

DW 99-073

ROSEBROOK WATER COMPANY

Investigation Into Overearnings

Order on Temporary Rates and Settlement Consideration

O R D E R N O. 23,312

October 5, 1999

APPEARANCES: Robert Satter, for Rosebrook Water Company, Inc; Lynmarie Cusack, Esq., for Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

This case was docketed by the New Hampshire Public Utilities Commission (Commission) after Commission Staff (Staff) completed an audit of Rosebrook Water Company, Inc. (Company) and found an achieved rate of return in excess of that previously authorized. The Staff's review of the Company's 1998 Annual Report and the Company's responses raised, *inter alia*, issues concerning 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.

An order of notice was issued on May 13, 1999, setting a prehearing conference for June 3, 1999. After the prehearing conference, a technical session was held and a procedural schedule was developed. Thereafter, a stipulation on temporary rates was agreed upon. It was signed by the Company on July 13, 1999 and filed with the Commission on August 19, 1999.

On August 25, 1999, Order No. 23,291 was issued setting forth the procedural schedule and also giving notice of a hearing on temporary rates pursuant to RSA 378:27.

The temporary rate hearing, at which there were no interveners, took place on September 16, 1999. Commission Staff member Henry Bergeron presented the stipulation at that time. The stipulation provided that the temporary rates would be kept at the current level for the duration of the overearnings proceeding. If, after the completion of the proceeding a rate decrease was necessary, that change would be effective retroactively to July 1, 1999.

II. POSITION OF THE PARTIES

Before agreement was reached Staff had serious concerns not only regarding the financial position of the Company but also about the Company's operational system. These concerns related to the overall rate of return being in excess of 50% of that authorized for the past two years. Additionally, Staff was concerned about the Company paying dividends at a time when retained earnings are negative and the Company needs substantial system repairs. The Engineering Staff noted its concerns over the status of the system including the need for a secondary well pump, routine maintenance, basic safety equipment and alarms. The Staff also noted that between 1995 and 1997 considerable effort was spent attempting to get the Company to

agree to implement capital improvements, but that essentially none of those improvements had been made.

As a result of discussions between Staff and the Company, it was agreed that the Company would take steps to correct the system deficiencies. The Company also agreed to other actions, including:

- Committing to spending no less than \$20,000 in capital improvements, subject to Staff audit and prudence review, during the remainder of 1999 in addition to the installation of a secondary well and pump;
- Other issues of needed capital improvements would be addressed during the overearnings investigation for inclusion in the Commission's final order;
- No payments of dividends or new loans to shareholders during the pendency of the proceeding;
- No increase in management fees to Woods End Management Company during the pendency of the proceeding;
- The need to address the impact of the Company's special contract with Mount Washington Hotel in order to resolve the rate matter.

At the hearing on temporary rates, the parties agreed that the stipulation and fixing of temporary rates at current rate levels would be in the public interest and was just and reasonable.

III. COMMISSION ANALYSIS

Based on the testimony that was offered at the hearing

on the temporary rates, as well as on the provisions of RSA 378:27, we believe that maintaining rates at the current level is in the public interest, as this will avoid the possibility of reducing rates now and increasing them once the agreed upon improvements to the system have been made. The Commission also finds that the agreed upon rates meet the statutory requirements of RSA 378:27. Thus, we find that the stipulation and agreement are reasonable and therefore approve them.

Based upon the foregoing, it is hereby

ORDERED, that the temporary rates be maintained at the current level for the pendency of this proceeding; and it is

FURTHER ORDERED, that the stipulation is APPROVED.

By order of the Public Utilities Commission of New
Hampshire this fifth day of October, 1999.

Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary