

DW 00-238

**FRYEBURG WATER COMPANY**

**Petition For Rate Increase**

**Order Approving Settlement**

**O R D E R   N O.   23,854**

**November 30, 2001**

**APPEARANCES:** Peter G. Hastings, Esq., for Fryeburg Water Company; Robert Swett of East Conway, New Hampshire as Intervenor and Lynmarie C. Cusack, Esq., on behalf of the Staff of the New Hampshire Public Utilities Commission.

**I. BACKGROUND**

On October 16, 2000, Fryeburg Water Company (Company) filed a petition with the New Hampshire Public Utilities Commission (Commission) proposing an approximate twenty percent (20%) increase to permanent rates. The Company, a multi-jurisdictional franchise, had also petitioned the Maine Public Utilities Commission for the same increase. In December 2000, the Maine Commission issued an Order approving a 20.22% increase over 1999 actual revenues of \$235,389.

This Commission initiated its investigation into the rate increase and further indicated it would also investigate water quality and customer relation issues. The Commission issued a Prehearing Conference Order in this docket (Order No. 23,664; March 23, 2001) and an Order on Temporary Rates (Order No. 23,711; May 24, 2001). In Order No. 23,711, the Commission approved the application of temporary rates, setting them as of

January 1, 2001, at the level approved in Maine. As such, the Company has been collecting rates at the increased level in each quarter of 2001.

On July 3, 2001, Mr. Douglas Brogan, Water Engineer for the Commission, filed testimony concerning various quality of service and customer relations issues. The testimony specifically addressed water quality issues relating to color, particles, deposits, and fixture and laundry staining. The testimony also discussed the results of a door-to-door survey performed by members of the Commission's Staff which was conducted to ascertain the significance of the water quality and customer relation problems. In concluding his testimony, Mr. Brogan listed 13 recommendations to remedy the identified problems.

On July 30, 2001, the Company submitted a letter to the Commission Staff commenting on Mr. Brogan's recommendations and representing actions the Company would undertake to remedy a number of Staff's concerns. Thereafter, the Staff, Company and the intervenors met on September 5, 2001, in a settlement conference to further explore Company options for rectifying the existing water quality and customer relation issues. As a result of the negotiations, the Staff and Parties reached a comprehensive settlement resolving the issues in the docket.

**II. TERMS OF SETTLEMENT and SETTLEMENT HEARING**

Staff witnesses Messrs. Douglas Brogan and James Lenihan presented the Settlement to the Commission at a hearing on September 28, 2001. Mr. Brogan addressed the water quality concerns and remedies and Mr. Lenihan discussed the Company's proposed rate increase.

The thrust of the Agreement focused on remedies for the water quality and customer relation difficulties experienced by some New Hampshire customers. The Company agreed to broader report filing requirements dealing with service interruptions, impacts on the system relating to corrosion control, low pH levels, odor and general water quality standards.

Along with the more comprehensive reporting standards, the Company agreed to provide copies of any written communication from the Company to customers and agreed to rebate the Swett family \$250.00 for water quality problems experienced by them. The Company also agreed to develop a proposal for an Advisory Council by October 31, 2001. The Advisory Council would consist of customers who would meet periodically with the Company's Board of Directors and provide input about water quality and customer relations. The Council is also required to report annually to the New Hampshire Commission regarding the progress of water quality and customer communication concerns. The Staff and Parties agreed that the Council would exist until such time as

this Commission rules otherwise. The Company also agreed to revise their billing statements to comply with New Hampshire PUC rules.

Finally, the Parties and Staff agreed that the temporary rates would become permanent rates effective October 1, 2001, and that those rates were just and reasonable. Moreover, the Company agreed not to seek rate case expenses associated with the case.

At the settlement hearing, Mr. Brogan acknowledged that the Company had shown progress and a willingness to rectify the water quality situation. He suggested that the heightened reporting standards and the establishment of the Advisory Council would permit the Commission Staff to monitor the Company's progress. Mr. Brogan further discussed the replacement of the 1000 feet of 1949 main that the Company undertook in August, 2001, and suggested that it was not yet conclusive that the replacement would remedy the water quality problems. He suggested there were additional concerns regarding the 19<sup>th</sup> century era water main that crosses the river between Maine and New Hampshire. He indicated that continued monitoring was essential to ensuring appropriate water quality for the Company.

Also at the Settlement hearing, Mr. Lenihan testified that the proposed increase to rates was just and reasonable and in the public interest. Mr. Lenihan recommended that the

Commission grant the same rate increase as did the Maine Commission.

### **III. COMMISSION ANALYSIS**

This docket was originated as a Company request to increase permanent rates in New Hampshire consistent with rates that were being requested for Maine customers on the system. Since Fryeburg serves customers in an integrated fashion in Maine and New Hampshire, the Company believed that charging New Hampshire customers the same rate as Maine customers would be appropriate. The Maine Public Utilities Commission (Maine Commission) approved the Company's request for the increase in December, 2000, providing for \$47,599, or a 20.22%, over 1999 actual revenues of \$235,389.

Our review of the Settlement Agreement is based on our traditional standard of whether the agreement will result in rates that are just and reasonable and in the public good. In conducting our analysis, we note that the Maine Commission has undertaken a review of the increase and has found the rates to be just and reasonable. Likewise, Staff has conducted a review and has determined that the temporary rates we have already approved are just and reasonable. We are, therefore, satisfied that the deliberations and decision of the Maine Commission, as it relates to the general rate increase, is in the best interest of Fryeburg's New Hampshire customers as well. While not

dispositive, we have previously adopted the position of the Maine Commission where this Company has requested a rate increase, noting that the Maine Commission has jurisdiction over 92.2% of the customers served by the utility. See *In Re Fryeburg Water Company*, 75 NHPUC 133 (1990)(approving an increase of 16.2% increase in its general service rates); 67 NH PUC 591 (1982)(granting an increase of 17.9%).

Turning to the quality of water and customer service issues, we believe that Staff's heightened monitoring of the Company and the implementation of the Advisory Council will lead to better communication and an awareness of any problems with water quality. We will require the Company's Board of Directors to consult with the Council that is put in place on decisions that affect the New Hampshire customers. We will also require a reasonable timeframe for implementation of the Advisory Council. The remarks of the Swetts reinforce the importance of water quality issues. We believe, however, that the agreement signed by the intervenors, Staff and the Company will significantly reduce water quality problems faced by the New Hampshire customers.

The condition of the 19<sup>th</sup> century main, as revealed in the photographs entered as an exhibit, indicated that the Company may soon need to find alternative means of supplying its New Hampshire customers. The recommendation by Mr. Brogan was that we

accept the settlement despite the condition of the main.

Because it is not clear from the record that the apparent condition of the main is causing water quality problems we cannot at this time mandate further action with regard to replacing it. We expect, however, that Staff will continue to monitor the system and make us aware of problems as they emerge and that the Company, in the ordinary course of sound utility resource planning, will develop contingency plans now to address the likely need to replace the water distribution system dependent on the late 19<sup>th</sup> century main.

Accordingly, we are satisfied on balance that the settlement promotes the public interest. We, therefore, will approve the settlement filed on September 28, 2001, after the hearing, bearing the signatures of counsel for Staff and the Company and that of Mr. and Mrs. Swett, as intervenors.

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

**ORDERED**, that the Settlement is APPROVED; and it is

**FURTHER ORDERED**, that the Company will file tariff pages reflecting the approved increase no later than December 31, 2001; and it is

**FURTHER ORDERED**, that the Advisory Council be in place and functioning by January 31, 2002; and it is

**FURTHER ORDERED**, that the Company abide by all other

timing requirements found in the Settlement.

By order of the Public Utilities Commission of New  
Hampshire this thirtieth day of November, 2001.

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Thomas B. Getz  
Chairman

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Susan S. Geiger  
Commissioner

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Nancy Brockway  
Commissioner

Attested by:

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Claire D. DiCicco  
Assistant Secretary