

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 08-160

Forest Edge Water Company

Petition for Permanent Rate Increase

SETTLEMENT AGREEMENT – PERMANENT RATES

I. INTRODUCTION

This agreement is entered into this 27th day of August, 2009, between Forest Edge Water Company (Forest Edge or Company) and the Staff of the New Hampshire Public Utilities Commission (Staff) (collectively the settling parties) with the intent of resolving certain issues, more fully described below, in the above captioned proceeding.

II. PROCEDURAL BACKGROUND

On December 11, 2008, Forest Edge, a water utility serving thirty-eight (38) customers in North Conway, filed a notice of intent to file rate schedules. On February 10, 2009, the Company filed revised tariff pages indicating its intent to increase its revenues by \$10,852, or 142.79%, annually. In addition, the Company requested that its current rates be set as temporary rates. Also, the Company sought approval of financing it had obtained from its parent, Kearsarge Building Company (KBC), in 2007.

In its petition, Forest Edge stated that it experienced a net operating loss for the year ending 2007 in the amount of \$15,870. The currently authorized rates for Forest Edge were approved by the Commission in 1985, and are now inadequate for it to have an opportunity to earn a reasonable rate of return on its plant in service. Accordingly, Forest Edge has requested an increase to its permanent rates. Regarding the financing, Forest Edge borrowed \$25,509 from KBC to cover operating losses as well as to

undertake \$16,375 of capital improvements to its water system. These improvements included cleaning and deepening an existing well, installing new water and electrical lines, adding new wiring in its pump house, and installing two new pumps.

On March 3, 2009, by Order No. 24,946, the Commission suspended Forest Edge's tariff page revisions and established a pre-hearing conference on March 25, 2009. Forest Edge was also ordered to provide a copy of the Commission's order to all current and known prospective customers as well as to the Town Clerk in North Conway. On March 20, 2009 the Commission received a petition to intervene from a group of four homeowners who reside in a portion of the Forest Edge system known as Forest Edge I (the homeowners). The pre-hearing conference was held as scheduled on March 25. The Commission approved the intervention request of the homeowners from the bench. On March 25, the Commission received a request from E. Fred Hatch, III to be added to the homeowners' list for intervention. No other parties petitioned to intervene in this docket.

On April 27, 2009, Staff filed a stipulation on temporary rates to which only the Staff and Company were signatories. Following its presentation at the hearing on temporary rates on May 1, 2009, the stipulation was approved by the Commission in Order No. 24,971 (May 22, 2009). The approved stipulation set the Company's current rates as temporary rates for service rendered on and after April 1, 2009.

Following a period of discovery, Staff, the Company and the homeowners met to explore settlement of all of the issues raised by the Company's filing. This agreement is the result of those discussions. The homeowners, while not signatories to this agreement, have indicated that they do not oppose it.

III. TERMS OF AGREEMENT

Regarding permanent rates, the settling parties have reached agreement on all issues as specified below.

A. Income Requirement

The settling parties agree that Forest Edge should be granted an increase of \$10,008, or 131.68%, in its adjusted test year water revenues of \$7,600 in order to produce a total revenue requirement of \$17,608. This amount was calculated using a stipulated rate base amount of \$36,774 and an overall rate of return of 7%. The rate of return was based upon the Company's proposed financing rate as being sufficient to meet its debt obligations. Additionally, this revenue requirement takes into account a reclassification of \$92,677 of the Company's long-term debt to equity as well as the establishment of its operating and maintenance (O&M) expenses at a 5-year average. Supporting schedules are included as Attachment A to this agreement.

The settling parties stipulate that this revenue requirement represents a reasonable compromise of all issues related to the revenue requirement pending before the Commission for the purpose of permanent rates, including allowed overall rate of return, return on equity, capital structure, *pro forma* adjustments, capital additions to rate base and O&M expenses. As the amounts expressed are the result of compromise and settlement, they are liquidations of all adjusted net operating income requirement and revenue requirement issues. The settling parties agree that the revenue requirement recommended to the Commission in this agreement results in permanent rates for Forest Edge's customers that are just and reasonable.

B. Specific Adjustments

The settling parties agree to the adjustments to rate base, revenues and expenses, and income taxes set forth on the schedules in Attachment A to this agreement.

C. Rate Design and Impact

For purposes of temporary rates, the Commission approved the continuance of the Company's then-current rates as temporary rates. For permanent rates, as a result of this agreement there are to be no changes to rate design other than the Company's transition from semi-annual to quarterly billing beginning with bills rendered October 1, 2009. This change reduces the cash working capital component of rate base. Moreover, the change will allow customers to better manage the increase in rates. This agreement does not require the Company to install customer meters.

Regarding rate impacts, the unmetered rate will go from \$200 annually per customer to \$463.37 annually per customer, an increase of 131.68%. This increase, coupled with the change in billing practices will result in a quarterly bill of approximately \$115.84 per customer.

D. Review of Water System

As part of this agreement, the parties acknowledge certain limitations of the Company's water system due to the age and condition of the physical plant. The settling parties agree that Forest Edge will retain one or more entities with water system operation/design expertise to assess current and future system needs. The results of this study shall be reported to Staff and the homeowners by December 31, 2009. The study will outline the current status of the system, along with the need for and cost of improvements to the system in the future.

Following submission of the study, the settling parties will meet in a technical session in the first quarter of 2010 to discuss the study and its findings. The settling parties shall discuss the feasibility and necessity of any improvements to the system, and the timing thereof, as called for in the study. The settling parties agree that the Company should be entitled to a step adjustment to its rates for the cost of the study, and shall endeavor to provide a joint recommendation therefor. In the event one or more of the settling parties disagree on a joint recommendation, each shall provide its own recommendation to the Commission. The settling parties also agree that if the Company undertakes and completes any capital improvement(s) called for in the study by the end of 2011, it may request an additional step adjustment to its rates to reflect the cost of the capital improvements completed, including associated depreciation expense and property taxes.

E. Financing and Relationship with KBC

The settling parties agree that the Commission should approve the financing previously obtained by Forest Edge from KBC. This financing totals \$37,454, which incorporates the borrowing in 2007, as well as prior borrowings from KBC. This debt will carry an interest rate of 7% and a 20 year term. Forest Edge agrees to submit a copy of the executed note with KBC within 15 days of the Commission's final order in this proceeding. The settling parties also agree that Forest Edge must clarify its relationship with KBC by, at least: (1) establishing a defined separate corporate existence for Forest Edge; (2) improving Forest Edge's accounting and financial practices in line with the Staff's audit report; and (3) file a proper affiliate agreement defining the relations between Forest Edge and KBC.

F. Effective Date for Rate Increase and Recoupment

Permanent rates shall be effective for service rendered on and after April 1, 2009, consistent with Order No. 24,971 (May 22, 2009) on temporary rates in this case. The Company shall file its calculation of the temporary rate recoupment within 15 days of the Commission's final order in this proceeding, along with a proposal for recovery. Temporary rate recoupment may be combined with recovery of the Company's rate case expenses, as discussed below.

G. Rate Case Expense Surcharge

The settling parties agree that Forest Edge should be allowed to recoup its reasonable and appropriate rate case expenses associated with this docket. Forest Edge agrees to submit its final rate cases expense request to Staff for review and recommendation to the Commission within 15 days of the Commission's final order in this proceeding.

IV. NON-WAIVER

By this agreement, Forest Edge has not waived its right to seek additional revenue by means of a full rate proceeding, or otherwise, and Staff has not waived the right to seek a reduction in Forest Edge's rates by means of a show cause proceeding or otherwise. In addition, nothing in this docket shall prejudice Forest Edge's right to seek recovery of expenses associated with any debt issuance in a future proceeding.

V. CONDITIONS

This agreement shall not be deemed in any respect to constitute an admission by any party that any allegation or contention in these proceedings is true or valid. This agreement is expressly conditioned upon the Commission's acceptance of all its

provisions, without change or condition, and if the Commission does not accept said provisions in their entirety, without change or condition, the Agreement shall at Forest Edge's or the Staff's option, exercised within thirty days of such Commission order, be deemed to be null and void and without effect and shall not constitute any part of the record in this proceeding nor be used for any other purpose.

The Commission's acceptance of this agreement does not constitute continuing approval of, or precedent regarding, any particular principle or issue in this proceeding, but such acceptance does constitute a determination that (as the settling parties believe) the adjustments and provisions set forth herein in their totality are just and reasonable and that the revenues contemplated will be just and reasonable under the circumstances.

The information and testimony previously provided in this proceeding are not expected to be subject to cross-examination, which would normally occur in a fully litigated case. In addition, the identification of the resolution of any specific issue in this Agreement does not indicate the settling parties' agreement to such resolution for purposes of any future proceeding, nor does the reference to any other document bind the settling parties to the contents of, or recommendations in, such document for purposes of any future proceeding. The Commission's approval of the recommendations in this agreement shall not constitute a determination or precedent with regard to any specific adjustments, but rather shall constitute only a determination that the income requirement and rates resulting from this agreement are just and reasonable.

The discussion which have produced this agreement have been conducted on the understanding that all offered of settlement relating thereto are and shall be confidential, shall be without prejudice to the position of any party or participant representing any such

offer or participating in any such discussion, and are not to be used in connection with any future proceeding or otherwise.

IN WITNESS WHEREOF, the settling parties have caused this agreement to be duly executed in their respective names by their fully authorized agents.

FOREST EDGE WATER COMPANY

Dated: August __, 2009

By: _____
Nathaniel Sullivan

STAFF OF PUBLIC UTILITIES
COMMISSION

Dated: August 31, 2009

By:  _____
Matthew J. Fossum
Staff Attorney

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FOREST EDGE WATER COMPANY

Dated: August 31, 2009

By: Stephen P. St. Cyr for
Nathaniel Sullivan

STAFF OF PUBLIC UTILITIES
COMMISSION

Dated: August __, 2009

By: _____
Matthew J. Fossum
Staff Attorney

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FOREST EDGE WATER COMPANY
REVENUE REQUIREMENT

Rate Base (Sch 2)	\$ 36,774
Rate of Return (Sch 1a)	<u>7.00%</u>
Operating Income Requirement	2,574
Proforma Operating Income (Sch 3)	<u>2,931</u>
Revenue Deficiency Before Taxes	(357)
Divided by Tax Factor (Sch 1b)	<u>100.00%</u>
Revenue Deficiency	(357)
Annual Water Revenues (Sch 3)	<u>17,965</u>
Annual Water Revenues Proposed by Staff	17,608
Less: Actual Test Year Water Revenues (Sch 3)	<u>(7,600)</u>
Increase in Annual Water Revenues Proposed by Staff	<u>\$ 10,008</u>
Percentage Increase in Annual Water Revenues	131.68%

DW 08-160
FOREST EDGE WATER COMPANY
WEIGHTED AVERAGE COST OF CAPITAL

	Capital Structure				Cost Rate	Weighted Average Cost
	Balance 12/31/08	Adjustments	Adjusted Balance	Percent		
Debt						
Long-Term Debt	\$ 130,131	\$ (92,677)	\$ 37,454	100.00%	7.00%	7.00%
Short-Term Debt	-	-	-	0.00%	0.00%	0.00%
Total Debt	<u>130,131</u>	<u>(92,677)</u>	<u>37,454</u>	<u>100.00%</u>	<u>7.00%</u>	<u>7.00%</u>
Proprietors' Capital						
Owners' Equity	(92,677)	92,677	-	0.00%		
Total Proprietors' Capital	<u>(92,677)</u>	<u>92,677</u>	<u>-</u>	<u>0.00%</u>	9.75%	<u>0.00%</u>
 Total Capitalization	 <u>\$ 37,454</u>	 <u>\$ -</u>	 <u>\$ 37,454</u>	 <u>100.00%</u>		 <u>7.00%</u>

DW 08-160
FOREST EDGE WATER COMPANY
EFFECTIVE TAX FACTOR

Taxable Income	100.00%
Less: NH Busines Profits Tax	<u>0.00%</u>
Federal Taxable Income	100.00%
Federal Income Tax Rate	<u>0.00%</u>
Effective Federal Income Tax Rate	0.00%
Add: NH Business Profits Tax	<u>0.00%</u>
Effective Tax Rate	<u><u>0.00%</u></u>
Percent of Income Available if No Tax	100.00%
Effective Tax Rate	<u>0.00%</u>
Percent Used as a Divisor in Determing	<u><u>100.00%</u></u>
Tax Multiplier	<u><u>0.00000</u></u>

**DW 08-160
FOREST EDGE WATER COMPANY
RATE BASE**

	<u>Balance 12/31/07</u>	<u>Balance 12/31/08</u>	<u>Test Year Average Per Co</u>	<u>Pro-forma Adjust's Per Co</u>	<u>Adjusted Rate Base Per Co</u>	<u>Pro-forma Adjust's Per Staff</u>	<u>Staff Adj's</u>	<u>Adjusted Rate Base Per Staff</u>
Utility Plant in Service	\$ 50,688	\$ 59,476	\$ 55,082	\$ 4,394	\$ 59,476			\$ 59,476
Less: Accumulated Depreciation	(22,571)	(24,905)	(23,738)	(315)	(24,053)	(1,167)	1	(25,220)
Net Utility Plant in Service	28,117	34,571	31,344	4,079	35,423	(1,167)		34,256
Cash Working Capital*	7,236	3,034	3,034	995	4,029	(1,531)	2	2,498
Prepayments	-	39	20	-	20			20
Miscellaneous Deferred Debits	-	1,250	-	-	-			-
Total Rate Base	<u><u>\$ 35,353</u></u>	<u><u>\$ 38,894</u></u>	<u><u>\$ 34,398</u></u>	<u><u>\$ 5,074</u></u>	<u><u>\$ 39,472</u></u>	<u><u>\$ (2,698)</u></u>		<u><u>\$ 36,774</u></u>
 Cash Working Capital:								
Total O & M Expenses	\$ 22,010	\$ 9,229						
Cash Working Capital % (Semi-annual)	<u>32.88%</u>	<u>32.88%</u>						
Cash Working Capital*	<u>\$ 7,236</u>	<u>\$ 3,034</u>						

DW 08-160
FOREST EDGE WATER COMPANY
STAFF PROFORMA ADJUSTMENTS TO RATE BASE

Adj #

Proforma Adjustments to Net Utility Plant in Service:

Accumulated Depreciation

1	To reflect 2008 year end balance for Accumulated Depreciation:		
	Accumulated Depreciation @ 12/31/08	\$	(24,905)
	Less: Test Year Average for Accum Depr per Co Filing		23,738 \$ (1,167)
			<hr/>

Proforma Adjustments to Working Capital:

Cash Working Capital

2	To adjust Cash Working Capital component:		
	O & M Expense Adjusted Balance per Staff (Schedule 3)	\$	12,159
	Cash Working Capital % (Quarterly Billing)		20.55%
	Cash Working Capital per Staff	<hr/>	2,498
	Less: Cash Working Capital per Co Filing	<hr/>	(4,029) \$ (1,531)

Net Rate Base Adjustments per Staff	\$	<u>(2,698)</u>
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FOREST EDGE WATER COMPANY
OPERATING INCOME STATEMENT**

	<u>Balance 2007</u>	<u>Balance 2008</u>	<u>Pro-forma Adjust's Per Co</u>	<u>Adjusted Balance Per Co</u>	<u>Pro-forma Adjust's Per Staff</u>	<u>Staff Adj's</u>	<u>Adjusted Balance Per Staff</u>	<u>Revenue Deficiency</u>	<u>Revenue Requirement</u>
Utility Operating Income:									
Unmetered Sales	\$ 7,600	\$ 7,600	\$ 10,365	\$ 17,965			\$ 17,965	\$ (357)	\$ 17,608
Operating Expenses:									
O & M Expenses	22,010	9,229	3,025	12,254	(95)	3	12,159		12,159
Depreciation Expense	1,243	2,334	314	2,648			2,648		2,648
Taxes other than Income	217	300	-	300	(73)	4 - 5	227		227
Income Taxes	-	-	-	-	-		-	-	-
Total Operating Expenses	<u>23,470</u>	<u>11,863</u>	<u>3,339</u>	<u>15,202</u>	<u>(168)</u>		<u>15,034</u>	<u>-</u>	<u>15,034</u>
Net Operating Income (Loss)	<u>\$ (15,870)</u>	<u>\$ (4,263)</u>	<u>\$ 7,026</u>	<u>\$ 2,763</u>	<u>\$ 168</u>		<u>\$ 2,931</u>	<u>\$ (357)</u>	<u>\$ 2,574</u>

**DW 08-160
FOREST EDGE WATER COMPANY
STAFF PROFORMA ADJUSTMENTS TO REVENUES AND EXPENSES**

Adj #

Proforma Adjustments to Operating Expenses:

O & M Expenses

3	To reflect 5-year average of O & M Expenses for rate making purposes:			
	Total O & M Expenses: 2004	\$	10,721	
	2005		11,047	
	2006		7,788	
	2007		22,010	
	2008		9,229	
	5-Year Average:	\$	12,159	
	Less: O & M Expenses per Co Filing		(12,254)	\$ (95)

Taxes other than Income

4	To adjust State Utility Property Tax Expense:			
	2008 State Utility Property Tax per Co response to Staff DR 1-39	\$	94	
	Less: State Utility Property Tax expense per Co Filing		(184)	\$ (90)
5	To adjust Municipal Property Tax Expense:			
	2008 Municipal Valuation for Co's Pump House	\$	8,600	
	2008 Municipal Tax Rate less State School Rate (\$18.03 - 2.59)		15.44	
	2008 Municipal Property Tax - adjusted		133	
	Less: Municipal Property Tax expense per Co Filing		(116)	17

Total Adjustments - Taxes other than Income	\$ (73)
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Net Operating Revenue and Expense Adjustments per Staff	\$ (168)
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**DW 08-160
FOREST EDGE WATER COMPANY
PROFORMA ADJUSTMENTS TO INCOME TAXES**

INCOME TAXES

To reflect the income tax effect of proforma adjustments to revenue and expenses:

Operating Revenues:

Unmetered Sales	\$ -
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Operating Expenses:

Total Proforma Adjustments to O & M Expenses	95
Total Proforma Adjustments to Depreciation Expense	-
Total Proforma Adjustments to Taxes Other Than Income	<u>73</u>
Marginal Revenue (Expense) Subject to Income Taxes	168
Less: New Hampshire Business Profits Tax @ 0.00%	<u>-</u>
Amount Subject to Federal Income Tax	168
Less: Federal Income Tax @ 0.00%	<u>-</u>
Proforma Adjustments to Operating Revenue/Expenses net of Income Taxes	<u><u>\$ 168</u></u>