

**THE STATE OF NEW HAMPSHIRE
BEFORE THE
NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 10-141

LAKES REGION WATER COMPANY, INC.

Petition for Change in Rate Schedules

Closing Statement of Property Owners Association at Suissevale, Inc.

Now Comes the Property Owners Association at Suissevale, Inc. (“POASI” or “Suissevale”) and submits this closing statement with respect to the Petition of Lakes Region Water Company, Inc. (“Lakes Region”) for change in Rate Schedules.

INTRODUCTION:

While the specific rate increase requested by Lakes Region does not directly affect POASI because its rate is determined by the 2006 Water Supply Agreement (the “WSA”) approved by the Commission, *see* Exhibit POASI No. 1, Exs. 1 and 3, this proceeding is nonetheless important to Suissevale because it concerns the future of Lakes Region and its ability to serve its customers. Significant issues include:

- Lakes Region has serious financial issues: it currently has over \$506,000, *see* Response to Record Request (“RRR”) No. 3,¹ in payables, it does not have the capital needed to pay for what it asserts are substantial capital projects over the next 5 years, and it has been unwilling to accept the terms of SRF financing;
- Lakes Region’s 5-year capital projects plan (\$1 million estimated cost) does not even address the additional water source that Lakes Region now says is needed for the Paradise Shores system;
- Lakes Region’s insistence that the Paradise Shores system needs a \$1.5 million well development project only two years after the 325,000 gallon water storage tank that Lakes Region proposed as a long-term solution for the Paradise Shores system came on line; and
- The circumstances are such that Staff Advocate argues that Lakes Region should be sold, while the OCA urges the appointment of a receiver.

¹ This figure includes rate case and non rate case vendors.

Other than advocating for a drastic increase in rates, which even its rate consultant Mr. St. Cyr admitted was not a long-term solution, Lakes Region simply has not offered any plan for how it can serve its customers in a cost-effective manner. Instead, Lakes Region simply complains that the current PUC rate-making rules and policies do not allow small water utilities to operate effectively. There can be no dispute that Lakes Region cannot continue to manage its affairs and conduct its operations as it has in the past. Changes are in order. Given its unique position as a wholesale customer, Suissevale offers the following summary and recommendations for the Commission's consideration as it makes its decision on the rate petition and the other issues raised by the consolidated dockets.

UNLIKE ALL OF LAKES REGION'S OTHER CUSTOMERS SUISSEVALE IS RESPONSIBLE FOR ITS OWN WATER DISTRIBUTION SYSTEM.

1. As set forth in the pre-filed testimony of John Skelton, *see* Exhibit POASI No. 1, Suissevale was developed in the early 1960s as a seasonal vacation community. There are currently 364 houses connected to the Suissevale community water system. Until the mid-1990s, when it became a wholesale customer of Lake's Region, Suissevale operated a complete water system with wells, storage tanks, pumps, etc. At first, Suissevale began purchasing water from Lakes Region to supplement its existing system, but in 1997 it shut down its 10 small wells and started purchasing all of its water needs from Lakes Region. POASI pays Lakes Region for that water based on the rate formula in the WSA as measured by a single master meter. The rate formula adjusts the Suissevale rate annually based on the Lakes Region annual report filed with the PUC.

2. Since the mid-1990s, Suissevale has spent approximately \$1.8 million on operating and upgrading its water distribution system, which includes over 26 miles of water line. Exhibit POASI No. 1, p. 3. Unlike the other Lakes Region customers, POASI assumes all responsibility for its distribution system. Thus, if there are leaks, or required maintenance or repairs, Suissevale pays separately. Because Suissevale is responsible for its own system, for

almost twenty years Lakes Region has received significant annual revenue for minimal, if any, additional operating costs.

WHEN LAKES REGION PROPOSED THE 325,000 GALLON STORAGE TANK FOR THE PARADISE SHORES SYSTEM, SUISSEVALE INVESTED IN WHAT IT REASONABLY BELIEVED TO BE A LONG-TERM WATER SUPPLY SOLUTION.

3. In the late 1990s and early 2000s, Suissevale, like the companion Balmoral community, experienced significant growth. Because both are predominantly vacation communities, the demand for water was at its greatest during the summer months. To address the peak summer season demands, Lakes Region proposed constructing a 325,000 gallon storage tank for the Paradise Shores system (i.e., both Balmoral and Suissevale). The concept was simple: According to Lakes Region, because 325,000 gallons was more than two and one-half times the DES required storage (123,282 based on peak summer use), *see, e.g.*, Exhibit LRW 17, the extra storage would allow Lakes Region to meet the peak seasonal demand. Lakes Region could fill the storage tank from its existing wells during midweek or at night, when water demand was at its lowest, and then use the stored water to meet the high use weekend periods. That plan certainly sounded reasonable to Suissevale, and at the time, all of the interested parties, including DES, supported the proposed storage tank project. *See Re Lakes Region Water Company, Inc.*, 88 NH PUC 653, 655 (2003); Exhibit POASI No. 1, Ex. 2.

4. Because of its significant cost, Lakes Region approached Suissevale to help finance the storage tank project. Believing that the project represented a long-term solution, Suissevale agreed to contribute up to \$300,000 toward the construction. Based on the current 364 connections, this represented a cost to Suissevale of over \$800 per connection. The storage tank also represented a big commitment by LR, ultimately adding over \$750,000 to its rate base.² Because this was a substantial investment, Suissevale was only going to make it if the storage tank was a long-term solution for the Paradise Shores system.

² Exhibit LRW 6, Mason Exhibit A, page 5 says that the total project cost for the Paradise Shores water storage tank was \$753,000.

WITHIN 2 YEARS OF THE STORAGE TANK COMING ON LINE, LAKES REGION CLAIMS THAT THE PARADISE SHORES SYSTEM NEEDS A \$1.5 MILLION CAPITAL PROJECT.

5. The storage tank came on line in the summer of 2008, and by July 2010, when it submitted this rate case, Lakes Region claimed that the Paradise Shores system now needed an additional \$1.5 million capital project. While Lakes Region now offers a variety of excuses, the fact that it now proposes to spend an additional \$1.5 million within 2 years of the tank coming on line demonstrates both a lack of planning and extremely questionable decision making.

6. First, while Lakes Region sought to justify the need for Mt. Roberts on an increase in demand, especially with Suissevale (*see* Exhibit LRW No. 15), there has been no material change in water demand within the Paradise Shores system. There has not been significant growth within Suissevale since 2005/2006 and the actual consumption has remained relatively constant.

7. Second, if the yields of its other wells have declined, that was not Lakes Region's position in 2008 when the storage tank came online. As set forth in the Lewis Engineering Report submitted to the DES, *see* Exhibit POASI No. 3, Lakes Region argued that there was sufficient water from the existing wells to meet system demands and, indeed, that there would be no need to connect to the Mt. Roberts emergency wells that summer. Significantly, the Lewis Engineering Report also notes that Lakes Region's calculations even considered the addition of another 73 unit water system in addition to the projected build out in Balmoral and Suissevale.

8. Third, according to Mr. Mason, the Mt. Roberts property was purchased in 2006, not because the Paradise Shores system needed more wells, but as a favor to a former Lakes Region employee (and as part of a tax exchange for property his father sold in Massachusetts). Further, Mr. Mason even testified that the test wells drilled in 2007 were not to serve the utility but because Tom Mason, Sr., one of Lakes Region's shareholders, was considering building a house.³ The questions raised by this report and the positions being asserted by Lakes Region as

³ That actually does not make any sense. Drilling a test well for a water system is fundamentally different than siting a single-use well for a home. While Mr. Mason did not explain, as noted the Lewis Engineering Report, details how, in addition to Balmoral and Suissevale, there was a potential 73-unit development to be served by the

of 2008 raise serious concerns with Lakes Region's management, its decision making and a lack of any comprehensive planning process.

9. Finally, there is also the significant issue of lost water within the Paradise Shores system. As reflected in the 2010 Lakes Region Annual Report (Exhibit LRW 8), over 6.2 million gallons of water is reported as "lost" or unaccounted for on the Balmoral side of the system alone. Reducing that lost water to a more reasonable level would dramatically increase the amount of available water within the system and potentially lessen the need for more wells. And, the Report on the 2009 Town of Moultonboro Zoning Board of Adjustment hearing (RRR No. 4) reveals that at the very time that Lakes Region now says it experienced water shortages and declining well yields (to try to justify the Mt. Roberts project), it was trucking 50 loads of water from the Paradise Shores system to other systems. *See* RRR No. 4, p. 3 of Moultonborough Zoning Board of Adjustment meeting minutes for February 4, 2009.

THE \$1.5 MILLION MT. ROBERTS STEP INCREASE PROPOSED BY LAKES REGION IN 2010 ESTABLISHES THAT THERE HAS BEEN EXTREMELY POOR MANAGEMENT AND QUESTIONABLE DECISION-MAKING BY LAKES REGION.

10. Suissevale became involved in this docket primarily because of the huge rate increase that would have resulted if the Mt. Roberts project was approved. That proposal would have increased Suissevale's annual cost from approximately \$130,000 to \$290,000. That represents an annual per connection for Suissevale cost of approximately \$800 (and that is after it receives the benefit of the \$300,000 CIAC). That increase seemed particularly outrageous considering that unlike all other customers Suissevale is financially responsible for all of its distribution infrastructure.⁴ While the original \$1.5 million Mt. Roberts step increase proposal

Paradise Shores system. *See* Exhibit POASI No. 3, p. 4. Regardless of the actual reason for those test wells, according to Mr. Mason, they were not drilled to serve the utility.

⁴ The potential cost to POASI of the Mt. Roberts project is exacerbated by the fact that Lakes Region has also stated that in order to serve POASI most effectively there should be a separate dedicated water line directly from the water storage tank down Route 109 to Suissevale completely bypassing the Paradise Shores system within Balmoral.

has been withdrawn, at least in this proceeding, the fact that Lakes Region's management even submitted this proposal raises some very significant concerns about its management, the lack of strategic planning and very questionable decision-making with respect to shareholder transactions.⁵

11. First, to try to justify the Mt. Roberts project, Lakes Region asserted that the storage tank was never intended to be a long term solution for the Paradise Shores system, (*see* Tom Mason Testimony, LRW No. 6, p. 11), and additional water sources would eventually be needed. If that is the case, shouldn't Lakes Region have taken all of that into account before siting the tank and moving forward with what turned out to be a \$753,000 storage tank project?⁶ Also, if that tank was not intended as a long-term solution for the Paradise Shores system, then it made no sense for Lakes Region to spend over \$750,000, more than two and one-half times what it collected from POASI, on a project that constituted a significant portion of its rate base or for POASI to invest \$300,000 in that project.⁷ If more wells would be needed, and the extra storage capacity would not meet the seasonal demand, then why did Lakes Region even propose a tank two and one-half times the size DES says was needed? Wouldn't Lakes Region (and POASI) have been better off constructing only a 150,000 gallon tank (more in line with the DES' total storage capacity requirements of 123,282) (*see* Exhibit LRW No. 17) and devoting the other capital to securing more wells?

⁵ Once the Mt. Roberts proposal was withdrawn, Lakes Region refused to respond to any of the data requests submitted by Suissevale concerning the Mt. Roberts' project and related decision making.

⁶ Sound business planning would have included an evaluation at the time of the long term capacity of all of the existing wells serving the Paradise Shores system and a projection of whether more wells would be needed in the future. Competent management looking out for the customers' long-term interests would have considered all of those factors before going forward with the tank project.

⁷ If Lakes Region contends that it did not need the Mt. Roberts property (or any other property) in 2005-2008 time period for more wells, then that confirms Suissevale's position that the storage tank was proposed as the long-term solution for the Paradise Shores system. Further, if more wells are now needed but that Lakes Region does not have the resources or ability to acquire the property at a fair and reasonable price, then that confirms Staff Advocate's position that a change is needed and the utility should likely be sold.

12. Second, similar to the questions concerning the affiliate agreement, the proposed Mt. Roberts development raises serious questions concerning the dealings between the utility and its shareholders. The current management of Lakes Region sought approval of the Mt. Roberts transaction even though it included a \$500,000 profit for the shareholders, a cost that would be added to the rate base and ultimately passed on to rate payers (and POASI pursuant to the WSA). Purchasing the Mt. Roberts land for \$750,000 when the shareholders only paid approximately \$250,000, does not in any way represent a reasonable arms-length transaction. Instead, it represents a total disregard by current management for the best interest of its customers. And, Suissevale fears that by allowing the shareholders to develop the emergency wells on Mt. Roberts as the purported “solution” for the Paradise Shores system, Lakes Region has now put itself in a position where it is beholden to the company’s shareholders who can revoke permission to use Mt. Roberts at any time or demand greater than what would be a fair and reasonable price for the property. Lakes Region should have secured an easement or purchase option prior to any exploratory wells being drilled, and the 2009 handwritten letter prepared in connection with the Moultonboro Planning Board hearing is totally insufficient. Now the utility is beholden to the price demands of the shareholders.

13. Either at the time of locating the water storage tank or otherwise, Lakes Region never explored or evaluated the potential location and cost of development of alternative well sources. Mr. Mason admits that the Mt. Roberts land was purchased without any formal evaluation of the likelihood of existing water sources on the property or whether those sources were positioned in such a manner that they could be developed for large extraction wells consistent with the DES set-back requirements. Most simply, a comprehensive plan for the long-

term water needs of the Paradise Shores system should have been done before the water storage tank was built. All customers are now paying the price for that lack of planning.

14. Third, even if additional source is needed for the Paradise Shores system, there has not been a strategic or business evaluation by Lakes Region of alternatives. For example, before Lakes Region proceeds with a massive and expensive well project, it should evaluate the integrity and capacity of the existing system. As noted, in 2010 alone there were 6.2 million gallons of unaccounted for water in the Balmoral portion of the Paradise Shores system and at least in 2007 and 2008, there were significant amounts of water being shipped to other Lakes Region systems. These and other issues must be addressed before Lakes Region proposes any significant investment in new wells (on Mt. Roberts or otherwise).

BECAUSE OF LAKES REGION'S LACK OF COMPREHENSIVE PLANNING AND THE QUESTIONABLE DEALS BEING PROPOSED AS PART OF THE MT. ROBERTS PROJECTS, SUISSEVALE IS NOW TAKING STEPS TO PROTECT ITS MEMBERS.

15. The 2010 proposed step increase for Mt. Roberts and subsequent discussions convinced Suissevale that it needed to assess other options to protect the interests of its members. The Suissevale Board of Directors has consistently acted proactively to insure that its members have a safe, reliable and economic source of water. Suissevale has spent millions of dollars upgrading Suissevale's original developer constructed distribution system. Suissevale also helped Lakes Region finance the 325,000 gallon storage tank. Now, not only is Lakes Region proposing the \$1.5 million Mt. Roberts project which would more than double Suissevale's annual water cost, but Lakes Region and DES say that Suissevale may need a new water line to bring water from the storage facility to Suissevale, the cost of which (approximately \$700,000) would likely have to be borne by Suissevale alone.

16. For over a year, the Suissevale Board of Directors has been actively exploring whether there are supplemental sources of water available to be developed and used for the Paradise Shores system.⁸ Suissevale believes that the development of additional or supplemental sources of water (really as an alternative to Mt. Roberts) presents an opportunity to lessen the water demands on the other Paradise Shores wells, which in turn may alleviate immediate capital needs for Lakes Region and allow it to focus its resources on other systems.

17. Suissevale simply could not and cannot afford to wait to see what happens in these dockets or whether Lakes Region management, decision making and financial condition will improve. And, the assertion by Lakes Region that it does not have a long-term plan for Paradise Shores because it is waiting to see what Suissevale does is actually an indictment of Lakes Region's woefully deficient planning and decision making. Suissevale is exploring alternatives precisely because Lakes Region does not have a reasonable and cost effective plan for the Paradise Shores system. Indeed, Suissevale also needs to move forward with its evaluation because the 5-year Lakes Region capital projects plan submitted in this proceeding does not include any resources allocated for a permanent solution for the Paradise Shores system. If a permanent solution is not in the Company's 5 year plan, where does that leave POASI? The harsh reality is that if Lakes Region does not have the resources necessary to address even its 5 year plan, never mind a long term solution for the Paradise Shores system, Suissevale would be remiss if it did not explore supplemental water source options.

LAKES REGION NEEDS TO MAKE FUNDAMENTAL MANAGERIAL AND OPERATIONAL CHANGES

18. Suissevale is very concerned about Lakes Region's long-term financial viability and its ability to fulfill its obligations under the Water Supply Agreement at a just and reasonable price. Like Staff Advocate and the OCA, Suissevale does not believe that the current

⁸ Although it began purchasing water from Lakes Region in the early 1990's Suissevale has always been mindful of the potential need for it to develop its own water sources. For example, as noted in Mr. Skelton's pre-filed testimony, in 2000 Suissevale purchased a 44 acre parcel of land contiguous to Suissevale in part as a potential location for future well development. *See* Exhibit POASI No. 1, p. 8.

management of Lakes Region has the ability (or capital) to manage its affairs effectively and to serve the needs of its customers. Suissevale appreciates that the Commission has a number of important issues to consider in this case. While the rate that may be approved in this docket does not directly affect POASI because of the WSA, how Lakes Region is managed, the scope of its overall operating costs, and what it is proposing in terms of capital projects does impact Suissevale significantly. While Suissevale does not advocate a position on either the OCA's recommendation for a receiver or Staff Advocate's suggestion that Lakes Region be sold, Suissevale does believe that there must be fundamental change to the Company's management and its means and methods of operations. There needs to be significantly greater financial and strategic planning, and it needs to reduce the unreasonable and costly reliance on outside accounting resources.⁹ The fact that Mr. St. Cyr candidly admitted that even if the Commission were to approve the Company's 40.4% rate increase request, it would not represent a long-term solution is very troubling. Something must change. Any increase in rates should be conditioned upon Lakes Region making fundamental managerial, operational and financial changes.

19. Finally, the fact that Suissevale intervened in and has been involved in this proceeding from the beginning and that a representative attended each day of this hearing reflects the importance of this case to Suissevale and its commitment to the process. While its concerns are significant Suissevale appreciates what Mr. Mason has tried to accomplish for Lakes Region and its operations and service for customers since taking over as President for his father. Suissevale remains committed to working closely with Lakes Region, the Commission Staff, the OCA and the other relevant constituencies (i.e, the DES) to try to ensure that there is sound

⁹ For example, as reflected on RRR 3, Mr. Roberge and Mr. St. Cyr account for a total of \$199,000 or approximately 39% of Lakes Region's accounts payable. Together they accounted for more than \$119,000 in payments to individuals either made or accrued during 2010. *See* Exhibit LRW 8, page 9 (2010 Annual Report).

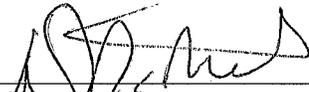
management for the Company and a viable plan to ensure the delivery of safe and adequate water to the Paradise Shores customers.

Respectfully submitted,

**PROPERTY OWNERS ASSOCIATION AT
SUISSEVALE, INC.**

By and through their attorneys

ORR & RENO, P.A

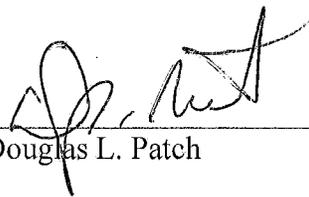


Douglas L. Patch
Orr & Reno, P.A.
One Eagle Square
Concord, N.H. 03302-3550
(603) 223-9161

Dated: April 9, 2012

Certificate of Service

I hereby certify that a copy of the foregoing has on this 9th day of April, 2012 been sent by electronic mail to the service lists in DW 10-141.

By: 

Douglas L. Patch

870396_1