

DW 99-073

ROSEBROOK WATER COMPANY, INC.

Prehearing Conference Order Establishing A Procedural Schedule
and
Order of Notice For Hearing On Temporary Rates

O R D E R N O. 23,291

August 25, 1999

APPEARANCES: Robert Satter, for Rosebrook Water Company, Inc.; Larry S. Eckhaus, Esq. for Staff of the New Hampshire Public Utilities Commission; Wenn Presby, Mount Washington Hotel, as customer.

I. PROCEDURAL HISTORY

On May 13, 1999, an initial Order of Notice was issued in this case setting a prehearing conference for June 3, 1999. The case first came before the Commission after Commission Staff (Staff) completed an audit of Rosebrook Water Company, Inc. (Rosebrook). Staff calculated an achieved rate of return in excess of that authorized by the Commission in the Company's last rate proceeding.

The Staff's review of Rosebrook's 1998 Annual Report, and the responses filed, raised, inter alia, issues related to the level of current earnings, whether current rates are just and reasonable, the remedy for any overearnings and whether temporary rates should be implemented, and, if so, at what level. The tape recorded prehearing conference, at which there were no intervenors, was followed by a technical session wherein Staff and Rosebrook agreed to enter a stipulation concerning: temporary rates; the minimum amount to be spent on capital improvements;

other payment restrictions imposed on the Company; and the need to address the impact of Rosebrook's special contract with the Mount Washington Hotel (MWH).

II. Position of the Parties at the Prehearing Conference

A. ROSEBROOK

Mr. Satter, appearing for Rosebrook told the Commission that "unique circumstances" led to the Company's overearnings. The Company acknowledged that critical capital improvements must be completed. For example, Mr. Satter explained that the system needs a secondary well pump and a loop to the Mount Washington Hotel that took first priority and that approximately \$350,000 will be needed to make those improvements. He went on to say that other capital improvements were not completed as the Company anticipated fulfilling its top priorities. Mr. Satter suggested that the overearnings occurred because the Company tried to sort out priorities to do critical things essential to the safety and reliability of the system.

B. STAFF

Staff presented a written statement that expressed concern about the status of the maintenance and operation of the Rosebrook system. While Staff also acknowledged that Mr. Satter's priorities were items needing immediate attention, Staff also pointed out that considerable effort was expended from 1995 through 1997 to get Rosebrook to implement a reasonable capital

improvements plan, which included the second well pump. The problem, however, was that none of the larger distribution items had yet been implemented and other deficiencies had not been addressed. Staff believed that a prioritized list of improvements, that incorporated specific deadlines would help in a plan for resolving the overearnings issue.

III. STIPULATION

After the prehearing conference a technical session was held where the parties discussed various options. As a result of the technical session and further discussions, a stipulation was drafted.

The stipulation, signed on July 22, 1999 and filed with the Commission on August 19, 1999, indicates that for the duration of this proceeding and until such time as this Commission shall issue any subsequent order, temporary rates shall be set at the current rate level, effective July 1, 1999. Rosebrook shall install a secondary well and pump. It also shall spend no less than \$20,000 in capital improvements, subject to staff audit and prudence review, during the remainder of 1999. The Company also agrees that during the pendency of this proceeding it will neither pay any dividends, make any new loans to shareholders, nor increase management fees to Woods End Management Company.

The stipulation also contains the following proposed

procedural schedule:

Staff's 1st Set Data Requests	-	August 27, 1999
Company's Responses	-	September 10, 1999
Staff's 2nd Set Data Requests	-	September 24, 1999
Company's Responses	-	October 8, 1999
Testimony - Staff	-	November 5, 1999
Company's Data Requests	-	November 19, 1999
Staff's Data Responses	-	December 3, 1999
Company's Rebuttal Testimony	-	December 30, 1999
Well Project Data Submission	-	January 6, 2000
Settlement Conference	-	January 10, 2000
Hearing on the Merits	-	January 18-19, 2000

IV. COMMISSION'S ANALYSIS

The Commission finds that the proposed Procedural Schedule is reasonable and therefore, will adopt it. The Commission will also set a hearing for temporary rates as required by RSA 378:27.

Based upon the foregoing, it is hereby

ORDERED, that pursuant to RSA 378:27 a hearing on temporary rates set forth in the July 22, 1999 stipulation, be held before the Commission located at 8 Old Suncook Road, Concord, New Hampshire on September 16, 1999 at 2:00 p.m.;

and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, Rosebrook shall notify all persons desiring to be heard at this hearing by mailing, first-class, a copy of this Order of Notice, postdated no later than September 2, 1999, to each customer; mailing to be documented by affidavit filed with the Commission on or before September 16, 1999; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.02, any party seeking to intervene in the proceeding shall submit to the Commission an original and eight copies of a Petition to Intervene with copies sent to Rosebrook and the Office of the Consumer Advocate on or before September 13, 1999, such Petition stating the facts demonstrating how its rights, duties, privileges, immunities or other substantial interests may be affected by the proceeding, as required by N.H. Admin. Rule Puc 203.02 and RSA 541-A:32,I(b); and it is

FURTHER ORDERED, that any party objecting to a Petition to Intervene make said Objection on or before September 16, 1999, 1999.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of August, 1999.

Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary