

Witness List

1. Kevin Quinlin

P.O. Box 731

Moultonboro, NH. 03254

President Balmoral Homeowners Association

Moultonboro Planning Board Member

2. Karel Crawford

187 Moultonboro Neck Rd.

Moultonboro, NH. 03254

State Representative, District 4, Carroll
County

3. Jake Dawson

P.O. Box 36

Moultonboro, NH. 03254

Dawson's Excavation and Utility Services LLC

Lakes Region Water Services Employee Oct.
2001 – May. 2008

Lakes Region Water Company May 2009 –
May 2014

Witness Summary

Mr. Quinlin is a member of the Town of Moultonboro's Master Plan Committee and is well versed with the Accessory Dwelling Unit RSA 674 which becomes effective June 1, 2017 as well as the Town of Moultonboro's ADU regulations which will be put before the town's legislative body in March of 2017. In the case of both the municipality and the state, it is clearly written that separate water and sewer systems will not be required.

As the President of the Balmoral Homeowners Association, Mr. Quinlin will state that the Association is opposed to the additional fixed customer charge which is not currently supported in Lakes Region Water Company Tariffs or the Public Utility Commission regulations in this case.

Mr. Quinlin will also testify to a previous conversation where Mr. Mason had stated that his profitability is dependent on his ability to recover his costs to operate Lakes Region Water Co. through the fixed rate charges and that he would need to get the new ADU exemption for separate water systems changed in Concord. This is also referred to in the PUC's explanation of how water and sewer rates are set. (see exhibit 1).

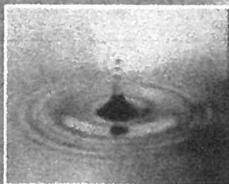
Mrs. Karel Crawford as a State Representative in District 4, Carroll County was solicited by myself to assist in finding resolve to this matter after several attempts from a less than receptive Mr. Mark Naylor's office.

Mrs. Crawford will testify to the various conversations with Ms. Amanda Noonan and Ms. Leah Valladares that validate our argument that the PUC regulations and Lakes Region Water Co. tariffs are so vaguely written that aside from Ms. Valladares's interpretation, nothing clearly addresses an additional fixed rate fee for this bunkhouse.(see exhibits 2 & 3) Lakes Region Water Co. has interpreted both the PUC regulations and the Lakes Region Water Tariffs to their advantage so as to strong arm an additional fixed fee with the threat of water service disconnect if not paid.

Mrs. Crawford will also testify to the fact that the new RSA 674 which goes into effect June 1, 2017 will make this a moot point since the new law specifically states that separate water systems will not be required. (see exhibits 4 & 5)

Mr. Jake Dawson has been an employee of Lakes Region Water Services and Lakes Region Water Company off and on for almost 13 years until May of 2014 when he started his own excavation company. Mr. Dawson has intimate knowledge of the operation of both Lakes Region Water Services which he now competes against and Lakes Region Water Company where he served as foreman for Mr. Mason.

Mr. Dawson will refute the last paragraph in exhibit 3 that states Lakes Region Water Company treats everyone the same way by showing that Mr. Steven McGuire's house not only has two water meters but has one service line that feeds both houses and he pays only one fixed rate fee. (see exhibit 6) . Additionally Mr. Dawson will testify to the fact that the capital improvements being made by Lakes Region Water Company are not being put out to bid as required of a public utility and subsequently as a water customer I am undoubtedly paying more for the work that Lakes Region Water Services is doing.



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How Water and Sewer Rates Are Set

Consumer Issues:

- Filing a Complaint
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 - RSA 362:2
 - RSA 362:4
- Interest Rate for Your Utility Deposit
- More Consumer Info

Industry Issues:

- Water in New Hampshire
- Water Conservation and Regionalization - Joint PUC/DES Study, August 2001
- Water and Sewer Utility Accounting and Report Forms
- Requirements for Financing Approvals
- Water Conservation report from Commission Staff in DW 01-253
- Report of Proposed Expenditures For Additions, Extensions and Capital Improvements To Fixed Capital

- Orders
- Rules
- Tariffs
- Communities Served
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The Commission sets water and sewer rates based on an analysis of a utility's earnings. The most recent year for which complete financial data is available is usually chosen as the "test" year. The earnings achieved in that year are compared to a rate of return, which is a rate based partly on market interest rates that a utility would be earning based on its level of investment in utility plant that serves customers. Utilities are only allowed to earn a return on investments that are actually being used in providing utility service to customers. It is through the allowed rate of return on plant investment that the utility has the opportunity to earn a profit. In addition, the utility is allowed to recover the prudent and necessary expenses incurred in running the business. The Commission, in reviewing a water or sewer utility's request for a change in rates, carefully reviews all expenses as well as investments made to ensure the company is run in the most prudent and economical manner possible, consistent with the utility's obligation to provide safe service.

A customer water bill is typically based on the use of water meters, where service is measured to determine the amount to be billed. Usually the water bill consists of two charges: a fixed customer charge, and a variable consumption charge. The fixed portion of the bill sometimes is calculated to recover the fixed costs of the utility, such as labor and return on capital investments. However, particularly with smaller systems, the fixed portion of the customer bill is calculated to provide revenue stability to the utility where seasonal differences in consumption may occur as with seasonal occupancy. Providing full recovery of fixed costs through the fixed portion of the bill may unfairly penalize seasonal customers who have no consumption during parts of the year. The consumption charge of a water bill is based on periodic readings (such as monthly or quarterly), and is the most effective way to encourage judicious use of water. As a part of the Commission's current investigation into greater conservation of water, the Commission is considering the encouragement of greater use of water rate designs which can be effective in reducing water waste and encouraging more customer awareness of the cost to provide safe clean drinking water to their home or business. In some limited cases with very small systems, the Commission may provide a waiver of its administrative rules and allow a water utility to charge a flat, unmetered rate. However, this method is largely discouraged as it provides no incentive for customers to conserve water and avoid waste.

Sewer rates can be either flat rate, or based on a water reading. The use of water readings for sewer bills is an additional method of conserving water since the customer will be further incented to avoid water waste.



From: Noonan, Amanda [<mailto:Amanda.Noonan@puc.nh.gov>]

Sent: Wednesday, September 21, 2016 2:14 PM

To: Leah Valladares (leah@lakesregionwater.com)

Cc: Naylor, Mark

Subject: Robert Mykytiuk

Hi Leah,

I was just talking with Tom about Mr. Mykytiuk. Rep. Carol Crawford reached out to me on his behalf, asking where in the tariff or the Commission's rules she could find LRWC's authorization to bill Mr. Mykytiuk a double base charge. I have not been able to find anything, although Tom thought there was something in the tariff that referenced service to a single family home. Would you take a look through the tariff and let me know if you find anything? If not, I told Tom that Staff would work with LRWC to help develop some revised tariff language that LRWC could file as an amendment to its tariff to resolve this issue. In the meantime, if there is nothing definitive in the tariff, it will likely mean billing Mr. Mykytiuk a single base charge until the tariff is updated.

Please feel free to call me if you have any questions.

Thank you,

Amanda

Amanda O. Noonan

Director, Consumer Services and External Affairs

New Hampshire Public Utilities Commission

21 South Fruit Street, Suite 10

Concord NH 03301

[603.271.1164](tel:603.271.1164) voice/[603.271.3878](tel:603.271.3878) fax

amanda.noonan@puc.nh.gov

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Sixteen

4

AN ACT relative to accessory dwelling units.

Be it Enacted by the Senate and House of Representatives in General Court convened:

5:1 Findings. The general court declares that:

- I. There is a growing need for more diverse affordable housing opportunities for the citizens of New Hampshire.
- II. Demographic trends are producing more households where adult children wish to give care and support parents in a semi-independent living arrangement.
- III. Elderly and disabled citizens are in need of independent living space for caregivers.
- IV. There are many important societal benefits associated with the creation of accessory dwelling units including:
 - (a) Increasing the supply of affordable housing without the need for more infrastructure or further land development.
 - (b) Benefits for aging homeowners, single parents, recent college graduates who are saddled with significant student loan debt, caregivers, and disabled persons.
 - (c) Integrating affordable housing into the community with minimal negative impact.
 - (d) Providing elderly citizens with the opportunity to live in a supportive family environment with both independence and dignity.

5:2 New Subdivision; Accessory Dwelling Units. Amend RSA 674 by inserting after section 70 the following new subdivision:

Accessory Dwelling Units

574:71 Definition. As used in this subdivision, “accessory dwelling unit” means a residential living unit that is within or attached to a single-family dwelling, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies.

574:72 Accessory Dwelling Units.

- I. A municipality that adopts a zoning ordinance pursuant to the authority granted in this chapter shall allow accessory dwelling units as a matter of right or by either conditional use permit pursuant to RSA 674:21 or by special exception, in all zoning districts that permit single-family dwellings. One accessory dwelling unit shall be allowed without additional requirements for lot size, frontage, space limitations, or other controls beyond what would be required for a single-family dwelling without an accessory dwelling unit. The municipality is not required to allow more than one accessory dwelling unit for any single-family dwelling.
- II. If a zoning ordinance contains no provisions pertaining to accessory dwelling units, then one accessory dwelling unit shall be deemed a permitted accessory use, as a matter of right, to any single-family dwelling in the municipality, and no municipal permits or conditions shall be required other than a building permit, if necessary.

III. An interior door shall be provided between the principal dwelling unit and the accessory dwelling unit but a municipality shall not require that it remain unlocked.

IV. Any municipal regulation applicable to single-family dwellings shall also apply to the combination of principal dwelling unit and an accessory dwelling unit including, but not limited to lot coverage standards and standards for maximum occupancy per bedroom consistent with policy adopted by the United States Department of Housing and Urban Development. A municipality may require adequate parking to accommodate an accessory dwelling unit.

V. The applicant for a permit to construct an accessory dwelling unit shall make adequate provisions for water supply and sewage disposal for the accessory dwelling unit in accordance with RSA 485-A:38, but separate systems shall not be required for the principal and accessory dwelling units.

VI. A municipality may require owner occupancy of one of the dwelling units, but it shall not specify which unit the owner must occupy. A municipality may require that the owner demonstrate that one of the units is his or her principal place of residence, and the municipality may establish reasonable regulations to enforce such a requirement.

VII. A municipality may establish standards for accessory dwelling units for the purpose of maintaining aesthetic continuity with the principal dwelling unit as a single-family dwelling. A municipality may also establish minimum and maximum sizes for an accessory dwelling unit, provided that size may not be restricted to less than 750 square feet.

VIII. A municipality may not require a familial relationship between the occupants of an accessory dwelling unit and the occupants of a principal dwelling unit.

A municipality may not limit an accessory dwelling unit to only one bedroom.

X. An accessory dwelling unit may be deemed a unit of workforce housing for purposes of satisfying the municipality's obligation under RSA 674:59 if the unit meets the criteria in RSA 674:58, IV for rental units.

574:73 Detached Accessory Dwelling Units. A municipality is not required to but may permit detached accessory dwelling units. Detached accessory dwelling units shall comply with the requirements of, and any municipal ordinances or regulations adopted pursuant to, RSA 674:72, IV through IX. If a municipality allows detached accessory dwelling units, it may require an increased lot size.

5:3 Innovative Land Use Controls. Amend RSA 674:21, I(1)-(o) to read as follows:

~~(1) [Accessory dwelling unit standards:~~

~~(m)]~~ Impact fees.

~~(n)]~~ (m) Village plan alternative subdivision.

~~(o)]~~ (n) Integrated land development permit option.

5:4 Innovative Land Use Controls; Accessory Dwelling Units. Amend RSA 674:21, IV to read as follows:

V. As used in this section:

(a) "Inclusionary zoning" means land use control regulations which provide a voluntary incentive or benefit to a property owner in order to induce the property owner to produce housing units which are affordable to persons or families of low and moderate income. Inclusionary zoning includes, but is not limited to, density bonuses, growth control exemptions, and a streamlined application process.

~~(b) ["Accessory dwelling unit" means a second dwelling unit, attached or detached, which is permitted by and use control regulation to be located on the same lot, plat, site, or other division of land as the permitted~~

(e)] "Phased development" means a development, usually for large-scale projects, in which construction public or private improvements proceeds in stages on a schedule over a period of years established in the subdivision or site plan approved by the planning board. In a phased development, the issuance of building permits in each phase is solely dependent on the completion of the prior phase and satisfaction of other

conditions on the schedule approved by the planning board. Phased development does not include a general moratorium on the issuance of building permits or the granting of subdivision or site plan approval in the municipality, which may be accomplished only by a growth management ordinance under RSA 674:22 or a temporary moratorium or limitation under RSA 674:23.

5:5 Effective Date. This act shall take effect June 1, 2017.

Approved: March 16, 2016

Effective Date: June 1, 2017



The New Law on Accessory Dwelling Units

Adequate parking. The ordinance (or the ZBA, as a condition of a special exception) may require adequate parking to accommodate the ADU.

Aesthetic continuity. A municipality "may establish standards for accessory dwelling units for the purpose of maintaining the aesthetic continuity with the principal dwelling unit as a single-family dwelling."

Detached ADUs. A municipality is not required to allow detached ADUs--for example, a unit that is above a detached garage or is a stand-alone building. If it does allow them, they are subject to other provisions of the law, except that an increased lot size *may* be required.

What *Can't* You Do?

Here are some conditions that the ordinance may not impose:

Family relationship. A municipality "may not require a familial relationship between the occupants of an accessory dwelling unit and the occupants of a principal dwelling unit." Some municipalities have this restriction built into their existing ADU definition; that will need to change.

Bedroom limit. A municipality "may not limit an accessory dwelling unit to only one bedroom." This means, of course, that it may impose a *two*-bedroom limit. It may also impose a maximum occupancy per bedroom "consistent with policy adopted by the United States Department of Housing and Urban Development."

Additional Dimensional Requirements. A municipality may not impose "additional requirements for lot size, frontage, space limitations, or other controls beyond what would be required for a single-family dwelling without an accessory dwelling unit." For example, if the ordinance requires one-acre and 100 feet of frontage for a single-family dwelling, it cannot require two acres and 200 feet for a single-family dwelling with an ADU. (As noted above, however, increased requirements can be imposed for *detached* ADUs.)

Separate water and sewer systems. A municipality may not require a separate water or septic system for the ADU, although it may (in fact, must) require adequate provisions for water supply and sewage disposal in accordance with state law. Of course, if the New Hampshire Department of Environmental Services requires a separate septic system, or if a separate system is the only practical way to meet the state standards, then a separate system will be necessary.

Unlocked connecting door. "An interior door shall be provided between the principal dwelling unit and the accessory dwelling unit, but a municipality shall not require that it remain unlocked." Some municipalities do require a door between the two units, and some require that it remain unlocked, as an indirect way to ensure a familial relationship between the occupants. That requirement will no longer be valid.



 Inbox (2)  

7

Lakes Region Water Company

August 12, 2016 at 12:48 PM

Dear Mr. Mykytiuk,

Staff has reviewed the company's response and we do not disagree with the decision to charge two base charges for the two dwelling units on your property. If you are dissatisfied with the outcome of the conversations that you have had with Commission Staff as we worked to reach a resolution to your concerns, your next step is to file a formal complaint or request a hearing with the Commission. Because of the quasi-judicial nature of the Commission, the Commissioners, much like judges, cannot have ex parte conversations with the public regarding matters which may come before them. Instead, those conversations would occur through written communications, like a request for a hearing, and, if a hearing was granted, during the hearing itself.

You may file a formal complaint with the Commission as provided for under Puc 204 (<http://www.puc.nh.gov/Regulatory/Rules/Puc200.pdf>) and outlined below.

Puc 204.01 Submission of Formal Complaints.

(a) Any person wishing to make a formal complaint to the commission regarding an entity over which the commission has jurisdiction shall do so by filing the complaint in writing with the executive director pursuant to Puc 203.02.

(b) The provisions of Puc 203 shall not apply to complaints filed pursuant to this rule unless the commission institutes adjudicative proceedings pursuant to Puc 204.05.

Please note, Puc 203.02 requires that one original and six paper copies of the complaint, all double-sided, be filed with the Executive Director, and an electronic copy be sent to the Executive Director and to the Office of Consumer Advocate.

Should you have questions about the process for requesting a hearing, please consult with the Commission's procedural rules (<http://www.puc.nh.gov/Regulatory/Rules/Puc200.pdf>) and Commission's Practice Guide (<http://www.puc.nh.gov/Regulatory/practiceguide.htm>). All hearing requests are considered by the Commission, and the Commission will grant or deny the request following its consideration of the request.

Sincerely,

Mark A. Naylor

Director, Gas & Water Division

New Hampshire Public Utilities Commission

21 S. Fruit St., Suite 10

Concord, New Hampshire 03301

(603) 271-6019

mark.naylor@puc.nh.gov

From: Hadley, Eileen Eileen.Hadley@puc.nh.gov
Subject: RE: Complaint filed against Lakes Region Water by Robert Mykytiuk
Date: Aug 3, 2016, 12:57:16 PM
To: Robert Mykytiuk rmykytiuk@yahoo.com
Cc: Naylor, Mark Mark.Naylor@puc.nh.gov

Good Afternoon Mr. Mykytiuk,

After I was assigned your complaint it was brought to my attention that the Director of the Water Division, Mark Naylor has previously had contact with both you and Lakes Region Water Company regarding your issue, so your complaint will be responded to by Mr. Naylor.

Sorry for the confusion, but our clerical assistant was not aware that the Director was already involved, going forward you will hear directly from Mr. Naylor.

Thank you for your understanding.

Eileen Hadley
Utility Analyst Consumer Affairs
New Hampshire Public Utilities Commission
21 South Fruit St. Suite 10
Concord, NH 03301-2429
eileen.hadley@puc.nh.gov
voice: 603.271.6323 / fax: 603.271.3878

-----Original Message-----

From: Robert Mykytiuk [<mailto:rmykytiuk@yahoo.com>]
Sent: Wednesday, August 03, 2016 12:47 PM
To: Hadley, Eileen
Subject: Complaint filed against Lakes Region Water by Robert Mykytiuk

Hi Eileen,

I received the email from your office and I look forward to sharing all the

information I have for this investigation going forward.

Thank you,

Robert Mykytiuk

Sent from my iPad

IRC[®]

INTERNATIONAL RESIDENTIAL CODE[®]
FOR ONE- AND TWO-FAMILY DWELLINGS

**CODE AND
COMMENTARY**
VOLUME 1

2003



- ❖ Duct systems are part of an air distribution system and include supply, return and relief/exhaust air systems.

DURHAM FITTING. A special type of drainage fitting for use in the durham systems installations in which the joints are made with recessed and tapered threaded fittings, as opposed to bell and spigot lead/oakum or solvent/cemented or soldered joints. The tapping is at an angle (not 90 degrees) to provide for proper slope in otherwise rigid connections.

- ❖ This is a specific type of fitting used in Durham piping systems, which employ specially designed cast-iron threaded fittings and threaded galvanized steel piping.

DURHAM SYSTEM. A term used to describe soil or waste systems where all piping is of threaded pipe, tube or other such rigid construction using recessed drainage fittings to correspond to the types of piping.

- ❖ See the definition of "Durham Fittings."

DWELLING. Any building that contains one or two *dwelling units* used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes.

- ❖ A dwelling is a building that contains either one or two dwelling units. The purpose of a dwelling is occupation for living purposes, regardless of the manner of owner-

(3) This language will not be on the ballot and is provided here for a complete review of the proposed changes.

Before and After language: Deleted text is in ~~strike through~~ and proposed text is in *italics*.

1. § 150-5. Definitions

Add: *Bunkhouse / Sleeping Cabin – An accessory structure subordinate to the primary structure containing sleeping facilities which may be accompanied by sanitary facilities but does not contain cooking facilities.*

Purpose: To define structures which exist throughout the town which are accessory structures used for additional sleeping quarters.

Delete: ~~Accessory Dwelling – Any accessory structure without kitchen and sanitary facilities whose interior spaces are designed, adapted or used to accommodate human habitation on an ongoing, seasonal, or occasional basis.~~

Purpose: This existing definition contains language that is subjective and ambiguous and open to interpretation.

Amend: Dwelling – Any structure with kitchen and/or sanitary facilities whose interior spaces are designed, adapted, or used to accommodate residential overnight habitation on an ongoing, seasonal, or occasional basis. The term ‘dwelling’ includes but is not limited to any building, structure, trailer, mobile home, manufactured house or part thereof that is used residentially or intended for residential use and occupancy.

Purpose: To clarify that a dwelling contains the three components for habitation: sleeping, cooking, and sanitary facilities.

Add: *Accessory Apartment – An accessory apartment is a complete dwelling unit that is contained within and/or attached to a single-family dwelling in which the title is inseparable from the primary dwelling. An accessory apartment shall have a maximum of 1,000 square feet of living space.*

Purpose: To describe the components and requirements of an accessory apartment

2. § 150-7. Permitted structures and uses.

150-7 Permitted structures and uses.

A. Rural/Residential-District A

(11) Accessory Apartments - The purpose and intent is to provide expanded and alternative

Exhibit # 9 with video

LAKES REGION WATER COMPANY INC.

420 Governor Wentworth Highway, PO Box 389
Moultonborough, NH 03254
Telephone: 603-476-2348, Fax: 603-476-2721

April 26, 2016

Robert Mykytiuk
PO Box 842
Moultonborough, NH 03254

Re: 17 Mayflower Lane - INSPECTION of SERVICE CONNECTION

Dear Mr. Mykytiuk,

It has come to our attention that you have built a second single family dwelling on your property Map 99/Lot 36 per your "Application for Building Permit" dated 11/03/14. All new dwellings are considered separate units and are required to complete an "Application for Service" as well as a new meter installed per our Tariff. An inspection of the water service connection must be done by Lakes Region Water in order to insure that you as the property owner are in compliance with NH RSA 539:7 as well as the Terms and Conditions of the Tariff.

Enclosed is an "Application for Service" for your convenience and please contact the office to set up an appointment with the Field Supervisor Justin Benes and myself for the **inspection within 10 days of this letter to avoid disconnection of service.**

Sincerely,



Leah Valladares
Utility Manager

CC: Tom Mason

Email: Lrwater@Lakesregionwater.com
Website: www.Lakesregionwater.com

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LAKES REGION WATER COMPANY INC.

420 Governor Wentworth Highway, PO Box 389
Moultonborough, NH 03254
Telephone: 603-476-2348, Fax: 603-476-2721

July 27, 2016

Robert Mykytiuk
PO Box 842
Moultonborough, NH 03254

Re: 17 Mayflower Lane - Water Bill dated 06/30/16

Dear Mr. Mykytiuk,

In regards to the note on your water bill dated 06/30/16, you were charged two (2) base charges not meter charges. The base charge is applied to each service (unit) on the water systems and the metered charge is per 100 cubic feet of water used.

Lakes Region Water Company views your addition of the garage with the bunkhouse above as a second service (unit). This bunkhouse has its own "individual" sewage disposal system that was approved (CA2014120351) by NHDES on 11/14/14 and is equipped with 2 baths, 1 sink, 1 shower, dishwasher and washing machine.

Lakes Region Water Company is within its rights to require you to supply a separate service line and meter for this additional service (unit). However, upon inspection of the connection on May 9th we were satisfied that there was no by-pass of the meter in the 1st service (unit) and no health hazard associated with the connection.

You are still responsible for a second base charge for your new service (unit) and if the bill becomes past due you will run the risk of disconnection of service, thus affecting both services (units) due to the use of one service line.

Sincerely,

Leah Valladares
Utility Manager

CC: Tom Mason

Email: leah@Lakesregionwater.com
Website: www.Lakesregionwater.com

