

STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

December 13, 2010 - 3:39 p.m.
Concord, New Hampshire

RE: DW 08-070

LAKES REGION WATER COMPANY:

Petition for Authority to Finance
and to Increase Rates.

(Hearing regarding Step Adjustment 3)

PRESENT: Chairman Thomas B. Getz, Presiding
Commissioner Clifton C. Below
Commissioner Amy L. Ignatius

Sandy Deno, Clerk

APPEARANCES: Reptg. Lakes Region Water Company:
Donald C. Crandlemire, Esq. (Shaheen & Gordon)

Reptg. Hidden Valley Property Owners Assn:
Paul Dubuc

Reptg. Residential Ratepayers:
Meredith Hatfield, Esq., Consumer Advocate
Stephen R. Eckberg
Office of Consumer Advocate

Reptg. PUC Staff:
Marcia A. B. Thunberg, Esq.

Court Reporter: Steven E. Patnaude, LCR No. 52

ORIGINAL

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

I N D E X

PAGE NO.

WITNESS PANEL: **STEPHEN P. ST. CYR**
 MARK A. NAYLOR
 JAYSON P. LaFLAMME

Direct examination by Ms. Thunberg	7
Direct examination by Mr. Crandlemire	19
Cross-examination by Ms. Hatfield	21
Interrogatories by Cmsr. Ignatius	27
Redirect examination by Ms. Thunberg	34

WITNESS: **STEPHEN R. ECKBERG**

Direct examination by Ms. Hatfield	36
------------------------------------	----

* * *

CLOSING STATEMENTS BY:

Mr. Dubuc	41
Ms. Hatfield	41
Ms. Thunberg	42
Mr. Crandlemire	43

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

E X H I B I T S

EXHIBIT NO.	D E S C R I P T I O N	PAGE NO.
9	Lakes Region Water Company's filing of the Third Step Adjustment to Rates (05-20-10)	8
10	Rebuttal Testimony of Stephen P. St. Cyr	12
11	Stipulation Agreement re: DW 08-070 (12-10-10)	12
12	PUC Staff's Final Audit Report (09-22-10)	21
13	Testimony of Stephen R. Eckberg, including attachments (11-24-10)	38

P R O C E E D I N G

1
2 CHAIRMAN GETZ: Okay. Good afternoon.
3 We'll open the hearing in Docket DW 08-070. On May 15,
4 2008, Lakes Region Water Company filed for financing
5 authority and for approval to increase rates once plant
6 additions were constructed. And, on December 30, 2008,
7 the Commission approved two step increases.

8 We had a subsequent filing for a third
9 rate increase, step increase. And, on July 2nd, 2010, an
10 order of notice was issued setting a prehearing
11 conference. And, subsequent to the prehearing conference,
12 a procedural schedule was approved setting the hearing on
13 the merits originally for October 26, but was subsequently
14 rescheduled to this afternoon. And, we have in this case
15 testimony of Mr. Eckberg filed on November 24th, a
16 corrected stipulation between the Company and Staff filed
17 December 10, and rebuttal testimony filed December 10 as
18 well from Mr. St. Cyr.

19 So, can we take appearances please.

20 MR. CRANDLEMIRE: On behalf of Lakes
21 Region Water Company, Mr. Chairman, Donald Crandlemire of
22 the firm Shaheen and Gordon. I neglected in the last
23 proceeding to introduce who was with me. Mr. St. Cyr is
24 here with me, Thomas Mason, Norman Roberge, and Jake

1 Dawson, also from the Company with me today. Thank you.

2 CHAIRMAN GETZ: Okay. Good afternoon.

3 And, Mr. Dubuc, looking at the records, I'm not seeing
4 whether -- oh, yes. Hidden Valley has been made a party
5 to this docket as well. Do you make an appearance on
6 behalf of Hidden Valley?

7 MR. DUBUC: Yes.

8 CHAIRMAN GETZ: Good afternoon. And?

9 MS. THUNBERG: Marcia Thunberg, on
10 behalf of Staff. And, with me today is Mark Naylor,
11 Jayson LaFlamme, Jim Lenihan, and Doug Brogan. And, as
12 far as today's presentation for the Stipulation Agreement,
13 Staff will be calling Mark Naylor and Jayson LaFlamme,
14 along with Steve St. Cyr. Thank you.

15 CHAIRMAN GETZ: Thank you. And,
16 Ms. Hatfield?

17 MS. HATFIELD: I apologize,
18 Commissioners. Meredith Hatfield, for the Office of
19 Consumer Advocate. And, with me for the Office is Steve
20 Eckberg.

21 CHAIRMAN GETZ: Good afternoon. Are you
22 ready to proceed, Mr. Crandlemire?

23 MR. CRANDLEMIRE: I am, your Honor.
24 But, as a procedural matter, actually, I have two

1 procedural questions. I have not appeared very much
2 before this Commission. I see some people sitting down
3 when they address you and some people standing. I'm
4 accustomed to standing. But is sitting okay, an okay
5 thing to do here?

6 CHAIRMAN GETZ: I think sitting is
7 preferable for Mr. Patnaude, then he can hear better.

8 MR. CRANDLEMIRE: Perfect. So, that's
9 my first issue. The second issue is, we have the same
10 issue in this case as it pertains to our partially
11 assented to motion to submit the Rebuttal Testimony of
12 Mr. St. Cyr. And, so, at this time I move that that be
13 granted, if all the parties are in agreement.

14 CHAIRMAN GETZ: And, I take it there's
15 no objection to the rebuttal testimony?

16 MS. HATFIELD: Yes.

17 CHAIRMAN GETZ: So, hearing no
18 objection, the rebuttal testimony will be permitted.

19 MR. CRANDLEMIRE: Great. Thank you.
20 So, I'm going to defer to Ms. Thunberg to proceed as we
21 did last time. Thank you.

22 (Whereupon **Stephen P. St. Cyr, Mark A.**
23 **Naylor, and Jayson P. LaFlamme** were duly
24 sworn and cautioned by the Court

1 Reporter.)

2 **STEPHEN P. ST. CYR, SWORN**

3 **MARK A. NAYLOR, SWORN**

4 **JAYSON P. LaFLAMME, SWORN**

5 **DIRECT EXAMINATION**

6 BY MS. THUNBERG:

7 Q. Mr. St. Cyr, can you please identify your name and
8 business for the record?

9 A. (St. Cyr) My name is Stephen P. St. Cyr. And, the
10 business is St. Cyr & Associates.

11 Q. And, with respect to this docket, what have been your
12 responsibilities or connection with this proceeding?

13 A. (St. Cyr) I prepared the initial filing to respectfully
14 request that the Commission approve Step 3. I helped
15 the Company in responding to data requests from the
16 parties, and worked with the Staff in formulating the
17 Stipulation Agreement.

18 Q. And, at this point in time, I'd like to have Mr. St.
19 Cyr identify a document that I'd like to have marked as
20 an exhibit. Mr. St. Cyr, can you please describe in
21 the record what this document is?

22 A. (St. Cyr) Yes. This is the initial filing for the Step
23 3 adjustment to rates in Docket DW 08-070.

24 Q. And, did you prepare this document?

1 A. (St. Cyr) I did.

2 MS. THUNBERG: And, I believe the next
3 exhibit number is number "9". And, I would request that
4 this filing of the Company for Step 3 be marked as
5 "Exhibit 9".

6 CHAIRMAN GETZ: So marked.

7 (The document, as described, was
8 herewith marked as **Exhibit 9** for
9 identification.)

10 BY MS. THUNBERG:

11 Q. Mr. St. Cyr, have you made any other filings in this
12 docket with respect to the Step 3 issue?

13 A. (St. Cyr) I also filed rebuttal testimony to
14 Mr. Eckberg's testimony.

15 Q. And, I'd like to have you identify for the record this
16 document.

17 A. (St. Cyr) This is the Rebuttal Testimony of Stephen P.
18 St. Cyr, in docket DW 08-070.

19 Q. And, Mr. St. Cyr, with respect to this rebuttal
20 testimony, did you -- was it created by you or under
21 your direct supervision?

22 A. (St. Cyr) Yes, it was.

23 Q. And, do you have any changes or corrections to make to
24 this document?

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 A. (St. Cyr) I do not.

2 Q. And, if we were to ask you these questions, would your
3 responses be the same?

4 A. (St. Cyr) Yes, they would be.

5 Q. And, do you adopt this testimony as your testimony
6 today?

7 A. (St. Cyr) I do.

8 Q. And, Mr. Naylor, could you please state your name and
9 responsibilities for the Commission for the record?

10 A. (Naylor) Yes. My name is Mark Naylor. I'm the
11 Director of the Gas & Water Division here at the PUC.

12 Q. Can you please describe your involvement with this
13 docket?

14 A. (Naylor) Yes, I've been involved with this particular
15 case since it was originally filed in 2008. It was a
16 three-part case, I guess you could say. Initially,
17 when it was filed, the Company was requesting three
18 step adjustments related to significant investments it
19 had made in plant in a number of its systems, primarily
20 responding to letters of deficiency and administrative
21 orders from the Department of Environmental Services.

22 This filing that is the subject of
23 today's hearing is the third and final step adjustment
24 in that from the original case. The outline for the

{DW 08-070} {12-13-10}

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 filing results from the Commission's order which
2 approved the first two step adjustments, and that order
3 was 24,925 in this docket, which is issued
4 December 30th of 2008.

5 Since that time, at the time the Company
6 made this third step adjustment filing, I've been
7 involved in all aspects of reviewing the filing and
8 bringing it to the hearing today in the form of a
9 stipulation with the Company.

10 Q. Mr. Naylor, did your review of the third step filing
11 also include review of discovery or an audit?

12 A. (Naylor) Yes, that's correct.

13 Q. Was that answer to both?

14 A. (Naylor) Yes, that's correct. The Commission Audit
15 Staff did a review of the plant records associated with
16 the assets that are involved in this particular step
17 adjustment. And, as well as my staff has conducted
18 discovery with respect to the issues raised by the
19 filing.

20 Q. Okay. Mr. LaFlamme, could I have you state your name
21 and position with the Commission for the record please.

22 A. (LaFlamme) Jayson LaFlamme. I'm a Utility Analyst in
23 the Gas & Water Division of the Public Utilities
24 Commission.

{DW 08-070} {12-13-10}

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 Q. Can you please describe your involvement with this
2 docket?

3 A. (LaFlamme) I've been, as Mr. Naylor just stated, I,
4 too, have been involved in this docket since it was
5 first filed in 2008, and was involved in the first
6 settlement agreement, as well as the one that's being
7 proposed this afternoon.

8 Q. Just a general question. Can you please identify what
9 you consider to be your area of expertise?

10 A. (LaFlamme) My area of expertise is in accounting and
11 finance.

12 Q. And, is your testimony today within those areas?

13 A. (LaFlamme) Yes, it is.

14 Q. And, Mr. Naylor, what do you consider your area of
15 expertise?

16 A. (Naylor) I am an accountant, been involved in
17 accounting and finance issues for a number of years.

18 Q. And, is your testimony today within those two areas of
19 expertise?

20 A. (Naylor) Yes.

21 Q. At this point I'd like to show Mr. Naylor a document
22 and have him identify it for the record. I'm sorry,
23 Mr. Naylor, did you describe the document?

24 A. (Naylor) Not yet.

{DW 08-070} {12-13-10}

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 Q. Thank you.

2 A. (Naylor) This is the Stipulation Agreement entered into
3 between Lakes Region Water Company and the Commission
4 Staff. It's dated December 10th, 2010.

5 MS. THUNBERG: And, Mr. Chairman, I
6 don't know if I asked for the rebuttal testimony to be
7 marked for identification as "Exhibit 10". But, if I
8 neglected to do that, I am asking to do that now. And,
9 also asking that the Stipulation Agreement just described
10 to be marked for identification in the record as "Exhibit
11 11".

12 CHAIRMAN GETZ: So marked.
13 (The documents, as described, were
14 herewith marked as **Exhibit 10** and
15 **Exhibit 11**, respectively, for
16 identification.)

17 BY MS. THUNBERG:

18 Q. Mr. LaFlamme, are you familiar with Exhibit 11?

19 A. (LaFlamme) Yes.

20 Q. And, did you participate in the creation of the
21 document?

22 A. (LaFlamme) Yes.

23 Q. And, are you aware of any changes or corrections to the
24 Stipulation Agreement?

{DW 08-070} {12-13-10}

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 A. (LaFlamme) No, I am not.

2 Q. And, Mr. Naylor, are you familiar with the terms of
3 this Stipulation Agreement?

4 A. (Naylor) Yes, I am.

5 Q. And, are you aware of any corrections or changes that
6 need to be made to the document?

7 A. (Naylor) No.

8 Q. And, Mr. St. Cyr, did you participate in the creation
9 of this Stipulation Agreement?

10 A. (St. Cyr) Yes, I did.

11 Q. And, are you familiar with the terms of -- terms
12 contained in the document?

13 A. (St. Cyr) Yes, I am.

14 Q. And, are you aware of any changes or corrections that
15 need to be made to it?

16 A. (St. Cyr) No.

17 Q. Okay. While we're marking exhibits, I'd like to have
18 one more document identified for the record.

19 Mr. Naylor, could you please describe what this
20 document is?

21 A. (Naylor) This is the Final Audit Report prepared by the
22 Commission's Audit Staff, dated September 22nd, 2010.

23 And, it is in regards to the plant assets that are the
24 subject of the Step 3 in this case.

{DW 08-070} {12-13-10}

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 Q. And, Mr. LaFlamme, are you familiar with this Final
2 Audit Report?

3 A. (LaFlamme) Yes, I am.

4 Q. And, Mr. St. Cyr, are you familiar with this document?

5 A. (St. Cyr) Yes, I am.

6 Q. And, Mr. LaFlamme, I'd like to start with you. On Page
7 2 of the of Exhibit 11 the Stipulation Agreement under
8 the "Revenue Requirement", did Staff make any specific
9 adjustments from the Commission -- from the Company's
10 original filing in determining this revenue
11 requirement?

12 A. (LaFlamme) Yes.

13 Q. Could you please explain.

14 A. (LaFlamme) Yes. The adjustments that were proposed and
15 agreed to, proposed by Staff and agreed to by the
16 Company, appear throughout Attachment A to the
17 Settlement Agreement. And, I can go through those
18 briefly, if you'd like?

19 Q. I'll hold off, unless the Commissioners need a more
20 detailed walk-through. Mr. LaFlamme, I asked you
21 earlier if you were familiar with the Final Audit
22 Report. Can you please explain how the final audit
23 report was used by Staff or whether it was used in the
24 creation of this Stipulation Agreement and, if so, how?

{DW 08-070} {12-13-10}

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 A. (LaFlamme) Yes. The Final Audit Report indicated a
2 number of adjustments that were necessary to the plant
3 that was originally proposed by the Company in its
4 filing for the third step increase. And, most of the
5 adjustments that resulted from the Audit Staff's
6 recommendations appear on Schedule 2 of Attachment A.
7 And, if you see the footnote at the bottom of that
8 particular schedule, the adjustments resulting from the
9 Staff audit are identified by the letter "b" under
10 "Staff Adjustments" on that schedule.

11 Q. Thank you. Another question for you, Mr. LaFlamme.
12 With the figures that appear in the Stipulation
13 Agreement, how comfortable is Staff or, I guess, if you
14 could please describe how Staff corroborated the
15 numbers that are -- that appear in the Stipulation
16 Agreement?

17 A. (LaFlamme) Basically, the corroboration was mainly
18 performed by the Commission Audit Staff, when they
19 performed the field work and submitted questions and
20 corroborated the amounts contained in the Company's
21 filing with the actual books and records on file at the
22 Company's worksite. And, that is where the majority of
23 the corroboration took place. The Audit Staff
24 performed a thorough audit. And, as I indicated

{DW 08-070} {12-13-10}

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 before, identified a number of issues, and also
2 corroborated most of the amounts that are being
3 presented today.

4 Q. Okay. Mr. LaFlamme, do you have an opinion as to the
5 use and usefulness of the assets that appear in the
6 Stipulation Agreement?

7 A. (LaFlamme) Yes. It's Staff's opinion that the assets
8 being proposed for recovery today are all used and
9 useful.

10 Q. Mr. Naylor, I have a question with respect to a
11 provision in the Stipulation Agreement relating to the
12 rate case expenses, it appears on Page 4 of the
13 Agreement. Are specific rate case expenses being
14 recommended for approval in this provision?

15 A. (Naylor) No.

16 Q. Is it Staff's expectation that further Commission
17 approval of any rate case expenses is necessary?

18 A. (Naylor) Yes, it is.

19 Q. Mr. Naylor, are you familiar with the rebuttal
20 testimony that was filed by Stephen P. St. Cyr in this
21 proceeding?

22 A. (Naylor) Yes, I am.

23 Q. And, do you have an opinion as to Staff's position on
24 the Company's position in this rebuttal testimony?

{DW 08-070} {12-13-10}

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 A. (Naylor) Well, Mr. St. Cyr's testimony primarily
2 responds to the testimony put forward by the Consumer
3 Advocate's Office. The issues that are raised there
4 are primarily issues that we feel are more
5 appropriately reviewed in the permanent rates of the
6 rate case. And, there's nothing really -- there's
7 nothing in the testimony that affects the step
8 adjustment that we're proposing in this particular
9 docket.

10 Q. Mr. LaFlamme, I have a question concerning the Gunstock
11 Glen provision that appears on Page 3. And, if you
12 could please offer Staff's explanation as to why it was
13 important to include this provision?

14 A. (LaFlamme) Yes. The Company purchased the Gunstock
15 Glen system I believe just prior to the Company's last
16 full rate proceeding, which was filed in 2005. At that
17 time, the Gunstock Glen system was purchased so close
18 to the filing of that, that particular rate proceeding,
19 that at that time the -- that system was not included
20 in the consolidated rates that were ultimately approved
21 in that, in that rate proceeding. But, instead, a
22 portion of the revenue requirement was allocated to the
23 Gunstock Glen system.

24 As part of the projects that are -- that

{DW 08-070} {12-13-10}

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 are the subject of this Step 3, it includes an
2 interconnection between the Company's Brake Hill
3 system, which is in the -- included in the consolidated
4 rates, and the Gunstock Glen system. Because of the --
5 because of the interconnection now between Brake Hill
6 and Gunstock Glen, Staff feels that it's appropriate to
7 now include the Gunstock Glen system in the
8 consolidated rates of the Company.

9 Q. I just have a couple more questions before I hand the
10 questioning off to Attorney Crandlemire. Mr. LaFlamme,
11 do you have an opinion as to the just and
12 reasonableness of the rates that are proposed in the
13 Stipulation Agreement?

14 A. (LaFlamme) Yes. I believe that the rates being
15 proposed are just and reasonable.

16 Q. And, Mr. Naylor, do you have an opinion as to the just
17 and reasonableness of the rates proposed in the
18 Stipulation Agreement?

19 A. (Naylor) Yes. I think the increase in the revenues
20 that's proposed by this agreement, which amounts to an
21 increase of about 1.54 percent, is reasonable based on
22 the capital that's been invested in the Company's
23 systems and the direct expenses relating to that
24 capital. So, yes, I believe the resulting rates are

{DW 08-070} {12-13-10}

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 just and reasonable.

2 MS. THUNBERG: Thank you.

3 MR. CRANDLEMIRE: Thank you.

4 BY MR. CRANDLEMIRE:

5 Q. Mr. St. Cyr, have you participated on the Company's
6 behalf in this docket from its inception?

7 A. (St. Cyr) Yes, I have.

8 Q. And, in the order authorizing the Step 3 investments, I
9 believe, and tell me if this is your recollection, that
10 there was a value of work that was contemplated in that
11 order?

12 A. (St. Cyr) Yes. At the time that Step 3 was being
13 proposed, we used estimated costs for the projects that
14 were being proposed. And, from the Company's
15 perspective, we're simply substituting actually
16 incurred costs for the estimates that were conceptually
17 approved in the PUC order.

18 Q. I guess another way of saying, that in your filing in
19 this case to approve that Step 3 increase, the amounts
20 for which the Company seeks to be compensated for its
21 investment is consistent with what was contemplated in
22 the order that authorized the work in the first place,
23 is that fair?

24 A. (St. Cyr) Yes, that's correct.

{DW 08-070} {12-13-10}

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 Q. Okay. Thank you. And, as I understand it, the
2 stipulation that the Company is agreeable to, in that
3 stipulation some of those costs are disallowed, is that
4 correct?

5 A. (St. Cyr) Yes, that's correct.

6 Q. Okay. And, can you speak generally about the costs
7 that are being disallowed?

8 A. (St. Cyr) The specific adjustments that Staff made are
9 actually identified on Attachment A, Schedule 2, in the
10 column listed "Staff Adjustments". Generally, there
11 were some inadequate documentation for certain
12 transactions that were disallowed. The service trades
13 that were referred to in the prior hearing were also
14 disallowed. And, I believe that's generally what the
15 disallowances were related to.

16 Q. And, can you just speak to why you are nonetheless
17 supportive of this settlement, even though that some of
18 those costs were disallowed?

19 A. (St. Cyr) We still think it's in the Company's best
20 interest. These are projects that are completed,
21 they're in service, and they're providing service to
22 customers. This allows us to recover those costs and a
23 return on them.

24 MR. CRANDLEMIRE: All right. Thank you.

{DW 08-070} {12-13-10}

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 I have no further questions at this time for Mr. St. Cyr.
2 So, I defer the questioning back to Attorney Thunberg.

3 MS. THUNBERG: I think we're finished
4 with our direct. Thank you.

5 CHAIRMAN GETZ: Okay. And, let's mark
6 for identification as "Exhibit 12" the Staff Audit Report
7 from September 22nd, 2010.

8 (The document, as described, was
9 herewith marked as **Exhibit 12** for
10 identification.).

11 CHAIRMAN GETZ: And, Mr. Dubuc, do you
12 have questions for the witnesses?

13 MR. DUBUC: None.

14 CHAIRMAN GETZ: Ms. Hatfield?

15 MS. HATFIELD: Thank you, Mr. Chairman.

16 **CROSS-EXAMINATION**

17 BY MS. HATFIELD:

18 Q. Mr. St. Cyr, if you could turn to your rebuttal
19 testimony please that has been marked as "Exhibit 10".

20 A. (St. Cyr) I have it before me.

21 Q. If you could look at Page 3 please. Do you see that,
22 beginning on Line 4, there is a discussion about what's
23 been referred to as the "bartering arrangement"?

24 A. (St. Cyr) Yes.

{DW 08-070} {12-13-10}

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 Q. If you look down at Line 16, I think you're trying to
2 explain this arrangement. Is that correct?

3 A. (St. Cyr) Yes.

4 Q. And, I'm wondering if you can help me understand this.
5 You say, on Line 16, "Lakes Region Water Services
6 assigned a credit, owed to it by a third party...to [a]
7 utility such that the utility was able to have services
8 performed with no immediate outlay of cash." I've left
9 out a few words that aren't critical to my question.
10 And, then, on Line 19, you say "Lakes Region Water
11 Services was paid for the work over time."

12 Can you just explain how this
13 transaction takes place between Lakes Region Water
14 Services, the affiliate, Lakes Region Water Company,
15 the regulated utility, and then the third party?

16 A. (St. Cyr) The Company had a job to do. It asked LRW
17 Services, the service company to do the job. The job
18 was -- a portion of that job was subbed out to a
19 qualified contractor. It turned out that the qualified
20 contractor owed the service company some money. They
21 did work for the water company, and the water company
22 received a credit that was owed to the service company,
23 enabling the Company to essentially pay the service
24 company over time, rather than having to pay the

{DW 08-070} {12-13-10}

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 subcontractor at the time the job was done.

2 Q. So, when you say there was "no immediate outlay of
3 cash", and then on the next line you say "Services was
4 paid for the work over time", how does that benefit the
5 utility?

6 A. (St. Cyr) It doesn't require it to make the payment at
7 the time in which the job was actually done.

8 Q. And, are you aware, in that particular case, if the
9 costs paid by the regulated company to Lakes Region
10 Water Services included a markup that Lakes Region
11 Water Services applied to the work by the
12 subcontractor?

13 A. (St. Cyr) I am aware that there was no markup on the
14 credits that were provided by the service company for
15 the subcontractor.

16 Q. And, earlier in your testimony, I think you do talk
17 about the fact that the Company believes that a
18 reasonable markup of expenses in other cases is
19 warranted?

20 A. (St. Cyr) That's correct.

21 Q. And, Mr. Naylor, do I have it correct that this issue
22 of the "service trades" or "bartering" was raised in
23 the Staff audit?

24 A. (Naylor) Yes.

{DW 08-070} {12-13-10}

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 Q. And, as a result of that, Staff did disallow those
2 costs?

3 A. (Naylor) That's correct.

4 Q. And, in the Audit Report, is it your understanding that
5 it was an audit finding because the Company did not
6 have records to support that transaction?

7 A. (Naylor) Can you tell me which audit issue that you're
8 referring to?

9 Q. Sure. It's Audit Issue -- excuse me. I believe it's
10 in Audit Issue Number 3, where Audit raises the fact
11 that the Company was not able to provide adequate
12 detail for many of the amounts that were charged to the
13 water company?

14 A. (Naylor) Yes. I believe that is correct in Audit Issue
15 3. It's raised by the Audit Staff.

16 Q. Another question for you, Mr. Naylor. In the
17 Stipulation, the Settlement Agreement that's
18 Exhibit 11, Ms. Thunberg asked a question about "rate
19 case expenses". Do you recall that?

20 A. (Naylor) Yes, I do.

21 Q. And, the Stipulation, in Section D, states that "Lakes
22 Region Water Company will submit its request for
23 recovery of rate case expenses to Staff." Is it your
24 understanding that the Company would make that request

{DW 08-070} {12-13-10}

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 to all of the parties in the docket or just to Staff?

2 A. (Naylor) I'm sorry, I'm not sure I understand your
3 question. It would make that request to --

4 Q. And file it in the docket or would that request just be
5 made solely to Staff?

6 A. (Naylor) Well, as I understand what we've written here
7 and agreed upon, that Lakes Region would submit the
8 request to Staff with its documentation, and that we
9 would strive to reach a joint recommendation. So, I
10 certainly don't have any objection if the Company's
11 rate case expense request were also copied to the OCA.

12 Q. And, Mr. St. Cyr, do you have any objection to that
13 request being provided to the other parties in the
14 docket?

15 A. (St. Cyr) I do not.

16 Q. I believe also in your rebuttal, Mr. St. Cyr, there are
17 several places where you state that you're "not clear
18 why Mr. Eckberg is raising [particular] issues", is
19 that correct?

20 A. (St. Cyr) That's correct.

21 Q. And, if we turn to Mr. Eckberg's testimony in this case
22 that was submitted on November 24th, do you have a copy
23 of that before you?

24 A. (St. Cyr) I do.

{DW 08-070} {12-13-10}

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 Q. If we turn to Page 3 of his testimony, and we look at
2 his issues, starting with number 3 on Line 15, do you
3 see that he states as an issue "the Company's increase
4 in debt to its owners...which lacks Commission
5 approval"?

6 A. (St. Cyr) I see that.

7 Q. And, is it your position that that is not related to
8 the third step increase in any way?

9 A. (St. Cyr) I would say that's not related to the third
10 step increase in any way, yes.

11 Q. And, the fourth issue, the "use of an unapproved debt
12 rate of 9.75 on the increased debt", is it your
13 position that that's not related to the third step
14 increase?

15 A. (St. Cyr) That's also correct.

16 Q. And, then, the fifth issue is the "mark up of costs of
17 materials from the affiliated Lakes Region Water
18 Services [company] to the regulated company", is it
19 your position that those costs are not included in the
20 third step increase?

21 A. (St. Cyr) The couple of transactions that included a
22 markup were disallowed by Staff and the Company
23 accepted that.

24 Q. So, were all of them disallowed or just a few?

{DW 08-070} {12-13-10}

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 A. (St. Cyr) The ones that were identified that had a
2 markup were disallowed.

3 Q. And, is that markup discussed in the Company's
4 affiliate agreement, do you know?

5 A. (St. Cyr) No, it's not specifically addressed. It's
6 one of the items that the Company believes needs to be
7 included in a more comprehensive affiliation agreement.

8 MS. HATFIELD: Thank you. I have
9 nothing further.

10 CHAIRMAN GETZ: Thank you. Commissioner
11 Below?

12 CMSR. BELOW: No.

13 CHAIRMAN GETZ: Commissioner Ignatius?

14 CMSR. IGNATIUS: Thank you.

15 BY CMSR. IGNATIUS:

16 Q. Mr. St. Cyr, when services are being obtained beyond
17 the ability of the Company itself to provide them, does
18 the Company seek competitive bids?

19 A. (St. Cyr) On some of the jobs it does and in other jobs
20 it does not.

21 Q. When competitive bids are not sought, how does the
22 Company assure itself that it's receiving a fair price?

23 A. (St. Cyr) The Company generally believes that, when it
24 provides work to the service company, and the service

{DW 08-070} {12-13-10}

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 company performs that work, they do so at rates that
2 are less than they would otherwise charge to other
3 utilities or other companies.

4 Q. And, is that through some sort of agreement?

5 A. (St. Cyr) Well, we're aware that the rates, some of the
6 hourly rates, for example, are less charged to the
7 water company than charged to other utilities or other
8 -- other companies.

9 Q. You said in your rebuttal testimony that you thought
10 "some reasonable level of markup was appropriate from
11 the service company", and at another point said you
12 thought "16 to" -- I'm forgetting the range of your
13 percentage, "was an appropriate figure." Do you recall
14 that?

15 A. (St. Cyr) Yes, I do.

16 Q. Do you have any data backing that up, on why that's an
17 appropriate level? And, in fact, if you can help me
18 with that range, because I can't find the reference
19 right now.

20 Actually, I found it, if you -- one
21 reference at least is in the Audit Report, in the
22 Company's response, this is Exhibit 12, Page 11. The
23 "Company comment" says "The Company believes that the
24 16 to 20 percent markup identified is reasonable."

{DW 08-070} {12-13-10}

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 A. (St. Cyr) I think we looked at that particular
2 transaction and just made a determination that that was
3 reasonable. But the larger question was that the
4 Company believes that it's appropriate, for example,
5 labor rates to include some kind of add-on for benefits
6 related to employees, for example, health, and other
7 employee benefits. And, then, in addition to that, the
8 Company believes that it's appropriate for the service
9 company to charge for some of their overhead, to the
10 extent that they're using trucks or vehicles or other
11 things on behalf of the Company, just as they would
12 charge anybody else, that it's appropriate for them to
13 charge the water company, amounts such as that.

14 Q. Mr. Naylor, are the markup figures removed from the
15 step adjustment recommendation?

16 A. (Naylor) Yes, they are.

17 Q. And, if there's further discussion of markups, that
18 would be as part of the permanent rate case?

19 A. (Naylor) We have had discussions with the Company with
20 respect to the existing affiliate agreement. And, it's
21 obvious that the existing agreement is not adequate to
22 account for these types of things. So, it's something
23 that has to be addressed. And, the Company has
24 indicated to us that it is in the process of revising

{DW 08-070} {12-13-10}

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 and creating a new affiliate agreement. We have, in
2 fact, provided the Company with examples from other
3 entities that have affiliate -- affiliates that do work
4 for the utility. So, this issue is being addressed.

5 For purposes of this step adjustment, we
6 did not feel that the documentation was adequate. I
7 don't disagree that some level of markup may be
8 appropriate, but it needs to be documented. It needs
9 to be -- it needs to be based on actual costs. And,
10 so, if the Company proposes a new affiliate agreement
11 that has markups, we will review it in the way we've
12 reviewed others, to make sure that what's being
13 proposed is reasonable and is based on actual costs.

14 Q. Mr. LaFlamme, a couple of questions about rate impacts.
15 If the temporary rate stipulation that we addressed in
16 the prior hearing were approved as filed, and then you
17 layered with that the step adjustment rate being called
18 for in this Stipulation, what's the total impact? What
19 the total impact would be for customers' rates?

20 A. (LaFlamme) Using the average customer consumption of
21 27.3 ccf per year, the combined impact of the step
22 adjustment and the temporary rates being proposed would
23 be \$570.30. And, that is actually calculated on
24 Schedule 6 of the attachment to the Temporary Rate

{DW 08-070} {12-13-10}

1 Agreement.

2 Q. Also, in this Settlement, at Page 3, there's discussion
3 of Gunstock Glen customers being brought onto the
4 consolidated rate of the Company, correct?

5 A. (LaFlamme) Yes.

6 Q. Do you know what Gunstock Glen customers are currently
7 paying?

8 A. (LaFlamme) Yes. They currently are being charged a
9 flat rate, and that -- and that appears on
10 Attachment A, Schedule 1, one of the footnotes. They
11 are currently -- their current rate is \$239.20
12 annually.

13 Q. So, for the Gunstock Glen customers, that will be a
14 significant increase?

15 A. (LaFlamme) Yes, it will.

16 Q. As a result of these two proceedings today?

17 A. (LaFlamme) Yes.

18 Q. Do you know roughly how long they have been operating
19 under that flat \$239 rate?

20 A. (LaFlamme) That rate, that particular rate was
21 established in the last rate proceeding in '05. I
22 don't know how long that they have had rates at that
23 low level.

24 A. (St. Cyr) If I may just add that that was the existing

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 rate at the time in which the Company purchased that
2 system. And, that rate did not change in the '05 case.
3 But I don't recall how long that rate had been in
4 effect prior to that. But it has not changed for a
5 number of years prior to the '05 case.

6 Q. Mr. Naylor, I know that at times the Commission has --
7 the Water Division has maintained a summary of rates
8 throughout the state for small water companies and
9 their customers and tried to give a ballpark sense of
10 where rates fall. Is that -- do you still maintain
11 that kind of a listing?

12 A. (Naylor) We do, based on the -- based on the existing
13 tariff rates for each of the regulated companies.

14 Q. Do you know where the rates for Lakes Region would
15 fall, assuming the temporary rate we've just addressed
16 in the prior hearing and this rate today, if they were
17 approved, where they would fall?

18 A. (Naylor) We have rates, and, of course, there's always
19 a danger in comparing rates from system to system, it
20 depends on the quality of the assets in service and
21 whether it's surface water or groundwater, whether
22 there's treatment required, the age of the distribution
23 system, maintenance or lack of maintenance over time.
24 So, we do have rates ranging from, I'd say, \$1,100

{DW 08-070} {12-13-10}

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 annually, down to -- probably this Gunstock Glen rate
2 may be the lowest, that's clearly not a compensatory
3 rate that the Gunstock customers have been paying. But
4 I would say that Lakes' rates would probably be
5 somewhere in the middle of the pack, just kind of a
6 rough guess.

7 CMSR. IGNATIUS: Thank you. No other
8 questions. Thank you very much.

9 CHAIRMAN GETZ: Any redirect,
10 Ms. Thunberg or Mr. Crandlemire?

11 MS. THUNBERG: I have a little bit of
12 redirect. But, Commissioner Ignatius, our Staff, Doug
13 Brogan, the engineer from Staff, maintains that website
14 that lists all the information. So, if you wanted some
15 more specifics, I could offer Mr. Brogan to explain, if
16 you wish, right now?

17 CMSR. IGNATIUS: I think, if his
18 understanding is different from what Mr. Naylor just
19 described, then absolutely. If it's consistent, and now
20 we -- I appreciate knowing where to go to see more detail,
21 then I don't think we need to go into it now.

22 MS. THUNBERG: I think Mr. Brogan had
23 some clarifications. And, knowing that this is not a
24 sworn witness, I guess it's an offer of proof. So, I

{DW 08-070} {12-13-10}

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 would just have him make a couple of clarifying comments.

2 MR. BROGAN: Just I guess the only other
3 possible clarification might be that that list is based on
4 a certain average annual consumption. And, the average
5 use being used today is much lower, because Lakes Region
6 is a very seasonal system. So, you can take the website
7 comparisons for what they're worth in that regard.

8 CMSR. IGNATIUS: Thank you.

9 **REDIRECT EXAMINATION**

10 BY MS. THUNBERG:

11 Q. Mr. Naylor, I just have a couple questions. With
12 respect to the -- there have been a number of questions
13 on cross about the affiliate agreement and costs and
14 whether they were included. But are you aware, subject
15 to check, of Docket Number DA 10-043?

16 A. (Naylor) Yes, I am.

17 Q. And, here I am, leading cross questions, what is that
18 docket concerning?

19 A. (Naylor) That was the most recent affiliate filing that
20 the Company made with respect to its relationship with
21 LRW Water Services.

22 Q. Is that docket -- do you know whether it's open or
23 closed at this point?

24 A. (Naylor) It remains open.

{DW 08-070} {12-13-10}

[WITNESS PANEL: St. Cyr~Naylor~LaFlamme]

1 Q. Thank you.

2 A. (Naylor) Staff had intended to address the issues of
3 the affiliate relationship in the rate case. And, so,
4 no action has been recommended by Staff as yet.

5 Q. I just want to clarify, this is somewhat a redundant
6 question, but I just want to make sure that, with
7 respect to charges in Step 3 that are subject to an
8 affiliate agreement, did Staff make an effort to make
9 sure that the costs that were allowed in the step were
10 consistent with the current, most recently approved
11 affiliate agreement?

12 A. (Naylor) The costs that are included in the capital
13 additions that are subject of this Stipulation are only
14 costs which the Company was able to verify with
15 documentation.

16 Q. And, would that response, I guess, would mean a "yes"
17 to my question?

18 A. (Naylor) It would mean a "yes" to your question.

19 MS. THUNBERG: Okay. That was the only
20 clarification that I had. Attorney Crandlemire?

21 MR. CRANDLEMIRE: No more questions from
22 me. Thank you.

23 CHAIRMAN GETZ: All right. Then, the
24 witnesses are excused. Thank you, gentlemen.

{DW 08-070} {12-13-10}

[WITNESS: Eckberg]

1 Ms. Hatfield.

2 MS. HATFIELD: Thank you, Mr. Chairman.

3 The OCA calls Stephen Eckberg to the stand.

4 (Whereupon **Stephen R. Eckberg** was duly
5 sworn and cautioned by the Court
6 Reporter.)

7 **STEPHEN R. ECKBERG, SWORN**

8 **DIRECT EXAMINATION**

9 BY MS. HATFIELD:

10 Q. Good afternoon. Could you please state your name for
11 the record.

12 A. My name is Stephen Eckberg.

13 Q. By whom are you employed and in what capacity?

14 A. I am employed by the Office of Consumer Advocate as a
15 Utility Analyst.

16 Q. Have you previously filed testimony on behalf of the
17 OCA?

18 A. Yes, I have. My qualifications are included as an
19 attachment to my testimony, and that includes a listing
20 of dockets in which I have provided testimony.

21 Q. And, you did file testimony in this docket on November
22 24th, correct?

23 A. Yes, I did.

24 Q. Do you have any corrections or changes that you wish to

{DW 08-070} {12-13-10}

[WITNESS: Eckberg]

1 make to your testimony?

2 A. Yes, I do. It has been brought to my attention once
3 again that the York Village development is, in fact,
4 within the Company's franchise territory, according to
5 Order Number 21,475, dated December 22nd, 1994. So,
6 there are two places in my testimony where I would like
7 to strike language.

8 The first place is at Page 3, Lines 13
9 through 14, I would like to strike the phrase which
10 says "but which is not within the Company's franchise
11 territory." So, that sentence there would end with a
12 period after the word "Gilford".

13 And, the second place that I would like
14 to make a correction to my testimony is to strike a
15 sentence that begins on Page 8, Line 1, and it ends on
16 Page 8, Line 3. There's a sentence that begins with
17 the word "however", and ends with the word "customer".

18 Q. Do you have any further corrections or changes to your
19 testimony?

20 A. No, I don't.

21 Q. Was your testimony prepared by you or under your
22 direction?

23 A. Yes, it was.

24 Q. And, is it true and accurate to the best of your

{DW 08-070} {12-13-10}

[WITNESS: Eckberg]

1 knowledge?

2 A. With the aforementioned corrections, yes.

3 MS. HATFIELD: Thank you. I'd like to
4 have this marked as "Exhibit 13".

5 CHAIRMAN GETZ: So marked.

6 (The document, as described, was
7 herewith marked as **Exhibit 13** for
8 identification.)

9 BY MS. HATFIELD:

10 Q. And, Mr. Eckberg, you're aware that the Staff and the
11 Company filed a Settlement in this case?

12 A. Yes, I am.

13 Q. And, does your testimony support that Settlement?

14 A. No, it does not. As I stated in my testimony, while
15 the OCA is supportive of certain elements that are
16 included in the Settlement Agreement, the OCA wished to
17 bring other issues to the Commission's attention, in
18 light of the managerial and financial challenges that
19 this company faces. I'm aware that a revised
20 Settlement was filed on Friday, which again addresses
21 one of the issues that I raised relative to the York
22 Village development. So, we've made that adjustment
23 now -- or, the Settlement has made that adjustment, and
24 we've made the adjustment in my testimony.

{DW 08-070} {12-13-10}

[WITNESS: Eckberg]

1 Q. And, in the interest of time, rather than have you
2 summarize your testimony, am I correct that the major
3 issues are listed on Page 3 of your testimony?

4 A. Yes, that's correct.

5 Q. And, then, you further discuss in detail each of those
6 issues throughout your testimony?

7 A. Yes, that's correct.

8 Q. Are you aware that the Company filed rebuttal testimony
9 on Friday, December 10th?

10 A. Yes, I am aware of that testimony.

11 Q. And, have you had time to review it?

12 A. I have read through it. And, again, I believe that in
13 a number of places Mr. St. Cyr generally acknowledges
14 that issues that I raise in my testimony are things
15 that need to be addressed, but not in the context, he
16 feels, on behalf of the Company, not in the context of
17 this step increase.

18 Q. Is there anything further you would like to add,
19 Mr. Eckberg?

20 A. Well, I guess I would say that, to fill out that last
21 thought, as a counterpoint to Mr. St. Cyr's position
22 there, I would say that the OCA's position is that we
23 feel that these issues should be addressed before any
24 rate increase is approved for the Company.

{DW 08-070} {12-13-10}

[WITNESS: Eckberg]

1 MS. HATFIELD: Thank you. I have
2 nothing further. The witness is available for
3 cross-examination.

4 CHAIRMAN GETZ: Thank you. Mr. Dubuc?

5 MR. DUBUC: No questions.

6 CHAIRMAN GETZ: Ms. Thunberg?

7 MS. THUNBERG: Staff has no questions.

8 Thank you.

9 CHAIRMAN GETZ: Mr. Crandlemire?

10 MR. CRANDLEMIRE: The Company has no
11 questions either. Thank you, Mr. Chairman.

12 CHAIRMAN GETZ: All right. And, there's
13 no questions from the Bench. So, I think that's all,
14 Mr. Eckberg. Thank you. You're excused.

15 WITNESS ECKBERG: Thank you very much.

16 CHAIRMAN GETZ: Are there any objection
17 to striking the identifications and admitting the exhibits
18 into evidence?

19 (No verbal response)

20 CHAIRMAN GETZ: Hearing no objection,
21 they will be admitted into evidence. Anything that we
22 need to address before opportunity for closings?

23 (No verbal response)

24 CHAIRMAN GETZ: Hearing nothing, then

{DW 08-070} {12-13-10}

1 opportunity for a closing statement, Mr. Dubuc?

2 MR. DUBUC: HVPOA's position pretty much
3 runs congruently with the OCA's, that the increase should
4 not be approved, due to the same questions that the OCA
5 has addressed.

6 CHAIRMAN GETZ: Thank you.
7 Ms. Hatfield.

8 MS. HATFIELD: Thank you, Mr. Chairman.
9 As Mr. Eckberg details in the OCA's testimony, while we do
10 understand the many challenges that Lakes Region Water
11 Company faces, we do not support a rate increase for the
12 Company at this time. As Mr. Eckberg testified, we do
13 believe that they -- some of the issues faced by the
14 Company are of such a serious nature that they must be
15 addressed now. And, one in particular is our question as
16 to whether the Company is in violation of RSA 366, which
17 is the affiliate transaction statute. And, we do
18 understand that there is a rate case, and we understand
19 that there is also an open docket investigating
20 specifically affiliate agreements and transactions. But,
21 because those are the basis for some of the costs included
22 in the step increase, we believe that no step increase
23 should be approved at this time.

24 And, we also want to ensure that the

1 Commission has in mind DW 07-105, the Commission's
2 investigation into whether the Company should be taken in
3 receivership, which the Commission left open to give Lakes
4 Region time to make certain changes and fulfill certain
5 commitments, which we're not sure the Company has done
6 yet. And, we believe that, if the Commission just looks
7 at Mr. St. Cyr's rebuttal in this case, that some of the
8 statements in his rebuttal will give the Commission pause
9 in terms of the severe financial stress that the Company
10 is under and the way that they are addressing that.

11 And, for all of those reasons, we don't
12 support a rate increase at this time. Thank you.

13 CHAIRMAN GETZ: Thank you.

14 Ms. Thunberg.

15 MS. THUNBERG: Yes. Thank you for your
16 consideration today. And, we respectfully request that
17 the Commission approve the Stipulation Agreement. It's
18 requesting a 1.54 percent increase in the Company's
19 revenue requirement. As OCA has mentioned, there are a
20 number of other dockets that are going on with other
21 issues noticed. This particular case concerns the wrap-up
22 of the step adjustment process with the third step that
23 was authorized by or at least anticipated by a prior
24 order.

1 So, again, thank you for your
2 consideration. And, we respectfully request that you
3 approve the 1.54 percent increase to the revenue
4 requirement. Thank you.

5 CHAIRMAN GETZ: Thank you. Mr.
6 Crandlemire.

7 MR. CRANDLEMIRE: Thank you, Mr.
8 Chairman. We, too, of course, support the adoption and
9 the approval of this Agreement. It seems to me the assets
10 that have been placed in service at this point are
11 precisely what were contemplated by the order authorizing
12 this investment. It's precisely in line with it. And,
13 so, as it pertained to issues before this docket, it seems
14 to me that the Company has done precisely what was
15 contemplated, and the step increase is appropriate as a
16 result.

17 Understanding the OCA's concerns, which
18 we know are going to be addressed as part of the permanent
19 rate case, at this stage, after these investments have
20 been made, we don't think it's in anybody's interest not
21 to authorize the Company to start to recover some of those
22 costs. I think that only places us in a more difficult
23 situation. And, we think, in this instance, that would
24 not be appropriate. So, we certainly request that you

1 approve the Stipulation.

2 And, I also would add, the Company has
3 asked me to express this as well, if there's any way that
4 this can be approved before the end of the year, this is a
5 pretty dramatic impact on the Company going forward for
6 the coming year. So, I have nothing to add beyond that.
7 Thank you.

8 CHAIRMAN GETZ: Okay. Thank you. Then,
9 we'll close this hearing and take the matter under
10 advisement.

11 (Whereupon the hearing ended at 4:39
12 p.m.)

13
14
15
16
17
18
19
20
21
22
23
24