

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 20-117

Hampstead Area Water Company, Inc.

Request for Change in Rates

**Order Authorizing Recovery of Rate Case Expenses
and Recoupment of Temporary Rates**

O R D E R N O. 26,718

November 3, 2022

This order authorizes Hampstead Area Water Company, Inc. (HAWC, or the Company) to recover approved rate case expenses incurred in this proceeding, and recoupment of the difference between approved temporary and permanent rates. The Company's initial filings and all subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted on the Commission's website at www.puc.nh.gov/Regulatory/Docketbk/2020/20-117.html.

I. PROCEDURAL HISTORY

HAWC filed a request for a change in rates on November 24, 2020. On May 9, 2022, the Company filed a settlement agreement on permanent rates (Settlement) that included certain provisions regarding the recovery of rates case expenses and the recoupment of the reconciled difference between temporary and permanent rates. The Commission approved the Settlement in Order No. 26,635 on June 1, 2022.¹

On June 30, 2022, HAWC filed a proposed surcharge to recover the temporary-to-permanent rate reconciliation differential and rate case expenditures, in accordance with the Settlement and Order No. 26,635. In that filing, HAWC requested that the

¹ Order No. 26,635 was amended for clarity on June 10, 2022 and on July 20, 2022.

New Hampshire Department of Energy (DOE) review both the temporary-to-permanent rate submission and the request to recover rate case expenses, also in accordance with the Settlement and Order No. 26,635, as amended. HAWC filed a revised Public Fire Protection surcharge calculation for the Towns of Hampstead and Atkinson on July 5, 2022.

On September 30, 2022, DOE filed a report and position statement regarding its review of HAWC's rate case expenses. HAWC responded to DOE's report on the same day. The Office of the Consumer Advocate (OCA) filed a position statement on October 10, 2022.

II. SETTLEMENT AGREEMENT

A. Rate Case Expenses

The Settlement filed on May 9, 2022, included certain provisions and recommendations regarding the recovery of rate case expenses. *See* Settlement at 14. The Settling Parties agreed and recommended that the Commission approve HAWC's recovery of reasonable rate case expenses incurred in this proceeding through a surcharge to customers. *Id.* Specifically, the Settlement states that HAWC's rate case expenses "may include, but are not limited to, consultant expenses, incremental administrative expenses such as copying and delivery charges, and other such rate case related expenditures" permitted under N.H. Admin. R., Puc 1906.01. *Id.*

The Company agreed to file its final rate case expense request no later than 30 days after Commission approval of the Settlement, pursuant to Puc 1905.02, and the Settling Parties agreed that DOE would review the Company's proposal and provide a report for the Commission's consideration of both rate case expenses and temporary-to-permanent rate recoupment. *Id.* The Settlement stipulates that the resulting surcharge for rate case expenses will be reflected as a separate item on customer bills.

Id. Finally, HAWC agreed to file, within 15 days of the Commission's order approving rate case expense recovery, a compliance tariff supplement including the approved surcharge related to the total recovery of rate case expenses, as well as the average monthly surcharge per customer, if applicable. *Id.* at 15.

B. B. Temporary-to-Permanent Rate Recovery Surcharge

The Settling Parties recognized that the Commission authorized a temporary rate increase for the Company for service rendered as of June 30, 2021. *See* Settlement at 13 and Order No. 26,566 (January 17, 2022). The Settling Parties also noted that the Company is entitled to file for temporary to permanent rate recoupment pursuant to RSA 378:29, and agreed that recoupment would apply only to the the time period from the effective date of temporary rates (June 30, 2021) through the date of a Commission order approving the Settlement. The recoupment period does not extend to the proposed resulting rates of the proposed step adjustments. Settlement at 14.

III. HAWC'S INITIAL Request for Rate Case Recovery and Temporary-to-permanent Rate recoupment

In its June 30, 2022 filing, HAWC requested approval of rate case expenses totaling \$323,412, and temporary-to-permanent rate reconciliation for all water customers in the amount of \$186,036, for recovery through monthly surcharges on customer bills. HAWC proposed the following surcharges:

Temporary/Permanent Rate Surcharge for all customers	\$3.82 per month for 12 months
Residential Fire Protection customers (1,102 customers)	\$4.79 per month for 12 months
Commercial Fire Protection customers (29 customers)	One-Time Credit of \$7,480
Public Fire Protection (Hydrants) – Hampstead	\$6,983 per month for 12 months
Public Fire Protection (Hydrants) – Atkinson	\$9,477 per month for 12 months
Rate Case Expenditures for all customers	\$6.64 per month for 12 months

On July 5, 2022, HAWC updated its calculation of surcharges for Public Fire Protection customers, as follows:

Public Fire Protection (Hydrants) – Hampstead	\$6,840 per month for 12 months
Public Fire Protection (Hydrants) – Atkinson	\$9,287 per month for 12 months

HAWC's filings thus consist of one request for rate case expense recovery, and five separate and distinct requests for temporary-to-permanent rate recoupment related to the following customer groups: (1) all general metered customers; (2) residential fire protection customers; (3) commercial fire protection customers; (4) municipal fire protection for Atkinson; and (5) municipal fire protection for Hampstead.

IV. DEPARTMENT OF ENERGY REPORT

In its September 30, 2022, report and position statement, DOE stated that it had reviewed HAWC's filings, conducted discovery, and met with the Company in a technical session on September 12, 2022. As a result of that process, DOE reported the following updates relative to the Company's requests for monthly surcharges:

(1) The **rate case expense surcharge for all customers** initially proposed by HAWC was \$6.64 per month for 12 months based on \$323,411.74 in rate case expenses. The surcharge calculation was subsequently reduced by \$636.44 due to duplicative billing, resulting in \$322,775.30 of total rate case expenses eligible for recovery, as agreed to by HAWC and the DOE, who further agreed to extend the surcharge period from 12 months to 18 months, and updated the customer count from 4,061 to 4,099 as of August 24, 2022. The resulting proposed rate case expense monthly surcharge to customers is \$4.37 for 18 months.

(2) The **temporary-to-permanent rate recoupment surcharge for all general service metered customers** proposed by HAWC initially was \$3.82 per month for 12 months based on a reconciliation amount of \$186,036.45. The DOE and HAWC subsequently agreed to use an updated customer count of 4,099 as of August 24,

2022, in its calculation, resulting in a revised proposed surcharge of \$3.78 per customer per month for 12 months.

According to the DOE, the Company indicated through discovery that it has the ability to modify its billing system to capture the data necessary to charge a temporary-to-permanent rate recoupment surcharge to customers based on each customer's actual, historical usage, rather than a per customer flat fee. The DOE encouraged the Company to engage in this practice for its next rate case filing, which would align HAWC to other New Hampshire Class A water utilities.

(3) HAWC proposed a **temporary-to-permanent rate recoupment surcharge applicable to Hampstead for its Public Fire Protection (Hydrants)** charge of \$6,983 per month for 12 months, which the Company updated on July 5, 2022, to \$6,840 per month for 12 months. The DOE expressed no concerns with that request in its filing.

(4) HAWC proposed a **temporary-to-permanent rate recoupment surcharge applicable to Atkinson for its Public Fire Protection (Hydrants)** charge of \$9,477 per month for 12 months, which the Company subsequently updated on July 5, 2022, to \$9,287 per month for 12 months. The DOE expressed no concerns with that request.

(5) HAWC proposed a **temporary-to-permanent rate recoupment credit for its commercial fire protection customers**, 29 in total, of \$7,480 distributed among each customer according to pipe size. The DOE expressed no concerns with that request.

(6) HAWC proposed a **temporary-to-permanent rate recoupment surcharge for its residential fire protection customers**, 1,102 in total, of \$4.79 per month for 12 months based upon a reconciliation amount of \$63,388. The DOE disagreed with this proposed recovery amount, based on its understanding that the Company's

General Private Fire Protection Service category expanded by the 1,102 customers at the resolution of the rate case pursuant to Order No. 26,635 issued on June 2, 2022. The DOE stated that those customers had received no notice that the new charge would be sought retractively by means of a temporary-to-permanent rate recoupment. Accordingly, the DOE contended that the rates set in HAWC's General Private Fire Protection Service tariff should apply only prospectively to those 1,102 customers as of the date of the Commission's order approving the permanent rates settlement on June 2, 2022, and thus, the proposed surcharge should not be permitted under RSA 378:27 and 378:29.

The DOE and the Company agreed to a joint request that the Commission postpone the resolution of the issue pertaining to the 1,102 General Private Fire Protection Service customers until after an order is rendered regarding the five other requests for rate case expenses and temporary to permanent rate recoupment, as revised and updated. The DOE and the Company proposed this approach in the event the Commission determines that further consideration of the matter through an alternative process is necessary.

V. OFFICE OF THE CONSUMER ADVOCATE POSITION

The Office of the Consumer Advocate (OCA) filed a position statement on October 10, 2022 in support of the DOE's findings and recommendations, including the objection to the proposed temporary-to-permanent rate recoupment surcharge for the 1,102 residential fire protection customers added to the Company's General Private Fire Protection Service. The OCA noted that, as stated in the Company's response to the DOE Report, at the time of HAWC's request for temporary rates, the cost of service study was not yet completed. Therefore, there was no clear way to evaluate a just and reasonable rate for those customers. The OCA argued that

imposing recoupment on customers who were not subject to a fire protection rate prior to Order No. 26,635 violates the well-established precedent that a public utility may not impose a rate increase on a retroactive basis, citing *Appeal of Pennichuck Water Works*, 120 N.H. 562, 566 (1980) (“[i]t is a basic legal principle that a rate is made to operate in the future and cannot be made to apply retroactively”) (quoting *Southwest Gas Corp. v. Public Service Comm’n*, 474 P.2d 379, 383 (Nev. 1970)). Thus, the OCA supports the DOE’s findings and recommendations, including the objection to any proposed temporary-to-permanent rate recoupment surcharge for those 1,102 customers, and further opposes any request to recover the \$63,388 from other customer classes.

VI. COMMISSION ANALYSIS

A. Rate Case Expense Recovery

N.H. Admin. R., PART Puc 1906 permits recovery of certain rate case expenses that are just and reasonable and in the public interest. Approved rate case expenses are recovered through a surcharge on rates. Puc 1908.01.

HAWC initially proposed to recover \$323,411.74 of rate case expenses through a surcharge applied to customer bills over 12 months. The Company and the DOE agreed to a reduction by \$636.44 of the total rate case expenses, to be recovered over a longer time period, resulting in a revised request for the recovery of rate case expenses totaling \$322,775.30 through a customer bill surcharge of \$4.37 per customer per month for 18 months.

Consistent with applicable statutory requirements and administrative rules, we have reviewed the rate case expenses submitted by HAWC, as well as the proposed adjustments and recommendation filed by the DOE and supported by the Company and the OCA. Based on our review, we approve the Company’s recovery of rate case

expenses in the amount of \$322,775.30 to be recovered through a monthly surcharge of \$4.37 per customer over a period of 18 months.

B. Temporary-to-Permanent Rate Recoupment

RSA 378:29 requires the Commission to permit 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 approved temporary rates were lower than the final permanent rates approved by Order No. 26,635. The difference created a revenue shortfall that the Company is entitled to recoup from its customers.

Based on the record, we find the proposed recoupment through the following surcharges, as adjusted and confirmed by the DOE and supported by the OCA, to be just and reasonable and in the public interest:

General Service Metered Customers (4,099 customers)	\$3.78 per month for 12 months
General Private Fire Protection Customers (29 customers)	One-Time Credit of [\$7,480], allocated according to pipe size
Public Fire Protection (Hydrants) – Hampstead	\$6,840 per month for 12 months
Public Fire Protection (Hydrants) – Atkinson	\$9,287 per month for 12 months

With respect to the proposed temporary-to-permanent rate recoupment of \$4.79 per month for 12 months from the approximately 1,102 residential customers with fire protection service, we decline to approve the proposed recoupment surcharge pending further input from the parties on the issues raised through their filings. As the DOE and the Company have anticipated, we deem this issue to warrant further scrutiny. Therefore, we will address that issue separately within this docket through further process, as suggested by the DOE and the Company. Accordingly, we will direct the parties to establish a procedural schedule, including, as needed, discovery, briefing

and a proposed hearing timeframe, to permit further consideration. **Based upon the foregoing, it is hereby**

ORDERED, that Hampstead Area Water Company, Inc. is authorized to recover \$322,775.30 in rate case expenses through a monthly surcharge of \$4.37 to all general service metered customers over a period of 18 months; and it is

FURTHER ORDERED, that Hampstead Area Water Company, Inc. is authorized to recover the approved temporary-to-permanent rates reconciliation recoupment through monthly surcharges in the following amounts and timeframes per customer class:

General Service Metered Customers (4,099 customers)	\$3.78 per month for 12 months
General Private Fire Protection Customers (29 customers)	One-Time Credit of [\$7,480], allocated according to pipe size
Public Fire Protection (Hydrants) – Hampstead	\$6,840 per month for 12 months
Public Fire Protection (Hydrants) – Atkinson	\$9,287 per month for 12 months;

and it is

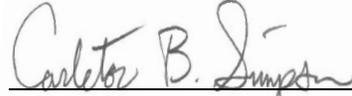
FURTHER ORDERED, that the parties file a proposed procedural schedule by no later than November 11, 2022, to permit further consideration regarding the recoupment of temporary-to-permanent rates reconciliation from residential customers with fire protection systems who are being converted to “private fire protection service customers” and will be subject to new rates for that service under the new tariff; and it is

FURTHER ORDERED, that Hampstead Area Water Company, Inc. shall file conforming tariffs within 21 days of this order.

By order of the Public Utilities Commission of New Hampshire this third day of
November, 2022.



Daniel C. Goldner
Chairman



Carleton B. Simpson
Commissioner

Service List - Docket Related

Docket# : 20-117

Printed: 11/3/2022

Email Addresses

ClerksOffice@puc.nh.gov
japple@atkinson-nh.gov
aaugeri@lewisbuilders.com
wbaldwin@atkinson-nh.gov
douglas.brogan@gmail.com
adminasst@townofdanville.org
sambosox@gmail.com
cressmandg@atkinson-nh.gov
Energy-Litigation@energy.nh.gov
robyn.j.descoteau@energy.nh.gov
julianne.m.desmet@oca.nh.gov
dfox@raftelis.com
david.n.goyette@energy.nh.gov
lojogut@gmail.com
ahansen@atkinson-nh.gov
tklaes@blueridgecs.com
donald.m.kreis@oca.nh.gov
jayson.p.laflamme@energy.nh.gov
charlie@hampsteadwater.com
anthony.j.leone@energy.nh.gov
nmlw@nmlw.com
karen.j.moran@energy.nh.gov
chris@atkinsoncc.com
harold@lewisbuilders.com
smorse@hampsteadnh.us
dmullinax@blueridgecs.com
smurphy@hampsteadnh.us
amanda.o.noonan@energy.nh.gov
shawn_oneil@mail.rit.edu
ocalitigation@oca.nh.gov
k.Alan.richards@gmail.com
mary.e.schwarzer@energy.nh.gov
howard@energytactics.com
gspero@atkinson-nh.gov
sspyveewater@gmail.com
stephenpstcyr@yahoo.com
karen.sue.steele@gmail.com

john@lewisbuilders.com
sally.theriault@comcast.net
htombarello@lewisbuilders.com
christopher.r.tuomala@energy.nh.gov
lwarnock@hampsteadnh.us
hfdfpb@comcast.net
rawlew04@comcast.net
mworthen@hampsteadnh.us