

DW 04-001

ATKINSON WOODS WATER, LLC

Petition for Permanent Rates and Financing Approval

Order Approving Temporary Rates

ORDER NO. 24,335

June 11, 2004

APPEARANCES: Stephen P. St. Cyr & Assoc. by Stephen P. St. Cyr for Atkinson Woods Water, LLC; Boynton, Waldron, Doleac, Woodman & Scott, P.A. by Francis X. Quinn, Jr., Esq. for Atkinson Woods Owners Association; and Marcia A. B. Thunberg, Esq. for Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

On January 5, 2004, Atkinson Woods Water, LLC (Atkinson) filed with the New Hampshire Public Utilities Commission (Commission) a petition requesting financing approval and establishment of permanent rates. Atkinson requested authority to collect annual revenues of \$38,809 from its 56 customers, through a fixed quarterly charge of \$173.26 per customer. Atkinson also requested approval to borrow \$248,800 over 20 years at 7 percent interest from Hall Farm Realty Trust, a related party and the former owner of the water system. For a fuller recitation of the procedural developments in this docket, *see* Order No. 24,272 (January 30, 2004) and Order No. 24,298 (March 19, 2004).

Also, on March 15, 2004, Atkinson filed with the Commission a petition for approval of temporary rates, seeking for temporary rates, authority to collect annual revenues of \$13,420 through a fixed quarterly charge of \$59.91 per customer, for a total annual charge of \$239.64 per customer. Order No. 24,298 approved the proposed procedural schedule for the duration of the case and set a hearing on the temporary rate request for May 27, 2004.

During March and April the Commission received communications from Atkinson's customers, objecting to the proposed rate increase, requesting the Commission review and verify the maintenance expenses included in the proposed rate increase, and noting iron and manganese problems with the water.

On May 25, 2004, on behalf on itself and the Parties, Staff filed a Settlement Agreement on temporary rates with the Commission. Staff also requested the Commission waive Puc 203.09, which requires all settlements be filed with the Commission no later than 5 days prior to the hearing. The Commission held a hearing on the temporary rate Settlement Agreement on May 27, 2004.

II. SUMMARY OF SETTLEMENT AGREEMENT

The Settlement Agreement reached between Atkinson Woods Water, LLC; Atkinson Woods Owners Association; and Staff, sets forth the following terms:

- A. Staff, Atkinson, and the Association agree to a temporary quarterly rate of \$59.91 per customer, or \$239.64 annually.
- B. Staff, Atkinson, and the Association agree that the rate will be effective for bills issued July 1, 2004 and which cover usage from April 1, 2004 through June 30, 2004.
- C. Staff, Atkinson, and the Association agree that waiver of Puc 1203.05 is appropriate in this circumstance since the water system lacks the ability to impose a metered rate and Atkinson has been providing service, without charge, to customers since the Association decided to turn the operation of the water system back over to Atkinson, effective March 1, 2003.
- D. Staff, Atkinson, and the Association understand that, pursuant to RSA 378:29, the temporary rate will be reconciled against the permanent rate ultimately determined by the Commission.

III. COMMISSION ANALYSIS

RSA 378:27 authorizes the Commission to grant temporary rates if, in its opinion, the public interest so requires. Such rates must be sufficient to yield not less than a reasonable

return on the cost of the property of the utility used and useful in the public service, less accrued depreciation, as shown by the reports of the utility filed with the Commission, unless there appears to be reasonable ground for questioning the figures in such reports. Further, the statute contemplates the setting of temporary rates by reasonably practical and expeditious means, without such investigation as might be deemed necessary to a determination of permanent rates. *See New England Telephone & Telegraph v. State*, 95 N.H. 515, 518 (1949).

We have reviewed the terms of the Settlement Agreement as well as Atkinson's filing, supporting testimony and exhibits presented at the May 27, 2004, hearing. Based on the record before us, we find the quarterly charge of \$59.91 per customer, or annual charge of \$239.64 per customer, is reasonable. We find this rate fairly takes into consideration the need to balance the respective concerns of Atkinson and its ratepayers.

Since Atkinson first received franchise approval in December 2003, it has not been recovering revenues from its customers. Atkinson has been incurring expenses and the temporary rate is comprised of only operating and maintenance expenses. As indicated in the Settlement Agreement, the temporary rate does not include any rate of return on rate base components or depreciation. Exh. 2 at 2. We are aware that some of the operating and maintenance expenses are based upon estimates, which is not unreasonable given that Atkinson is a new utility. We expect, however, that Staff and the Parties will thoroughly review these estimates to ensure their validity as part of the permanent rate case. Any discrepancies in the estimates can be reconciled pursuant to RSA 378:29 as part of the permanent rate case. For the foregoing reasons, we find Atkinson's temporary rate, as agreed to in the Settlement Agreement, is just and reasonable and in the public good.

Finally, we conclude that waiver of Puc 1203.05 is appropriate under the special circumstances of this case. Atkinson is a small, unmetered water utility and does not presently possess the ability to implement a rate on a service rendered basis. Atkinson also has no revenue. Given these facts, we find the waiver request reasonable at this time. We also grant the waiver of Puc 203.09 regarding the filing deadline of the Settlement Agreement in this case.

Based upon the forgoing, it is hereby

ORDERED, that the Settlement Agreement proposed by Staff, Atkinson Woods Water, LLC, and Atkinson Woods Owners Association is APPROVED; and it is

FURTHER ORDERED, that the temporary rate of \$59.91 per customer per quarter or \$239.64 per customer annually be implemented on a bills-rendered basis effective July 1, 2004; and it is

FURTHER ORDERED, that Atkinson Woods Water Company, LLC shall submit tariff pages in compliance with this Order within 15 days of the date of this Order; and it is

FURTHER ORDERED, that the requests to waive Puc 203.09 and puc 1203.05 are GRANTED.

By order of the Public Utilities Commission of New Hampshire this eleventh day
of June, 2004.

Thomas B. Getz
Chairman

Susan S. Geiger
Commissioner

Graham J. Morrison
Commissioner

Attested by:

Michelle A. Caraway
Assistant Executive Director