

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Lakes Region Water Company, Inc.

Docket Nos. DW 10-141, DW 07-105, DW 10-043 and DW 11-021

ADVOCATE STAFF'S OBJECTION TO MOTION FOR REHEARING

The Advocate Staff of the New Hampshire Public Utilities Commission objects to Lakes Region Water Company, Inc.'s (Lakes Region) Motion for Rehearing or Clarification. In support of this objection, Advocate Staff states as follows:

1. Advocate Staff agrees with the arguments raised by Staff in its objection filed on August 16, 2012. There is no good reason for rehearing or clarification because the Commission did not overlook Lakes Region's request for an allowance relating to income tax expense.

2. Lakes Region's second argument for rehearing or clarification is based on new evidence contained in its recently-filed 2011 tax return.¹ It argues that this new information shows it will have a tax liability for 2012. Advocate Staff agrees with the arguments raised by Staff in its objection filed. Advocate Staff also objects to Lakes Region's reasoning for this argument.

3. Lakes Region appears to rely on amendments to its Annual Report as the basis for its amendments to its tax returns. The amendments to the Annual Report, however, are not in accordance with the General Instructions for Prior Period Items in the Uniform Systems of Accounts for Water Utilities. Pursuant to the Uniform System of Accounts for Water Utilities, Section 1, General Instructions, subsection (d)(5) Accounts-Prior Period Items:

¹ In its motion, Lakes Region references the 2011 tax return as the new information warranting consideration but it states on page 6 that it also amended tax returns for other years. For purposes of this objection, Advocate Staff's arguments apply to all amended tax returns and Annual Reports relied upon by Lakes Region for its motion.

A. All prior period adjustments to retained earnings shall be approved by the Commission. Generally the only types of transactions which will be considered as a prior period adjustment are:

- 1. Correction of an error in the financial statements of a prior period; or*
- 2. Adjustments that result from realization of income tax benefits of preacquisition loss carry forwards of purchased subsidiaries.*

B. Prior period adjustments, when approved, shall be charged or credited to account 439 - Adjustments to Retained Earnings and are not considered in income of the period. Prior period adjustments shall be recorded net of all state and federal income tax effects.

C. Changes in depreciation or amortization estimates or methods are considered changes in accounting estimates rather than accounting errors; and therefore are not subject to prior period adjustments. Any adjustments made to the accumulated amortization or depreciation balances of the utility due to a change in estimate or method shall be offset by a charge or credit to either: an income account; account 186.2 - Other Deferred Debits; or account 253 - Other Deferred Credits, as directed by the Commission.

Prior period adjustments to retained earnings in Annual Reports must be approved by the Commission and are very limited. Lakes Region has not received Commission approval for the subject prior period adjustments. Advocate Staff does not believe the proposed prior period adjustments are appropriate. While Advocate Staff acknowledges that a utility's retained earnings balance can be adjusted on a pro forma basis for the purpose of rate setting, it is not appropriate to adjust such a balance for financial statements as Lakes Region has proposed.

4. Advocate Staff questions the reasoning behind Lakes Region incurring the expense of amending its prior year tax returns for the ultimate purpose of paying income tax when it otherwise would not have. Lakes Region wishes to accelerate the use of its operating loss carryforwards and potentially create tax liability at an earlier time which seems counterproductive in light of Lakes Region's well-documented cash flow problems. Advocate Staff can think of no prudent reasons for a utility in Lakes Region's financial condition to make such amendments to its tax returns.

5. Because Advocate Staff does not consider Lakes Region's amendments to its tax return to be reasonable and because Lakes Region has not sought approval for the amendments to its Annual Reports, Advocate Staff recommends the Commission deny recovery, whether it be in the form of rate case expense recovery or otherwise, of any and all costs of amending the tax return and Annual Reports. Because the Motion for Rehearing or Clarification was based on unapproved changes to the Annual Reports and on unreasonable recent amendments to the tax return, Advocate Staff recommends the Commission deny recovery of any and all expenses associated with the motion.

WHEREFORE, Advocate Staff respectfully states and requests:

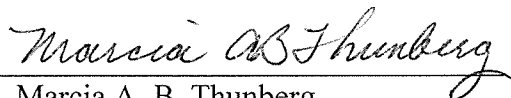
- A. the Commission deny Lakes Region's motion for rehearing; and that
- B. the Commission grant such other and further relief as justice may require.

Respectfully submitted,

Advocate Staff of the N.H. Public Utilities Commission

Date: August 16, 2012

By:

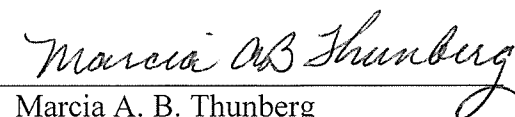

Marcia A. B. Thunberg
Staff Attorney

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing objection was this day emailed to all parties on the official service list for Docket Nos. DW 10-141, DW 07-107, DW 10-043, and DW 11-021.

Date: August 16, 2012

By:


Marcia A. B. Thunberg
Staff Attorney