

STATE OF NEW HAMPSHIRE

DW 13-041

CONSUMER ADVOCATE
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21 S. Fruit St., Suite 18
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July 15, 2013

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Debra A. Howland
Executive Director
New Hampshire Public Utilities Commission
21 S. Fruit Street, Suite 10
Concord, New Hampshire 03301-7319

**RE: DW 13-041 Lakes Region Water Company, Inc.
Petition for Emergency Rates**

Dear Ms. Howland:

Enclosed please find the Office of the Consumer Advocate's Objection to Lakes Region Water Company's Motion for Rehearing in the above captioned matter.

If you have any questions about this filing, please contact our office. Thank you.

Respectfully,

A handwritten signature in cursive script that reads "Rorie E.P. Hollenberg".

Rorie E.P. Hollenberg
Assistant Consumer Advocate

cc: Service lists (via email)

11/11

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

**Lakes Region Water Company, Inc.
DW 13-041**

**OFFICE OF THE CONSUMER ADVOCATE'S
OBJECTION TO MOTION FOR REHEARING AND
REQUEST FOR OTHER RELIEF**

The Office of Consumer Advocate (“OCA”) objects to the Motion for Rehearing (“Motion”) filed by Lakes Region Water Company, Inc. (“Company”) with respect to the Commission’s Order No. 25,216. The OCA also requests that Commission consider whether alterations to Order No. 25,454, authorizing recovery of rate case expenses in DW 10-141, are appropriate. By way of further explanation for this Objection and Request, the OCA states as follows.

1. In Order 25,216, the Commission found that the Company had sufficient cash to pay its tax liabilities and that an emergency, as defined by RSA 378:9 and the cases decided pursuant to that statute, did not exist.¹
2. Pursuant to RSA 541:3, the Commission may grant rehearing when a party states good reason for such relief.² Good reason may be shown by identifying new evidence that could not have been presented in the underlying proceeding or by identifying specific matters that were overlooked or mistakenly conceived by the deciding tribunal.³ A successful motion for rehearing does not merely reassert prior arguments and request a different outcome.⁴
3. The Commission has already considered and rejected the issues that the Company

¹ Order 25,216 at p. 7.

² Public Service Company of New Hampshire, Order No. 25,361 (May 11, 2012) at p. 4.

³ Id. at pp. 4-5.

⁴ Id. at p. 5.

raises in its Motion. For example, the Company has already argued against the inclusion of \$52,202 in permanent rate recoupment in the calculation of 2012 earnings.⁵ The Company's Motion also revisits earlier argument about the inclusion in the Cash Flow Statement of \$73,419 in interest on debt.⁶ The Company's re-argument that its accurate Cash Flow Statement⁷ and the sufficient earnings it reflects should not be relied upon by the Commission should be rejected as a basis for rehearing. The Company has presented no good reason for the Commission to reconsider these arguments and alter its prior determinations on those matters.

4. The Company's re-argument of the merits appears to rely upon the typical rate case statutes and the cases interpreting them.⁸ Such reliance is misplaced. This is not a typical rate case; this is a case concerning emergency rate relief, and the law and standards are different.⁹ The issue in this proceeding is whether an emergency exists, whether the Company is "facing immediate and substantial disaster."¹⁰ For a Company, who by its own admissions either overearned¹¹ or earned a 6.57% rate of return in 2012,¹² the threshold for emergency rates was not, and cannot be, met.
5. The Company's claims of mistake or incompetence of its own experts does not support rehearing. The Commission was entitled to rely upon the Company's evidence as the Company – and not Staff – bore the burden of proof to show that

⁵ Compare Company's Closing Memorandum at pp. 16-17 with Motion at pp. 7-9.

⁶ Compare Company's Closing Memorandum at p. 17 with Motion at p. 10.

⁷ Motion at p. 2 ("This is not to say that the Company's Statement of Cash Flows is inaccurate.")

⁸ See, e.g., Motion at 6-7 (citing RSA 378:27 and 28).

⁹ Compare RSA 378:27 and 28 with RSA 378:9.

¹⁰ Order 25,216 at p. 7.

¹¹ Order 25,216 at p. 8 (Company "agreed that it earned slightly more than its authorized return in both 2011 and 2012.")

¹² Motion at p. 9.

an emergency existed. The Company failed to sustain its burden and its recourse for inept service from its consultants is not rehearing of the Commission's order denying emergency rates.

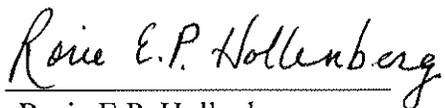
6. In light of the Company's admissions about the poor quality of its consultants' services, including that the amendments to the 2007, 2008 and 2009 tax returns were not necessary,¹³ the Commission should consider revisiting its Order 25,454, which authorized the Company to recover certain rate case costs of these consultants.¹⁴ RSA 365:28 authorizes the Commission to alter any order made by it, and ratepayers should not be required to pay for incompetent or unnecessary services of the Company's consultants, Mr. Roberge and Mr. St. Cyr.

Conclusion

For the reasons stated above, the Commission should deny the Company's request for rehearing and consider altering Order 25,454 to eliminate ratepayer recovery associated with the Company's consultants.

Respectfully submitted,
OFFICE OF CONSUMER ADVOCATE

July 15, 2013



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¹³ Motion at p. 15, fn. 19.

¹⁴ Order No. 25,454, January 17, 2013 (approving rate case expenses).