

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

DW 17-165

**ABENAKI WATER COMPANY, INC.
ROSEBROOK WATER SYSTEM**

Petition for Change in Rates

**SETTLEMENT AGREEMENT –
PERMANENT RATES AND STEP ADJUSTMENTS**

This Settlement Agreement (“Agreement”) is entered into this 5th day of November, 2018, by and among Abenaki Water Company, Inc. (“Abenaki”); the Office of the Consumer Advocate (“OCA”); and, the Staff of the Public Utilities Commission (“Staff”) (collectively, the “Settling Parties”). It is intended to resolve all outstanding issues in the above-captioned docket. The Settling Parties agree to this joint submission to the Commission as a resolution of the issues specified herein, only. This Agreement shall not be deemed an admission by the Settling Parties that any allegation or contention in this proceeding, other than those specifically agreed to herein, is true and valid. This Agreement shall not be deemed to foreclose any of the Settling Parties from taking any position in any future proceedings. The Settling Parties agree that this Agreement and attachments should be admitted as a full exhibit and be given whatever weight the Commission deems appropriate.

I. PROCEDURAL HISTORY

Abenaki is a New Hampshire public utility owning four water systems, including the Rosebrook Water System (“Rosebrook” or “Company”) located in the Town of Carroll. Rosebrook serves approximately 410 customers.

On December 7, 2017, Abenaki petitioned for a permanent rate increase that would result in additional revenues of \$102,232, or a 37.85 percent increase for its Rosebrook system. Abenaki also requested a step adjustment that would result in a further increase Rosebrook's revenues by \$22,645, or 6.08 percent. The OCA filed a letter of participation on December 19, 2017. The Commission suspended Rosebrook's proposed tariff and scheduled a prehearing conference and technical session for January 25, 2018. *See Abenaki Water Company, Inc.*, Order No. 26,097 (January 5, 2018). On January 18, 2018, Abenaki petitioned for temporary rates, seeking an increase in revenues by \$65,452, or 24.23 percent. Abenaki sought an effective date of January 1, 2018, for the pendency of the permanent rate case proceeding.

Four parties filed for intervention: Bretton Woods POA on January 19, 2018; the Rosebrook Association on January 26, 2018; Omni on January 31, 2018; and Forest Cottages on August 16, 2018.

At a technical session held on January 25, 2018, the participants were unable to reach agreement on a procedural schedule, citing concerns over a yet to be submitted return on equity ("ROE") filing. That same day, the OCA filed a recommendation that the rate case be placed on hold pending submission of the ROE filing. Abenaki filed a request to put the rate case on hold the following day. Abenaki requested a resumption of the rate proceeding on February 26, 2018.

In a separate docket, by letter dated February 23, 2018, and received by the Commission on February 27, 2018, Abenaki, Hampstead Area Water Company, Inc., and Lakes Region Water Company, Inc., jointly filed a Joint Petition for Declaratory Ruling or Rulemaking Regarding the Return on Equity for Small Water Systems. The petitioners filed additional testimony and schedules, including that of Pauline M. Ahearn, ("Ahearn Testimony"), the petitioners' cost of equity consultant. *See* Docket No. DW 18-026.

By letter dated March 30, 2018, Staff requested approval of a proposed procedural schedule and recommended granting intervenor status to Omni, Bretton Woods POA, and the Rosebrook Association. The Commission approved Staff's recommendation by Secretarial Letter dated April 11, 2018. The Commission subsequently approved Forest Cottages intervention request at a hearing held on August 23, 2018.

Staff filed a settlement agreement on temporary rates between itself and Abenaki on May 30, 2018. The settlement agreement on temporary rates requested approval of an increase in revenues on a temporary basis of \$41,145, or 14.89 percent, with an effective date of February 1, 2018.

At the request of Staff, on June 1, 2018, Abenaki filed the Ahearn Testimony in this docket. The OCA, along with Omni and the Bretton Woods POA (collectively the "Objecting Parties"), filed a letter on June 8, 2018, opposing the settlement agreement on temporary rates. The Objecting Parties argued that Abenaki had not provided effective notice of the temporary rate increase to customers. They also argued that, if the Commission were to set temporary rates, then it should do so at current rates. The Rosebrook Association did not support or object to the settlement agreement on temporary rates.

On June 11, 2018, the Commission held an initial hearing on temporary rates. At that hearing the Company and Staff presented the settlement agreement on temporary rates that was filed on May 30, 2018.

On June 18, 2018, Omni filed a motion to deem Abenaki's rate filing deficient or reject the Ahearn Testimony. The Commission denied Omni's motion in Order No. 26,157 (July 13, 2018). Omni filed a timely Motion for Rehearing, which was joined by the OCA and the Bretton Woods POA. On August 16, 2018, Abenaki filed an objection to Omni's Motion for Rehearing.

On July 24, 2018, the Commission issued a Supplemental Order of Notice scheduling an additional hearing on temporary rates for August 23, 2018. In a Secretarial Letter dated August 16, 2018, the Commission scheduled oral arguments on Omni's Motion for Rehearing concurrent with the August 23 temporary rate hearing.

At the August 23 hearing, the parties informed the Commission that Abenaki, Omni, the OCA, and Staff agreed to amend the settlement agreement on temporary rates. The amendment set the effective date for temporary rates as of May 1, 2018, rather than February 1, 2018, as originally presented. The Bretton Woods POA and Forest Cottages did not oppose that modification. In exchange for moving the effective date for temporary rates, Omni agreed to withdraw its pending Motion for Rehearing. Omni memorialized its withdrawal in a letter dated August 24, 2018.

On August 31, 2018, the Commission issued Order No. 26,171 approving the settlement agreement on temporary rates, as amended.

On September 19, 2018, Staff filed the direct testimony of Dr. J. Randall Woolridge, its cost of equity consultant. On September 28, 2018, Staff filed the direct testimony of Robyn J. Descoteau regarding the establishment of a revenue requirement in this case.

Subsequent negotiations were held between the Settling Parties which led to the terms contained in this Agreement.

II. TERMS OF AGREEMENT

A. REVENUE REQUIREMENT AND RATE INCREASE

1. The Settling Parties agree and recommend the Commission approve an annual revenue requirement for Rosebrook of \$356,114. This represents an increase of \$79,779, or 28.87 percent, over Rosebrook's *pro forma* test year water revenues of \$276,335. The

revenue increase consists of a \$64,736, or 23.43 percent, permanent rate increase based on a *pro forma* test year ended September 30, 2017, and a \$15,043, or 5.44 percent, step adjustment based on certain plant additions which were placed in service subsequent to the *pro forma* test year. The Settling Parties agree that the effective date of this proposed increase will be January 1, 2019.

2. The schedules supporting Rosebrook's proposed permanent rate increase are included in **Attachment A** of this Agreement. The Settling Parties agree that the underlying amounts included in the calculation of the permanent rate increase have been examined by the Commission's Audit Staff, including a comprehensive review of Rosebrook's fixed plant in service. Based on that review, the Settling Parties agree that, as of the end of the *pro forma* test year, Rosebrook's fixed plant in service is prudent, used, and useful.

3. The schedules supporting Rosebrook's proposed step adjustment ("Step 1") relating to 2018 capital additions are included in **Attachment B** of this Agreement. The Settling Parties agree that the underlying costs of the 2018 capital additions on which the Step 1 is based have not yet been examined by the Commission's Audit Staff. The Settling Parties further agree that, prior to the increase in customer rates, the Commission's Audit Staff shall perform an examination of the costs of those 2018 capital additions and shall issue a final report of its findings prior to the issuance of an order by the Commission approving this Agreement. If that report reveals a material difference between the actual underlying costs of those assets and the asset costs upon which the proposed step adjustment is based, an appropriate adjustment in the proposed Step 1 adjustment shall be recommended by Staff to the Commission for approval.

4. The Settling Parties agree that the foregoing revenue requirement represents a reasonable compromise of all issues relating to the revenue requirement pending

before the Commission for purposes of permanent rates, including capital structure, *pro forma* adjustments, capital additions to rate base, and operating expenses. As the sums expressed above 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 Rosebrook's customers that are just and reasonable.

5. The Settling Parties agree that the revenues derived from the permanent rate component of the initial revenue increase are eligible for reconciliation back to the effective date for temporary rates previously approved by the Commission in this proceeding of May 1, 2018. *See* Order No. 26,171. The Settling Parties further agree that the revenues derived from the Step 1 shall not be eligible for reconciliation back to the effective date of temporary rates.

B. COST OF EQUITY AND PRO FORMA CAPITAL STRUCTURE

1. In determining the revenue requirement in Section A, above, the Settling Parties agree and recommend the Commission approve an ROE percentage of 9.95 percent. The Settling Parties agree that this ROE percentage is based on the First-half – 2018 average of Regulatory Research Associates' ("RRA") published survey of authorized ROE's for water utilities as well as the First-half – 2018 median of RRA's published survey of authorized ROE's for gas utilities. These two amounts are, in turn, averaged together to derive a base ROE percentage. An additional 50 basis points are added to the base percentage to recognize the rate case expense savings to customers derived by the Company not litigating ROE. The calculation of the agreed upon ROE percentage is as follows:

| | |
|---|--------------|
| Average Authorized ROE – Water Utilities: 1 st Half, 2018 ¹ | 9.41% |
| Median Authorized ROE – Gas Utilities: 1 st Half, 2018 ² | 9.50% |
| Average (rounded down) | 9.45% |
| Add: ROE Litigation Replacement Premium | 0.50% |
| Stipulated ROE | <u>9.95%</u> |

2. In determining the revenue requirement in Section A, above, the Settling Parties agree and recommend the Commission approve a *pro forma* capital structure for the Company reflecting 40 percent debt and 60 percent equity. The calculation of the ROR used in the determination of the initial annual revenue increase and revenue requirement is as follows:

| | <u>Component Percentage</u> | <u>Cost Rate</u> | <u>Weighted Cost</u> |
|----------------|---------------------------------|----------------------|--------------------------|
| Common Equity | 60.00% | 9.95% | 5.97% |
| Long-Term Debt | 40.00% | 3.98% | 1.59% |
| Total | <u>100.00%</u> | | <u>7.56%</u> |

3. The Settling Parties further agree and recommend that, within forty-five (45) days of the Commission’s order approving this Agreement, the Commission open a docket for the purpose of investigating rulemaking relative to the establishment of a methodology for the determination of ROE for “small-sized” water utilities similar to Abenaki.

C. CUSTOMER RATE IMPACT

1. The rate impact of the Settling Parties’ recommended revenue requirement, inclusive of Step 1, proposed to go into effect as of January 1, 2019, is illustrated on Attachment B, Schedule 4 of this Agreement. The Settling Parties agree and recommend the

¹ From RRA Water Advisory: Major Rate Case Decisions – January - June 2018, July 27, 2018 edition, Page 4, provided in Staff’s response to Abenaki’s Data Request 1-3. The average authorized ROE for water utilities was used because the RRA publication did not provide a median authorized ROE percentage.

² From RRA Regulatory Focus: Major Rate Case Decisions – January - June 2018, July 17, 2018 edition, Page 6, provided in Staff’s response to Abenaki’s Data Request 1-3.

Commission find that the proposed volumetric and fixed meter rates are just and reasonable and approve them.

2. The proposed new consumption rate per 100 cubic feet (ccf) of water is \$6.28 per month which is a \$0.95, or 17.82 percent, increase from the present volumetric rate of \$5.33 per month.

3. The Settling Parties propose the following monthly fixed meter charges as follows:

| Meter Size | Proposed Rate | Current Rate | Percent Increase |
|-------------------|---------------|--------------|------------------|
| 5/8" meter | \$ 15.00 | \$ 9.91 | 51.36% |
| 5/8" x 3/4" meter | \$ 15.00 | \$ 9.91 | 51.36% |
| 1" meter | \$ 49.48 | \$ 32.69 | 51.36% |
| 2" meter | \$ 201.40 | \$ 106.00 | 90.00% |
| 3" meter | \$ 438.58 | \$ 230.83 | 90.00% |
| 6" meter | \$1,756.15 | \$ 924.29 | 90.00% |

4. For a hypothetical average residential customer using 15.72 ccf of water annually, with a 5/8" or 3/4" meter, their average annual bill will increase from \$202.68 to \$278.76, or \$76.08 (\$6.34 per month).

5. The Settling Parties further agree and recommend the Commission approve that, as part of Rosebrook's next filing for a general rate increase before the Commission, the Company shall, pursuant to Puc 1604.01(a)(7), conduct a cost of service study for the purpose of evaluating appropriate rates for its customers.

D. STEP II ADJUSTMENT

1. The Settling Parties agree and recommend the Commission approve that in addition to the revenue increase described in Section A, above, there shall be one subsequent step adjustment ("Step 2") to increase revenues and rates relative to the cost of engineering

designs for Rosebrook's water system as described in the proposal prepared by Horizons Engineering, Inc. ("Horizons") attached hereto as Attachment D.

2. The Settling Parties agree that the purpose of Horizons proposal is to resolve a significant water pressure problem that has been identified by the N.H. Department of Environmental Services in the Rosebrook water system. Abenaki has contracted Horizons to undertake engineering designs at a cost of approximately \$100,000. It is anticipated that the engineering designs will be completed by the third quarter of 2019.

3. The Settling Parties agree and recommend the Commission approve that Rosebrook shall make a filing for rate recovery, via a step adjustment, for the costs associated with the proposed engineering designs no later than September 30, 2019. The Settling Parties further agree and recommend the Commission approve that the requested cost for recovery associated with the engineering designs shall not exceed \$100,000.

4. A calculation of the estimated rate impact of the proposed Step 2 is contained in **Attachment C** of this Agreement, and results in an estimated additional increase in Rosebrook's revenue requirement of \$9,986, or 3.61 percent. This is based on the maximum allowed cost of the engineering designs of \$100,000 being financed by debt at an estimated interest rate of 5.00 percent per annum. See Attachment C, Schedule 2. The Settling Parties acknowledge that the actual cost of the engineering designs will not be known until Abenaki makes the step adjustment filing with the Commission in 2019.

5. The Settling Parties further agree that the revenues derived from the subsequent step adjustment shall not be eligible for reconciliation back to the effective date for temporary rates previously approved by the Commission in this proceeding.

6. The Settling Parties agree that Abenaki shall file for approval of financing for the Step 2 engineering designs, no later than sixty (60) days after the date of the Commission's order approving this Agreement. The parties agree to litigate the scope of the engineering design in the financing docket. The step adjustment shall be contingent on the approval of the financing.

E. RATE CASE EXPENSES

The Settling Parties agree and recommend the Commission approve that Abenaki shall file with the Commission, by no later than thirty days from the date of the Commission's order approving this Agreement, its request for recovery of its prudently incurred rate case expenses associated with this rate proceeding, as well as a proposed surcharge for the collection of its rate case expenses. The Settling Parties further agree that Rosebrook's filing shall include copies of all appropriate documentation in support of its requests.

F. TEMPORARY RATE RECOUPMENT

The Settling Parties agree and recommend the Commission approve that Rosebrook shall file with the Commission, by no later than thirty days from the date of the Commission's order approving this Agreement, its calculation for reconciliation of temporary and permanent rates pursuant to RSA 378:29, as well as a proposed surcharge for the recoupment of the reconciled difference between temporary and permanent rates. The Settling Parties further agree that Rosebrook's filing shall include copies of all appropriate documentation in support of its reconciliation calculations and surcharge request.

III. MISCELLANEOUS

A. This Agreement is expressly conditioned upon the Commission's acceptance of all its provisions, without change or condition. If the Commission does not accept this

Agreement in its entirety, without change or condition, or if the Commission makes any findings that go beyond the scope of this Agreement, and if all of the Settling Parties are unable to agree with these changes, conditions or findings, this Agreement shall be deemed to be withdrawn and shall not constitute any part of the record in this proceeding and shall not be used for any other purpose.

B. The Settling Parties agree that the Commission's acceptance of this Agreement does not constitute continuing approval of, or precedent for, any particular issue in this proceeding other than those specified herein.

C. This Agreement may be signed in multiple counterparts, which together shall constitute one settlement.

IN WITNESS WHEREOF, the signatories below have signed this Agreement, each being fully authorized to do so, as of the day indicated below.

ABENAKI WATER COMPANY, INC.

Date: November __, 2018

By: _____
Pauline Doucette, President

OFFICE OF THE CONSUMER ADVOCATE

Date: November __, 2018

By: _____
D. Maurice Kreis, Esq.
Consumer Advocate

STAFF OF THE NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION
By its Attorney,

Date: November 5, 2018

By:



Christopher R. Tuomala, Esq.
Staff Attorney

DW 17-165: Abenaki Water Company, Inc.
Rosebrook Water System

ABENAKI WATER COMPANY, INC.

Date: November 2, 2018

By: Pauline Doucette
Pauline Doucette, President

OMNI MOUNT WASHINGTON, LLC
By its Attorney,

Date: November __, 2018

By: _____
Thomas B. Getz, Esq.

BRETTON WOODS PROPERTY OWNERS
ASSOCIATION

Date: November __, 2018

By: _____
Paul Mueller, Treasurer

ROSEBROOK ASSOCIATION

Date: November __, 2018

By: _____
Lawrence DeVito, President

FOREST COTTAGES ASSOCIATION

Date: November __, 2018

By: _____
Paul D. Luongo, Treasurer

OFFICE OF THE CONSUMER ADVOCATE

Date: November __, 2018

By: _____
D. Maurice Kreis, Esq.
Consumer Advocate