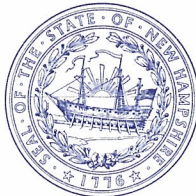


THE STATE OF NEW HAMPSHIRE

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Clifton C. Below
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EXECUTIVE DIRECTOR
AND SECRETARY
Debra A. Howland



PUBLIC UTILITIES COMMISSION

21 S. Fruit Street, Suite 10
Concord, N.H. 03301-2429

December 30, 2009

Tel. (603) 271-2431

FAX (603) 271-3878

TDD Access: Relay NH
1-800-735-2964

Website:
www.puc.nh.gov

Debra A. Howland, Executive Director
N.H. Public Utilities Commission
21 S. Fruit Street, Suite 10
Concord, N.H. 03301-2429

Re: DW 08-086 Eastman Sewer Company, Inc.
Notice of Intent to File Rate Schedules
Proposed Tariff Revision to Original Page 4



Dear Ms. Howland:

Attached please find correspondence from Brian Harding, General Manager of Eastman Sewer Company, Inc. wherein the company proposes new tariff language to replace paragraph 2.2(C)(1) regarding the company's liability for damages. Staff has spoken with Eastman and concurs with the proposed language.

As of today, Staff has checked the tariff on file with the Commission and has discovered that this new tariff language has not yet been filed with the Commission. The background of this proposed language is that in Order No. 19,600, *Eastman Sewer Company, Inc.*, 74 NH PUC 431 (1989), the Commission found the proposed tariff language regarding liability confusing and rejected it. The tariff was inadvertently filed with the objectionable language and that fact was not discovered until the instant docket.

By way of a copy of this letter, Staff is reminding Eastman to complete the proper filing of this proposed tariff language and file a First Revised Page 4 to replace the Original Page 4.

Thank you in advance for your assistance with this matter.

Sincerely,

A handwritten signature in cursive script that reads "Marcia A. B. Thunberg".

Marcia A. B. Thunberg
Staff Attorney

cc: Service List



August 10, 2009

Marcia Thunberg
NH Public Utilities Commission
21 S. Fruit Street
Concord, NH 03301-2429

Re: Proposed Amendment to Eastman Sewer Company Tariff

Dear Marcia,

Thank you again for your note of June 8th with the copy of the 1989 Commission order relating to the ESC Tariff. We consulted with attorney Albert J. Cirone, Jr. (Lebanon, NH) and he drafted the following paragraph as a suggested amendment to satisfy the 1989 PUC request. This would replace paragraph 2.2 (C) (1) in the current Tariff:

“The Company’s liability, if any, to a Customer or to others for damages arising from the furnishing of or the failure to furnish service or facilities, including but not limited to errors, interruptions, breakdowns, or other defects, whether caused by act or omission, shall be limited to the allocable charges for the service or facilities for the period affected and shall be further limited by this Section 2.2 (C). Provided, however, if the Company’s negligence causes damages to a Customer or to others, then the Company shall not be liable for consequential damages and shall only be liable for direct damages which are caused by said negligence as such damages are limited by this Section 2.2 (C). In no event shall the Company be liable for damages caused by its negligence, to a Customer or to others, for any amount beyond the actual damages incurred by the Customer or to others who are damaged by the Company’s negligence.”

At their regular monthly meeting on July 21, 2009 the ESC directors voted unanimously to approve the proposed tariff amendment as drafted by Attorney Cirone (one of the five directors was not present for the meeting). We respectfully request the Commission’s consideration of this proposed amendment to the Eastman Sewer Company Tariff, paragraph 2.2 (C) (1). Please contact me at 863-4240 if you need any additional information. Thank you.

Sincerely

A handwritten signature in black ink, appearing to read "Brian Harding", is written over a faint, circular embossed seal. The seal contains text that is mostly illegible but appears to include "Eastman Sewer Company".

Brian Harding
General Manager

cc: ESC Directors
Albert J. Cirone, Jr.

BRIAN HARDING
EASTMAN SEWER COMPANY INC
PO BOX 470
GRANDTHAM NH 03753

STEPHEN P ST CYR
STEPHEN P ST CYR & ASSOC
17 SKY OAKS DR
BIDDEFORD ME 04005

Docket #: 08-086 Printed: December 30, 2009

FILING INSTRUCTIONS: PURSUANT TO N.H. ADMIN RULE PUC 203.02(a),
WITH THE EXCEPTION OF DISCOVERY, FILE 7 COPIES (INCLUDING COVER LETTER) TO:
DEBRA A HOWLAND
EXEC DIRECTOR & SECRETARY
NHPUC
21 SOUTH FRUIT STREET, SUITE 10
CONCORD NH 03301-2429

PURSUANT TO N.H. ADMIN RULE 203.09 (d), FILE DISCOVERY

DIRECTLY WITH THE FOLLOWING STAFF

RATHER THAN WITH THE EXECUTIVE DIRECTOR

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BULK MATERIALS:

Upon request, Staff may waive receipt of some of its multiple copies of bulk materials filed as data responses. Staff cannot waive other parties' right to receive bulk materials.

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