

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DW 17-165**

**ABENAKI WATER COMPANY, INC.  
ROSEBROOK WATER SYSTEM**

**Petition for Change in Rates**

**Order Authorizing Temporary-Permanent Rate Recoupment,  
Partial Recovery of Rate Case Expenses, and  
Denying Motion to Bifurcate**

**ORDER NO. 26,295**

**October 1, 2019**

This order authorizes Abenaki Water Company, Inc., to recoup the \$39,533 difference between its temporary and permanent rates and to recover \$79,657 in uncontested rate case expenses. Abenaki's largest customer, Omni Mount Washington, LLC, will pay a 24-month flat surcharge, and residential and other commercial customers will pay an 18-month flat surcharge. These changes will begin with bills rendered on or after October 1, 2019. The order denies Abenaki's motion to bifurcate certain issues.

**I. PROCEDURAL HISTORY**

On August 31, 2018, the Commission approved a temporary rate increase of 14.89 percent for Abenaki Water Company, Inc.'s Rosebrook Water System (Abenaki or the Company). *Abenaki Water Company, Inc.*, Order No. 26,171 at 6 (August 31, 2018). The temporary rates took effect May 1, 2018, on a service-rendered basis. *Id.* The Commission also approved a 28.40 percent overall revenue increase for Abenaki, including \$13,727 in step adjustment revenues not eligible for reconciliation. *Id.* at 3, 10. The Commission ordered Abenaki to submit its calculation for the difference between the temporary and permanent rates,

along with a proposed surcharge for recovering the difference (temporary-permanent rate recoupment), and its rate case expenses. *Abenaki Water Company, Inc.*, Order No. 26,205 at 14 (December 27, 2018).

The Company filed its calculations and proposed surcharge on January 28, 2019, and rate case expenses on February 11. Abenaki updated those expenses on May 8 and July 15, and Commission Staff (Staff) filed its recommendation on August 15. The Company responded on August 22. Omni Mount Washington, LLC (Omni), an intervenor, responded on September 9. Similarly, intervenors Bretton Woods Property Owners Association (BWPOA) and Forest Cottages submitted a joint response on September 11.

The Company moved to bifurcate approval of temporary-permanent rate recoupment from approval of rate case expenses on September 16. Omni filed its objection on September 23. The BWPOA and Forest Cottages submitted a joint objection on September 27.

Abenaki's petition and subsequent docket filings, other than any information for which confidential treatment has been requested of or granted by the Commission, are available at <http://www.puc.nh.gov/Regulatory/Docketbk/2017/17-165.html>.

## **II. POSITIONS**

### **A. Temporary-Permanent Rate Recoupment and Rate Case Expenses**

#### **1. Abenaki**

Abenaki originally proposed a total amount of \$156,499 to be recovered on a per customer basis with a fixed charge. The Company, however, accepted Staff's final calculation of \$145,559 and Staff's proposed recovery based on usage. The Company disagreed with Staff's proposed reconciliation of the surcharge. Abenaki recommended monitoring the surcharge and adjusting it in the final month to recover the full amount, if necessary.

## **2. Staff**

Staff recommended Abenaki recover a total of \$145,559 via an 18-month surcharge. Staff verified the Company's calculation of \$39,533 for temporary-permanent rate recoupment. Staff recommended disallowing \$10,941 in rate case expenses submitted by the Company, recommending a total of \$106,026 in rate case expenses. Staff proposed a usage-based surcharge, at a rate of \$2.566 per 1,000 gallons of usage over 18 months. Staff said a usage-based surcharge would be more equitable than a meter-based surcharge for what Staff classified as three customer types: 1) residential, 2) commercial, and 3) Omni. Staff included calculations supporting its conclusion. Staff said that surcharge would be just and reasonable pursuant to RSA 378:7. Staff also recommended that the Company submit a reconciliation of the charges collected and an accounting method used for over- and under-collection, to consider in Abenaki's next rate case.

## **3. Omni**

Omni did not dispute the \$39,533 temporary-permanent rate recoupment. Omni, however, disagreed with the amount of rate case expenses. Omni argued that the rate case expenses should be reduced to \$79,657, a reduction of \$26,369. Omni contended that charges for services provided by Abenaki's affiliate, New England Service Company, are not eligible for recovery as those activities are typically performed by utility management and staff of the utility, under Puc 1907.01(a). Omni further argued that New England Service Company is not a "service provider" as "contemplated in Puc 1903.06 because [New England Service Company] services are already included in Rosebrook's revenue requirement." Omni Mount Washington, LLC, Response to Abenaki Water Company Reply, September 9, 2019, at 2. Omni proposed that the surcharge should be applied over 24 months.

While supporting Staff's proposed usage-based surcharge for the temporary-permanent rate recoupment, Omni opposed that application for the recovery of rate case expenses. Omni argued that, unlike the temporary-permanent rate recoupment recovery, there is no "linkage between Omni's water usage and the level of rate case expenses that Abenaki incurred." *Id.* Omni said "Staff's usage-based recommendation is unreasonable as it relates to rate case expenses and that its bill impact analysis is incomplete." *Id.* Omni disagreed with Staff's reliance on Commission precedent regarding usage-based surcharges as the companies in the orders cited are different from Abenaki.

Omni recommended instead that 75 percent of the \$39,533 in the temporary-permanent rate recoupment be recovered from Omni and the remaining amount be recovered from Abenaki's other customers over a 24-month period. Omni contended that a flat-rate surcharge would simplify recovery. Omni recommended that the "traditional distribution-base approach for water companies be applied" to the \$79,657 in rate case expenses over 24 months. *Id.*

#### **4. The BWPOA and Forest Cottages**

The BWPOA and Forest Cottages joined in Omni's argument that the rate case expenses for New England Service Company should be disallowed for the following reasons: 1) the affiliate already charges Abenaki for many of the items specified in its affiliate agreement; 2) the April 1, 2018, affiliate agreement is flawed, in part because it is not an "arm's length" transaction; and 3) questions remain about the lease agreement between the service company and Abenaki.

The BWPOA and Forest Cottages also argued that certain individual rate case expenses should be disallowed, including: 1) the hourly rate for the controller, which increased 21 percent from April to May, 2019; 2) the hourly rate for the customer service/accounting manager, which

increased 17 percent from April to May, 2019; and 3) the inclusion of overhead allocation, arguing that overhead is an expense already built into the hourly charges per the affiliate agreement. The BWPOA and Forest Cottages also argued that executive compensation, overall, is not appropriate for recovery as a rate case expense. The BWPOA and Forest Cottages agreed with Staff's recommendation that the surcharge for both the remaining rate case expenses and the temporary-permanent rate recoupment should be on a usage basis as there is a significant difference between residential and commercial usage.

## **B. Motion to Bifurcate**

### **1. Abenaki**

Abenaki requested that the Commission approve the proposed temporary-permanent rate recoupment separate from the contested rate case expenses. The Company argued that Abenaki's cash flow is "adversely impacted by the ... delayed rate relief," which also affects its ability to conduct operations. The Company noted that none of the parties objected to the temporary-permanent rate recoupment or its method of collection.

### **2. Staff**

Staff assented to the Company's motion.

### **3. Omni**

Omni objected to the Company's motion, arguing that the "most efficient way to resolve the outstanding issues," including the rate case expenses, is not through bifurcation but through alternative dispute resolution.

### **4. The BWPOA and Forest Cottages**

The BWPOA and Forest Cottages joined with Omni in its objection and concurred with Omni's reasoning.

### III. COMMISSION ANALYSIS

#### A. Temporary-Permanent Rate Recoupment Amount

RSA 378:29 requires the Commission to allow utilities to amortize and recover the difference between temporary and permanent rates over the effective period of the temporary rates if, upon the final disposition of the rate proceeding, the rates ultimately approved exceed the earlier-imposed temporary rates. Here, the temporary rates were lower than the rates that the Commission ultimately approved. The difference created a revenue shortfall that the Company is entitled to recoup from its customers. The total revenue shortfall is \$39,533. We note that the amount is not in dispute by any of the parties. We find the recovery amount just and reasonable, and approve the proposed revenue differential.

#### B. Rate Case Expense Recovery Amount

The Commission has historically treated prudently incurred rate case expenses as a legitimate cost of service appropriate for recovery through rates. *Hampstead Area Water Company, Inc.*, Order No. 26,248 at 2 (May 6, 2019). Consistent with that policy, we have reviewed Abenaki's rate case expenses, Staff's recommendation, and the objections of Omni, and the BWPOA and Forest Cottages.

We note that both Staff and Abenaki recommended recovery of \$106,026 in rate case expenses. We also note that Omni, the BWPOA, and Forest Cottages dispute \$26,369 of that amount relating to expenses incurred with the Company's affiliate, New England Service Company. Based on the record, we find the undisputed \$79,657 in rate case expenses has been prudently-incurred and appropriate for recovery through rates at this time. We also find that Abenaki's recovery of \$79,657 in rate case expenses is just and reasonable and in the public interest under RSA 378:7 and Puc 1904.02(a)(3).

We withhold a decision on the recovery of the disputed \$26,369 of rate case expenses. The arguments made by Omni, the BWPOA, and Forest Cottages require further investigation by the Commission. We direct Abenaki to respond within 14 days of this order to the arguments made by Omni, the BWPOA, and Forest Cottages contained within their September 9 and September 11 filings.

### **C. Method of Recovery**

As stated above, we approve \$39,533 in temporary-permanent rate recoupment and \$79,657 in rate case expenses, for a total \$119,190 recovery amount. Abenaki shall recover the total amount through a combined surcharge on customer bills.

We note that the parties involved recommended different methods to implement the surcharge. By drawing on each of the suggestions, and evidence in the record, we find the following surcharge parameters to be just and reasonable:

1. Abenaki's customer base is separated into three customer types: 1) residential; 2) commercial; and 3) Omni.
2. The surcharge shall be a flat monthly fee for each customer type. A flat monthly fee is more efficient because it does not require a subsequent reconciliation and provides the Company with full recovery during the recovery period.
3. The temporary-permanent rate recoupment component shall be based on historical usage of each customer type. That will be more equitable to the customer classes as each class charge is based on previous historical consumption. We note that no one objected to the amount to be recovered or to that recovery method.
4. The rate case expense component shall be based on a uniform percentage increase on existing customer bills, of approximately 15 percent for each customer type, when

calculated over an 18-month recoupment period for all customer types. That method is more equitable because the increase in all customer bills will proportionately be the same relative to rate case expenses.

We next consider the time over which the surcharge will be implemented. Both Staff and the Company recommended an 18-month surcharge, while Omni requested a 24-month surcharge. We agree with Omni's request to extend its surcharge over 24 months to mitigate the potential rate impact.

We direct the Company to recover Omni's portion of the surcharge over a 24-month period. We approve the Company's recovery from the remaining residential and commercial customers over an 18-month period through a monthly customer surcharge.

The chart below details the monthly surcharge and term based on customer type.

<b>Customer Type</b>	<b>Rate Case</b>	<b>Temp-to-Perm</b>	<b>Monthly Surcharge</b>	<b>Number of Months</b>
Residential	\$3.56	\$0.973	\$4.53 <sup>1</sup>	18
Commercial	\$11.16	\$2.79	\$13.95	18
Omni	\$2,242.74	\$1,352.64	\$3,595.38	24

We also find that it is appropriate to provide the Company quick recovery, and accordingly, the surcharge will begin with bills rendered on or after October 1, 2019.

#### **D. Motion to Bifurcate**

We deny Abenaki's bifurcation motion as moot. This order approves both the temporary-permanent rate recoupment and the undisputed rate case expenses.

<sup>1</sup> This amount has been rounded to the nearest cent to assist the Company in computation of its customer bills. The rounded amount produces a difference of \$20.82 in the total amount recouped by the Company, a byproduct of the calculation among the classes (( $\$4.53 \times 18 \text{ months} \times 394 \text{ residential customers}$ ) + ( $\$13.95 \times 18 \text{ months} \times 3 \text{ commercial customers}$ ) + ( $\$3,595.38 \times 24 \text{ months} \times 1 \text{ Omni customer}$ ) = \$119,169.18)).

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

**ORDERED**, that Abenaki is authorized to recover \$39,533 in temporary-permanent rate recoupment, representing the difference between revenues billed by Abenaki since May 1, 2018, the effective date approved in Order No. 26,171, and the permanent rates approved in Order No. 26,205; and it is

**FURTHER ORDERED**, that Abenaki is authorized to recover \$79,657, representing its uncontested and prudently incurred rate case expenses; and it is

**FURTHER ORDERED**, that Abenaki is authorized to collect a monthly surcharge in the amount of \$3,595.38 from Omni, for 24 months, to recover both its temporary-permanent rate recoupment and rate case expenses; and it is

**FURTHER ORDERED**, that Abenaki is authorized to collect a monthly surcharge in the amount of \$4.53 from its residential customers, for 18 months, to recover both its temporary-permanent rate recoupment and rate case expenses; and it is

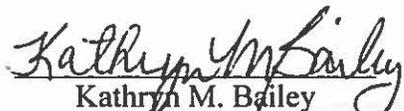
**FURTHER ORDERED**, that Abenaki is authorized to collect a monthly surcharge in the amount of \$13.95 from its remaining commercial customers, for 18 months, to recover both its temporary-permanent rate recoupment and rate case expenses; and it is

**FURTHER ORDERED**, that Abenaki's motion to bifurcate is DENIED; and it is

**FURTHER ORDERED**, that Abenaki shall file a response to Omni, and the BWPOA and Forest Cottages' September 9 and 11 filings regarding the \$26,369 in contested rate case expenses concerning the New England Service Company, within 14 calendar days of the date of this order; and it is

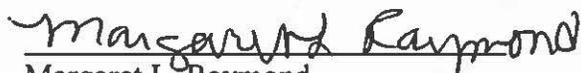
**FURTHER ORDERED**, that Abenaki shall file compliance tariffs within 14 calendar days of the date of this order reflecting the recoupment and rate case expense surcharges approved herein.

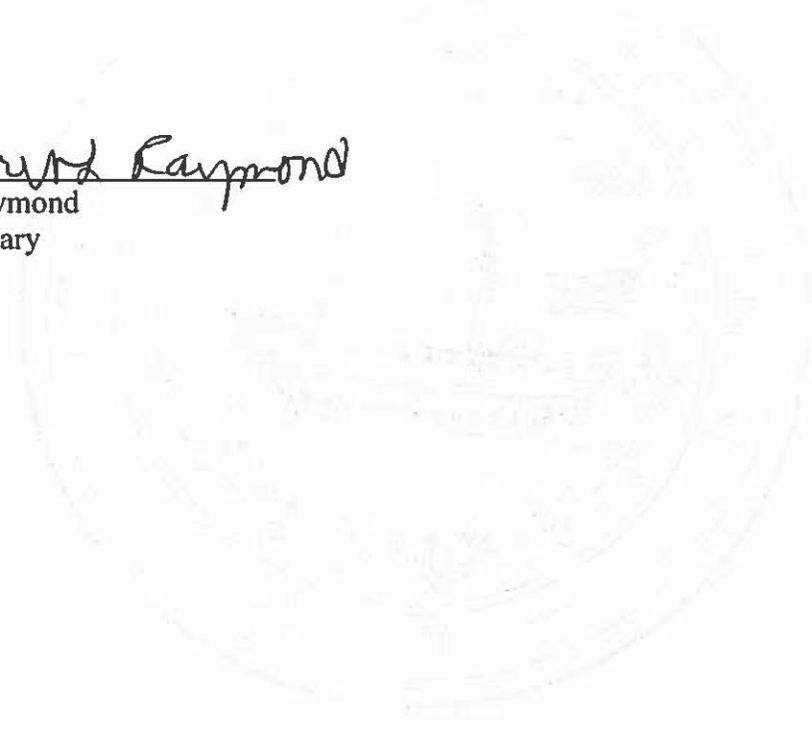
By Order of the Public Utilities Commission of New Hampshire this first day of October, 2019.

  
Kathryn M. Bailey  
Commissioner

  
Michael S. Giaimo  
Commissioner

Attested by:

  
Margaret L. Raymond  
Assistant Secretary



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