

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 08-070

LAKES REGION WATER COMPANY, INC.

Petition for Financing and Step Increase to Rates

Order Approving Third Step Increase

ORDER NO. 25,197

February 18, 2011

APPEARANCES: Shaheen & Gordon, P.A. by Donald C. Crandlemire, Esq., for Lakes Region Water Company, Inc.; Mr. Paul Dubuc for Hidden Valley Property Owners Association; Office of the Consumer Advocate by Meredith A. Hatfield, Esq., on behalf of residential ratepayers; and Staff of the Public Utilities Commission by Marcia A. B. Thunberg, Esq.

I. PROCEDURAL HISTORY

Lakes Region Water Company, Inc. (LRWC) is a public water utility that serves approximately 1,615 customers in the Towns of Campton, Conway, Freedom, Gilford, Moultonborough, Ossipee, Tamworth, Thornton, Tuftonborough, Wolfeboro, and the City of Laconia.

The procedural history of this docket is more fully described in Order No. 24,925, *Lakes Region Water Company, Inc.*, 93 NH PUC 616 (2008). In that order, the Commission approved two of LRWC's three requested step increases to its revenue requirement for capital additions it undertook to satisfy deficiencies identified by the Department of Environmental Services. These deficiencies were also noted in Docket No. DW 07-105, an investigation into LRWC's quality of service. The third step increase, which was originally proposed for effect on January 1, 2009, was to incorporate the remainder of the capital improvements completed by the end of 2008 in LRWC's Paradise Shores, Hidden Valley, and Gunstock Glen systems. It was estimated that this step would

increase LRWC's revenue requirement by an additional \$36,169, or about 5%. The Commission authorized LRWC to file for recovery of these capital additions, except for what was described at hearing as "more of a planned project" at Paradise Shores. The Commission also permitted LRWC to request the application of its consolidated tariff rate to the customers at Gunstock Glen, a relatively newly-acquired system, at the time it made its filing for the third step adjustment.

On May 20, 2010, LRWC filed for approval of its third step adjustment. The step adjustment request included recovery of additional plant in service of \$245,193, and conversion of LRWC's Gunstock Glen customers to the consolidated rate. If approved as filed, the third step adjustment would increase LRWC's revenues by \$37,411, or 4.88% over its 2009 net water revenue.

On July 2, 2010, the Commission issued an Order of Notice scheduling a technical session for July 28, 2010. On July 21, 2010, Hidden Valley Property Owners Association filed a petition for intervention. On July 28, 2010, Staff, on behalf of itself and the parties filed a proposed procedural schedule. The Commission approved the procedural schedule by Secretarial letter dated July 30, 2010. On September 17, 2010, Staff filed a letter requesting that the Commission temporarily suspend the procedural schedule to allow for the completion of Staff's audit. On September 28, 2010, Staff filed a request for an agreed-upon amendment to the procedural schedule. The Commission approved the new schedule on October 4, 2010.

On October 15, 2010, Donald C. Crandlemire, Esquire, filed an appearance on behalf of LRWC. On November 18, 2010, Staff and LRWC filed a stipulation agreement. On November 19, 2010, Staff filed an assented-to motion requesting that the December 2, 2010 hearing date be moved to December 13, 2010, the date of LRWC's hearing in its rate case Docket No. DW 10-141. Staff stated that the parties to both dockets were largely the same and that the change would

promote administrative efficiency. The Commission granted Staff's request on November 29, 2010.

On November 24, 2010, OCA filed the direct pre-filed testimony of Stephen R. Eckberg. On December 10, 2010, LRWC filed rebuttal testimony of Stephen P. St. Cyr, as well as a partially assented-to motion for leave to file rebuttal testimony. On December 10, 2010, Staff and LRWC filed a corrected stipulation agreement to correct the number of customers used in the calculation of the schedules. Staff stated the error was made known to Staff by OCA's testimony. The Commission held a hearing on the merits on December 13, 2010.

On February 3, 2011, Staff and LRWC filed an amended Schedule 6 to the stipulation agreement. Staff explained that the application of the \$11,833 increase in LRWC's revenues to customer rates inadvertently decreased the unmetered customer rate due to the addition of Gunstock Glen customers to the unmetered rate. Staff further explained that the customer rate calculations in the original stipulation agreement incorrectly excluded \$13,391 in expected Gunstock Glen revenues. Therefore, the rates as calculated would not yield the total revenue requirement as proposed in the stipulation agreement. Staff and LRWC still recommend the Commission approve the requested revenue increase, but recommend different customer rates as follows: Waterville Valley Gateway (WVG) pool rate of \$1,166 annually, unmetered rate of \$506.68 annually, metered rate of \$373.23 annually and a consumption rate of \$3.92 per 100 cubic feet. Staff stated that these rates more equitably distribute the revenue increase than the rates included in the original stipulation agreement. Finally, Staff reported that the OCA neither supports nor opposes the February 3, 2011 filing and that it was unable to obtain a response from the Hidden Valley Property Owners Association.

II. POSITIONS OF THE PARTIES AND STAFF

A. Staff and Lakes Region Water Company, Inc.

The positions of Staff and LRWC are embodied in the terms of the stipulation agreement described below:

1. REVENUE REQUIREMENT

As proposed in the stipulation agreement, LRWC and Staff request the Commission authorize LRWC to increase its revenues by \$25,224 effective on a service rendered basis as of the Commission's order approving this agreement. These revenues are derived from a return on new capital invested in LRWC's Hidden Valley and Gunstock Glen systems, as well as depreciation expense, income taxes, and property taxes. As indicated in the amended filing dated February 3, 2011, these new revenues represent an increase of 3.29% over LRWC's 2009 operating revenues. Staff and LRWC agree that the plan to be placed in rate base through this third step adjustment is prudent and used and useful in service to customers.

2. GUNSTOCK GLEN CONSOLIDATED RATES

LRWC and Staff believe it is now appropriate to bring Gunstock Glen customers into LRWC's consolidated tariff and they recommend the Commission allow LRWC to apply its consolidated rate to Gunstock Glen customers, effective on a service rendered basis as of the date of the Commission's order approving this stipulation. The Gunstock Glen system was acquired in 2004 and has since remained on its own individual rate. Significant capital improvements have taken place since acquisition, including the interconnection of the Gunstock Glen system with LRWC's Brake Hill Acres system.

3. COMBINE STEP INCREASE WITH DW 10-141 TEMPORARY RATES

Staff and LRWC recommend that, in order to avoid potential customer confusion from changing customer rates once in Docket No. DW 10-141, LRWC's rate case and again in Docket No. DW 08-070, that the new step 3 rates and temporary rates in DW 10-141 be implemented simultaneously, on a service rendered basis effective on the date of the Commission's order. Staff and LRWC recommend that only the portion representing temporary rates should be subject to recoupment, pursuant to RSA 378:29, back to the recommended effective date of September 17, 2010. Staff and LRWC agree that there should be no recoupment associated with the step 3 revenues.

4. RATE CASE EXPENSES

Staff and LRWC agree that recovery of reasonable rate case expenses incurred by LRWC regarding the request for approval of step 3 is appropriate. LRWC agrees to not seek recovery of costs relating to Staff's audit or of costs relating to routine bookkeeping or accounting associated with the assets that form the basis for step 3 rate recovery in this docket. LRWC will submit its

request for recovery of rate case expenses to Staff, with supporting documentation, and that Staff will review that documentation. It is the intent of Staff and LRWC to submit a joint recommendation to the Commission. If Staff and LRWC are unable to reach agreement on a joint recommendation, Staff and LRWC will each file a separate recommendation to the Commission for its consideration.

B. Office of the Consumer Advocate

In prefiled direct testimony of Stephen R. Eckberg, which was revised at hearing, OCA expressed its concern that approval of the step increase amounted to single issue ratemaking. OCA stated that the Staff audit identified certain expenses it recommended for exclusion. OCA questioned the possible mark-up of costs of materials from an affiliate. In closing, OCA recommended the Commission not approve the requested increase. OCA stated that Mr. Eckberg's testimony raised issues of a serious nature. OCA questioned whether LRWC is in violation of RSA Chapter 366 regarding its affiliate contract and stated that costs included in the requested increase include affiliate costs and thus the request should be rejected. OCA questioned whether LRWC had completed commitments it made in Docket No. DW 07-105. OCA cited LRWC's rebuttal testimony and the statement that the utility is under severe financial stress and OCA questioned how LRWC is addressing financial issues.

C. Hidden Valley Property Owners Association

HVPOA stated that the increase should not be approved. It agreed with the questions raised by OCA.

III. COMMISSION ANALYSIS

Changes in the rates that utilities charge to customers are governed by RSA Chapter 378. RSA 378:7 authorizes the Commission to establish rates for utilities that are lawful, just, and reasonable. In determining just and reasonable rates, the Commission must balance the consumers' interest in paying rates no higher than are required with the investors' interest in

obtaining a reasonable return on 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. Traditional rate-of-return principles permit a utility to recover prudently incurred operating expenses along with “the opportunity to make a profit on its investment, in an amount equal to its rate base multiplied by a specified rate of return.” See *Appeal of Conservation Law Foundation*, 127 N.H. 606, 634 (1986). The Commission has authorized step increases in rates to allow recovery of expenditures made after a test year for capital projects that are subsequently placed in service and are necessary for the provision of safe and adequate service. *Pennichuck Water Works, Inc.*, Order No. 23,923, 87 NH PUC 97, 102 (2002).

The capital improvements comprising the proposed step increase include structures, wells, pumps, and mains at LRWC’s Hidden Valley and Gunstock Glen systems. Exh. 12. They were completed to address safety, adequacy, and reliability issues identified in Docket No. DW 07-105 and in Order No. 24,925 in this docket. Specifically, the improvements at Hidden Valley were to address an administrative order issued on October 4, 2007 by the Department of Environmental Services. The improvements at Gunstock Glen were for a pump station and interconnection with the Brake Hill system to address water supply concerns. We authorized LRWC, in Order No. 24,925, to file for recovery of its costs relating to these improvements. Staff has conducted a full audit of LRWC’s records and Staff and LRWC have agreed to an increase in LRWC’s revenues by \$25,224, or 1.54%. This is less than the \$36,169, or 5% increase, LRWC originally sought. Staff testified that the assets proposed for recovery were all used and useful. Hearing Transcript of December 13, 2010 at 16 lines 7-9. Having reviewed LRWC’s filing and the record in this docket, we find that the improvements comprising the step

increase were prudently incurred, used, and useful in the provision of utility service, consistent with RSA 378:28. We will approve the increase in LRWC's annual revenue requirement by \$25,224 effective as of the date of this order.

We next address the rate impact of the increased revenue requirement. Staff and LRWC calculate that the proposed increase in LRWC's revenue requirement will affect LRWC's customer rates as follows: WVG pool rates would increase from \$1,140.73 to \$1,166 annually; unmetered customer rates would increase from \$495.53 to \$506.68 annually; metered customer rates would change from a fixed annual amount of \$365.01 to \$373.23 annually and the consumption rate would increase from \$3.83 per 100 cubic feet to \$3.92. We note that these rates are different from those proposed at hearing by Staff and LRWC. In the original calculation of rates, Staff and LRWC's apportionment of the revenue increase among LRWC's customer rates inadvertently resulted in a decrease to the unmetered rate. Staff and LRWC filed an amended Schedule 6 on February 3, 2011 to correct the error. Staff and LRWC also recommend that the Commission allow LRWC to apply the consolidated tariff rates to the Gunstock Glen customers. We deferred consideration of this issue in Order No. 24,925 until LRWC filed its step increase request. Staff testified that since Gunstock Glen was now interconnected with another water system that pays consolidated rates, it is appropriate that Gunstock Glen no longer be exempt from paying consolidated rates. We agree. When considering whether to approve a consolidated rate tariff, we have previously found that "traditional cost of service regulation already includes some measure of rate averaging in that customers are not charged the true costs of serving them on an individual basis." *See, Pennichuck Water Works, Inc.*, Order No. 22,883, 83 NH PUC 197, 200 (1998). Also, stand alone rates may produce results for some customers that are well beyond the zone of "just and

reasonable” when significant investments are required in a very small system. *Id.* We find that, in light of the \$68,080 in improvements, it is in the public interest for the 55 customers of Gunstock Glen to receive service under LRWC’s consolidated rate rather than under stand-alone rates. Accordingly, we find that the proposed rates for Gunstock Glen are just and reasonable. We also find the proposed rate increases to LRWC’s customer charges described above to be just and reasonable. We will approve them effective as of the date of this order and note that these rates are not reconcilable under RSA 378:29.

Staff and LRWC have requested that LRWC be allowed to file for its reasonable rate case expenses for this proceeding. LRWC may make such a filing for our consideration.

Based upon the foregoing, it is hereby

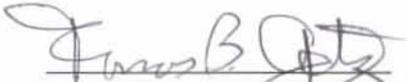
ORDERED, that the terms of the stipulation agreement described above are adopted and approved except as modified ; and it is

FURTHER ORDERED, that LRWC’s request to increase its annual revenue requirement by \$25,224 based upon a step increase in its rate base is approved, effective as of the date of this order; and it is

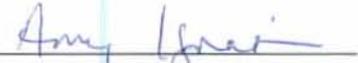
FURTHER ORDERED, that LRWC is authorized to increase its rates by moving Gunstock Glen customers to consolidated rates and increasing consolidated rates for all customers as described above to recover the increased revenue requirement, effective as of the date of this order; and it is

FURTHER ORDERED, that LRWC shall file a compliance tariff with the Commission within fourteen days of the date of this order, in accordance with N.H. Admin. Rules PART Puc 1603.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of
February, 2011.


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Chairman


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Amy L. Ignatius
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Attested by:


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02/18/11 Order No. 25,197 issued and forwarded to all parties. Copies given to PUC Staff.

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