

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DW 20-071**

**ATKINSON AREA WASTEWATER RECYCLING, INC.**

**Request for Change in Rates and Request for  
Waiver of Certain Puc 1604.01 Requirements**

**ORDER SUSPENDING TARIFF AND  
ESTABLISHING A PREHEARING CONFERENCE**

**ORDER NO. 26,393**

**August 12, 2020**

This order suspends Atkinson Area Wastewater Recycling Inc.'s proposed tariffs for a permanent rate increase pending further investigation. It also schedules a prehearing conference for 1:00 p.m. on September 17, 2020.

Atkinson Area Wastewater Recycling, Inc., (AAWW or Company), provides sewage services in the Town of Atkinson. AAWW is wholly owned by Atkinson Farm, LLC (AF), and currently serves one commercial customer, Atkinson Concessions, Inc., d/b/a Atkinson Resort & Country Club (ACI). ACI is also wholly owned by AF. AAWW states that AF owns the real property upon which the Atkinson Resort & Country Club and the Company's wastewater treatment facility are located.

On May 11, 2020, Atkinson Area Wastewater Recycling Inc., filed a notice of intent to file rate schedules pursuant to RSA 378:3 and New Hampshire Code of Administrative Rules, Puc 1604.05. In the same notice, AAWW requested a waiver of certain filing requirements contained in Puc 1604.01(b). On May 14, Commission Staff (Staff) filed a letter, recommending that the Commission deny the request for waiver, and instead order the Company to provide the information within its forthcoming rate case as a matter of efficiency, and as an aid to future

review of the record. Staff also noted that the Company was silent with regard to the existence of financial audits it is required to produce. *See* Staff Recommendation (May 14, 2020).

On June 9, 2020, the Commission issued a Secretarial Letter denying AAWW's request for waiver. The Commission directed the Company to provide all requested information or to insert documents in its rate filing explaining why the specific information had not been, or could not be provided, or why a specific requirement was allegedly inapplicable.

On July 13, 2020, AAWW filed a petition seeking approval for a permanent rate increase and proposed tariff revisions, with a proposed effective date of December 1, 2020. *See* Petition, St. Cyr Testimony at 14. With its petition, AAWW submitted documents including a proposed tariff with revisions, rate schedules, supporting testimony, affiliate agreements and related exhibits. However, AAWW's July 13 filing seemingly ignored the requirements of the June 9 Secretarial Letter. On August 6, AAWW submitted additional documentation relative to its rate filing, which in AAWW's opinion brings the petition into compliance with the June 9 Secretarial Letter. *See* Puc 1604, 1604.01(b), 1604.04 (Attestation) and 1905.01(a) (rate case expenses). AAWW also submitted a motion for confidential treatment and protective order, pursuant to RSA 91-A:5, IV and New Hampshire Code of Administrative Rules, Puc 203.08, concerning a Management/Service/Rental Agreement and a Billing Services Agreement included in Tab 22 of its supplemental filing.

The petition and subsequent docket filings, other than any information for which confidential treatment is requested of, or granted by, the Commission, will be posted to the Commission's website at <https://puc.nh.gov/Regulatory/Docketbk/2020/20-071.html>.

In 2007, AF obtained approval from the Town of Atkinson Planning Board to develop “Atkinson Heights,” which is planned to be an age restricted (55 years or older) residential condominium project. It is anticipated Atkinson Heights will ultimately consist of 288 residential condominiums, and will include nine mid-rise buildings containing 32 units each.

At present, AAWW still serves only one commercial customer, ACI, although as stated AAWW anticipates supplying service to a development of residential condominium units in the future. Atkinson Heights is currently under construction within the Company’s franchise area<sup>1</sup> by Lewis Builders Development, Inc. (LBDI), an affiliate of AF and AAWW. Thus, AAWW has proposed both commercial and residential rates.

AAWW’s last rate proceeding before the Commission was in Docket DW 07-131. In that proceeding, the Commission approved an increase in annual base rate charges to \$108 for residential customers, but reduced the sewer consumption rate from \$13.37 per hundred cubic feet (ccf) to \$11.91 per ccf for both residential and commercial customers. *See* Order No. 24,899 (September 25, 2008). The Commission kept the proposed base rate at \$3,000 for commercial customers. In its last rate proceeding, the Company’s analysis was based on an initial construction phase consisting of four condominium buildings with 128 total residential customers. *See* Order No. 24,899.

Since the 2007 rate proceeding, AAWW has continued to provide service to only one commercial customer, ACI, and still does not provide service to any residential customers. The Company also anticipates a smaller initial residential customer base of 64 residential units

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<sup>1</sup> The Commission approved AAWW’s franchise in Order No. 20,298 (November 12, 1991) in Docket No. DW 90-214. AAWW did not, however, exercise its franchise authority within two years of the Commission’s Order and thus had to renew its franchise request. The franchise was reinstated by Order No. 24,899 (September 25, 2008) at 7.

contained in two buildings, instead of 128 residential units contained in four buildings.

Construction of the first Atkinson Heights' condominium building began in 2020.

During calendar year 2019, AAWW's proposed test year, the Company recognized total operating revenues of \$34,173.

Based on its anticipated initial customer base, AAWW states that it is requesting approval of an annual revenue requirement from measured metered service of \$116,120, inclusive of a proposed step increase relative to 2020 plant additions.<sup>2</sup> The Company proposes to increase its annual base rate charge to residential customers from \$108 to \$210.15, which represents a 94.6 percent increase. The Company proposes to increase its annual base rate charge to commercial customers from \$3,000 to \$5,837.42, which represents a 94.6 percent increase. The Company's proposed sewer consumption charge assessed to all customers will increase from \$11.91 to \$16.87 per ccf, which represents a 41.6 percent increase. *See* Order 24,899 (current rates); Petition; St. Cyr Testimony (proposed rates). On a per customer basis, AAWW anticipates that this would result in annual average revenues of \$53,415 from its commercial customer and \$979.77 per residential customer.

In addition to the proposed rate changes to its residential and commercial base charges and overall consumption charge, AAWW also proposes a number of other revisions to its current tariff to reflect changes in tax laws relative to Contributions in Aid of Construction (CIAC). The Company states these changes would enable it to charge the CIAC contributor the income tax resulting from the receipt of either a cash or other asset contribution.

The filing raises, *inter alia*, issues related to whether the proposed permanent rates are just, reasonable, and lawful, as required by RSA 374:2 and RSA 378:7; whether the proposed

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<sup>2</sup> *See* AAWW's petition, at 2; St. Cyr Testimony at 18 ("% increase in revenue per class" is blank). The Company's calculation appears to be based on an assumption of full completion and occupancy of two residential buildings.

increases will yield a just and reasonable rate of return on capital investment in plant and equipment, less accrued depreciation; whether those investments were prudent and are used and useful in AAWW's provision of service to its customers, as required by RSA 378:28; whether AAWW's proposed method of handling CIAC taxes is in the best interests of the Company and its ratepayers per RSA 363:17-a; whether the projected number of residential customers is appropriate, given AAWW's long-standing service to only one commercial customer and the delay in the full build-out of the planned residential condominiums; and whether proposed changes will create just and reasonable rates as required by RSA 378:7 and RSA 374:2.

In addition, at the prehearing conference, the Commission will address whether the Company's petition and August 6, 2020, filing comply with Commission rules and the June 9 Secretarial Letter.

AAWW's proposed tariff revisions warrant further investigation. Accordingly, we suspend the proposed tariff pages pending our investigation. On April 24, 2020, the Governor issued an executive order (Exhibit D to Executive Order #29) that extended the Commission's ability to suspend rate schedules by six months, from 12 to 18 months. *See* RSA 378:6, I(a). The extension applies to this proceeding; however, the Commission will endeavor to set rates as expeditiously as possible.

Each party has the right to have an attorney represent the party at the party's own expense.

**Based upon the foregoing, it is hereby**

**ORDERED**, that Atkinson Area Wastewater Recycling Inc.'s proposed tariff pages are suspended pursuant to RSA 378:6, I(a) and Exhibit D to Executive Order #29, pending investigation and further order of the Commission; and it is

**FURTHER ORDERED**, that, consistent with Governor Christopher T. Sununu's Emergency Order #12, the Commission will hold a web-enabled remote prehearing conference, pursuant to N.H. Admin. R., Puc 203.15, on September 17, 2020, at 1:00 p.m. Members of the public may join the hearing by accessing <https://www.puc.nh.gov/Regulatory/Calendar-Remote.html>. **If you have any difficulty obtaining access to this remote event, please notify the Commission by calling (603) 271-2431 as soon as possible.** Parties will be provided with additional instructions prior to the hearing; and it is

**FURTHER ORDERED**, that, immediately following the prehearing conference, Atkinson Area Wastewater Recycling Inc., the Staff of the Commission, and any intervenors shall hold a web-enabled remote technical session to review the petition; and it is

**FURTHER ORDERED**, that pursuant to N.H. Admin. R., Puc 203.12, Atkinson Area Wastewater Recycling Inc., shall notify all persons desiring to be heard at this hearing by mailing a copy of this order of notice to each of Atkinson Area Wastewater Recycling Inc.'s current and known prospective customers no later than August 21, 2020. Atkinson Area Wastewater Recycling Inc., shall also provide notice by publishing a copy of this order of notice no later than August 21, 2020, in a newspaper with general circulation in those portions of the state in which operations are conducted, publication to be documented by affidavit filed with the Commission on or before September 14, 2020; and it is

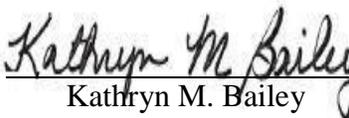
**FURTHER ORDERED**, that consistent with N.H. Admin. R., Puc 203.17 and Puc 203.02, any party seeking to intervene in the proceeding shall submit to the Commission a petition to intervene with copies sent to Atkinson Area Wastewater Recycling Inc., and the Office of the Consumer Advocate on or before September 14, 2020, such petition stating the facts demonstrating how its rights, duties, privileges, immunities, or other substantial interests

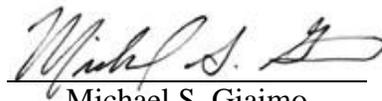
may be affected by the proceeding, consistent with N.H. Admin. R., Puc 203.17. Pursuant to the secretarial letter issued on March 17, 2020,<sup>3</sup> any party seeking to intervene may elect to submit this filing in electronic form; and it is

**FURTHER ORDERED**, that any party objecting to a petition to intervene make said objection on or before September 17, 2020.

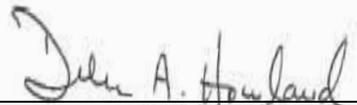
By order of the Public Utilities Commission of New Hampshire this twelfth day of August, 2020.

  
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Dianne Martin  
Chairwoman

  
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Kathryn M. Bailey  
Commissioner

  
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Michael S. Giaimo  
Commissioner

Attested by:

  
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Debra A. Howland  
Executive Director

Individuals needing assistance or auxiliary communication aids due to sensory impairment or other disability should contact the Americans with Disabilities Act Coordinator, NHPUC, 21 S. Fruit St., Suite 10, Concord, New Hampshire 03301-2429; 603-271-2431; TDD Access: Relay N.H. 1-800-735-2964. Notification of the need for assistance should be made one week prior to the scheduled event.

<sup>3</sup> See <https://www.puc.nh.gov/Regulatory/Secretarial%20Letters/20200317-SecLtr-Temp-Changes-in-Filing-Requirements.pdf>.

## Service List - Docket Related

Docket# : 20-071

Printed: 8/12/2020

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