filing and discovery response as those responses predated Order No. 26,205.

BWS, \$1,438 for BSS, and \$2,642 for BOW.² Staff recommend that the Commission direct Abenaki to record annual and cumulative regulatory liabilities for each of its systems, except RBS, as of January 1, 2018, and through the effective date of each system's next approved permanent base rates adjustment.³

2. EDIT

Staff recommended that the Commission direct Abenaki to record a total \$38,966 EDIT reserve regulatory liability, allocated to each system as follows: \$6,900 to BWS/BSS, \$17,700 to BOW, and \$14,366 to RBS.⁴ Pursuant to the revenue requirement approved in Order No. 26,205, RBS's EDIT will be amortized by an annual customer credit of \$534, until it is exhausted. Staff recommended that the issue of appropriate amortization periods resulting in annual customer credits relative to BWS/BSS's and BOW's respective EDITs should be resolved in those systems' next general rate proceedings.

Staff concluded that its recommendations provided a full and satisfactory resolution of all issues contained within the instant docket, and recommended that the docket be closed. Staff stated that Abenaki concurred.

III. COMMISSION ANALYSIS

All charges made or demanded by a utility must be "just and reasonable." RSA 374:2. In determining whether rates are just and reasonable, the Commission must balance the

²The most recently established revenue requirements for BWS, BSS, and BOW can be found in *Abenaki Water Company, Inc.*, Order No. 25,905 (June 3, 2016).

³ Staff estimated annual entries for all three water systems. For illustrative purposes, BWS's annual entry will result in a 2018 year-end balance of \$5,327, a 2019 year-end balance of \$10,654, a 2020 year-end balance of \$15,981, and so on, until the conclusion of its next general rate proceeding.

⁴ Staff agrees with Abenaki's calculation of a \$39,500 EDIT reserve. Staff's calculation differs, however, as it reflects RBS's 2018 amortization deduction of \$534 applied in deriving the revenue requirement approved in Order No. 26,205 (i.e., \$39,500 - \$534 = \$38,966).

customers' interest in paying no higher rates than are required against the investors' interest in obtaining a reasonable return on their investment. *Appeal of Eastman Sewer Company, Inc.*, 138 N.H. 221, 225 (1994). In this way, the Commission fulfills its duties as an arbiter between the interests of customers and those of a utility's owners. RSA 363:17-a.

Changes in federal and state tax laws produced tax savings benefits for the Company's four systems. We dealt with the tax savings to RBS in its most recent rate proceeding in Order No. 26,205. The water rates charged by the three remaining systems, however, were calculated at the higher corporate income tax rates in effect prior to 2018. The decrease in corporate tax rates also produced an EDIT reserve for all four systems. The result is that Abenaki's non-RBS customers have been paying rates higher than necessary to cover the Company's tax liabilities.

We agree with Staff, noting Abenaki's concurrence, that the Company should apply the FERC formula to determine the effects of the lower federal and state tax rates. We find the use of the FERC formula is a reasonable method to calculate the annual tax savings, as previously approved by the Commission.

We recognize that the tax savings realized by the Company may vary from year to year based on the actual annual revenues collected. We determine, however, that the differences in the annual tax savings realized by the Company and the annual tax savings calculated by Staff will more than likely be nominal. We conclude that, for the sake of simplicity, the minimization of error, and the ease of administrative efficiency, the annual tax savings should be accounted for using a consistent, set amount. We therefore direct Abenaki to record the annual and cumulative regulatory liability as of January 1, 2018, and through the effective date of each system's next approved permanent base rate adjustment, as recommended by Staff.

We direct Staff to monitor the Company's annual and cumulative regulatory liability, contained in Abenaki's annual reports filed with the Commission, and file a recommendation for a subsequent rate proceeding if the resultant accumulation of tax savings warrants such action.

We further note that the accumulation of tax savings may generate income for the Company in the form of interest. We conclude, however, that the amount of interest collected will be relatively small given the amount of tax savings the Company will be recognizing. Due to the circumstances specific to the instant case, we find it reasonable for the Company to record the deferred liability of the tax savings without an interest component.

We also agree with Staff's recommendation that Abenaki should record a total \$38,966 EDIT reserve regulatory liability, and that an appropriate amortization period resulting in annual customer credits for the remaining systems, other than RBS, be determined in those systems' next general rate proceedings. We find that the treatment of the tax savings outlined above results in a just and reasonable resolution of the issues.

Based upon the foregoing, it is hereby

ORDERED, that Abenaki Water Company shall address the effects of the decreases in corporate tax rates, as detailed in the body of this order; and it is

FURTHER ORDERED, that Abenaki Water Company shall record annual and cumulative regulatory tax savings deferred liabilities for Belmont Water System in the amount of \$5,327 annually, for Belmont Sewer System in the amount of \$1,438 annually, and for Bow Water System in the amount of \$2,642 annually. Such deferred liabilities shall be recorded as of January 1, 2018, until the effective date of each system's next approved permanent base rate adjustment; and it is

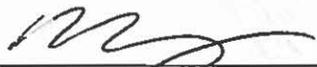
FURTHER ORDERED, that Abenaki shall record a total \$38,966 Excess Deferred Income Tax reserve regulatory liability for each system, as follows: \$6,900 for the Belmont Water and Sewer Systems, \$17,700 for the Bow Water System, and \$14,366 for the Rosebrook Water System; and it is

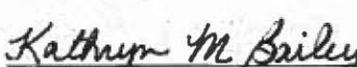
FURTHER ORDERED, that the issue of an appropriate amortization period resulting in annual customer credits relative to the Belmont Water and Sewer Systems' and the Bow Water System's Excess Deferred Income Taxes should be resolved in those systems' next general rate proceedings; and it is

FURTHER ORDERED, that Staff shall monitor the amount of tax savings included in the Company's annual and cumulative regulatory liability, contained in Abenaki's annual report; and it is

FURTHER ORDERED, that this docket shall be closed.

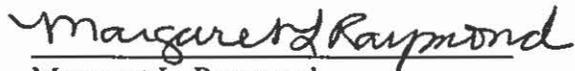
By order of the Public Utilities Commission of New Hampshire this tenth day of May, 2019.


Martin P. Honigberg
Chairman


Kathryn M. Bailey
Commissioner


Michael S. Giaimo
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Attested by:


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