

**DW 04-185**

**LAKES REGION WATER COMPANY, INC.**

**Petition for Authority to Issue Long-Term Debt**

**Order Nisi Approving Long-Term Debt**

**ORDER NO. 24,401**

**November 19, 2004**

**I. BACKGROUND**

On October 7, 2004, Lakes Region Water Company, Inc. (Lakes Region), filed a petition with the New Hampshire Public Utilities Commission (Commission) requesting authority to issue long-term debt pursuant to RSA 369. Lakes Region seeks authority to issue long-term debt in order to finance the purchase of LOV Water Company (LOV), Deer Cove Water Company (Deer Cove), and Indian Mound Water Corporation, Inc. (Indian Mound). Lakes Region is a regulated public utility providing water service to approximately 1,200 customers in limited areas of the Towns of Moultonboro, Thornton, Gilford, Campton, Conway, Tamworth, Tuftonboro, Wolfeboro and the City of Laconia, New Hampshire. Lakes Region's Petition was accompanied by supporting financial schedules, testimony of Stephen P. St. Cyr of Stephen P. St. Cyr and Associates, consultant to Lakes Region, and minutes of a special meeting of the Lakes Region Board of Directors. The Board of Directors authorized Lakes Region to acquire LOV, Deer Cove, and Indian Mound and to execute all documents necessary to finalize their acquisition.

The Commission has previously approved Lakes Region's request to purchase the assets and franchise rights of all three water systems. *See*, Commission Order No. 24,376 in

Docket No. DW 04-031 (September 30, 2004) (LOV and Deer Cove)<sup>1</sup>; and Commission Order No. 24,374 in Docket No. DW 04-090 (September 23, 2004) (Indian Mound). LOV serves 215 customers in the Town of Freedom. Deer Cove and Indian Mound serve 51 and 80 customers, respectively, in the Town of Ossipee. The collective purchase price identified in those dockets totals \$154,800 segregated as follows: \$114,800 for LOV; \$10,000 for Deer Cove; and \$30,000 for Indian Mound.

Lakes Region seeks authority to borrow \$142,000 from the Bank of New Hampshire (BNH) in order to purchase LOV, Deer Cove, and Indian Mound. The total amount of \$142,000 represents about 92% of the total purchase price of the three systems, and Lakes Region states that internally generated funds will cover the difference between the bank financing and the purchase price.

In support of its Petition, Lakes Region provided an executed copy of a letter of commitment from BNH to loan \$142,000 on a ten-year term, with monthly payments of principal and interest based on a 15-year amortization. The interest rate for this loan will be equal to the Federal Home Loan Bank of Boston five year classic advance rate (FHLBB) plus 3.00%, adjusting in five years. The current FHLBB is 3.87%, rather than the 6.87% indicated in Lakes Region's Petition. Lakes Region corrected this reference in a data response to Staff. (Letter from Staff to Commission of November 12, 2004, at 1.) The loan will be secured by first mortgage liens and UCC Filings on the three water systems to be purchased, with Thomas and Barbara Mason, shareholders of Lakes Region, providing personal guarantees. Petition

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<sup>1</sup> In addition to approving Lakes Region's purchase of water system assets from LOV Water Company, the Commission approved Lakes Region's purchase of a 3.3 acre parcel, know as Lot 58, from Lake Ossipee Village, Inc. The pump house and other equipment associated with the LOV water system is located on Lot 58, in the Town of Freedom.

Attachment at 7. Lakes Region will pay a \$710 origination fee for this loan as well as all third-party costs involved in the transaction. Lakes Region anticipates that its total costs to execute this financing will be approximately \$5,700. That total includes bank fees, legal costs, and costs associated with obtaining Commission approval. Lakes Region intends to amortize these financing costs over the life of the loan.

On November 12, 2004, the Commission Staff (Staff) filed a letter with the Commission recommending approval of Lakes Region's request in this docket. Staff noted that, although Lakes Region had not sought other financing options from other lenders for this transaction, Staff was comfortable with the terms of the proposed loan. Specifically, Staff cited Lakes Region's development of a relationship with the BNH and that BNH was now familiar with Lakes Region's operations as a public utility. Staff saw value in establishing such a relationship and stated that small water utilities sometimes have a difficult time obtaining financing. The anticipated interest rate of slightly less than 7% was quite favorable for a relatively small utility. Staff added that, in this case, Lakes Region could not borrow from alternative financing sources such as the State Revolving Loan Fund since that fund is only for system improvements, not for new acquisitions.

Staff reviewed the impact of the proposed financing on Lakes Region's financial condition and concluded the financing would not detrimentally impact Lakes Region's financial condition. Lakes Region's capital structure would be approximately 56% debt and 44% equity following the transaction, and the cost of the financing would have only the slightest upward impact on Lakes Region's overall cost of debt. Staff stated that Lakes Region's Petition was well documented and that Staff conducted only minimal amount of additional discovery. Staff

noted that the Commission had previously considered Lakes Region's proposed use of the funds in this financing request by way of its review and approval of Lakes Region's purchase of LOV, Deer Cove, and Indian Mound. *See*, Commission Order No. 24,376 (September 30, 2004) and Commission Order No. 24,374 (September 23, 2004).

## **II. COMMISSION ANALYSIS**

Pursuant to the provisions of RSA 369:1, public utilities engaged in business in this State may issue evidences of indebtedness payable more than 12 months after the date thereof only if the Commission finds the proposed issuance to be "consistent with the public good." Analysis of the public good consideration involves looking beyond actual terms of the proposed financing to the use of the proceeds of those funds and the effect on rates to insure the public good is protected. *See Appeal of Easton*, 125 N.H. 205 (1984).

In the case at hand, Lakes Region has requested authorization to borrow funds in the amount of \$142,000 in order to finance the purchase of LOV, Deer Cove, and Indian Mound. Staff rightly notes that we previously reviewed and approved Lakes Region's purchase of these systems. Our approval and finding that Lakes Region possessed the requisite technical, managerial and financial capability to own and operate the water systems, however, contained conditions. We specifically ordered Lakes Region to file a plan to install meters at LOV and Deer Cove with the Commission within six months; file a plan to install meters at Indian Mound with the Commission within sixty days; impose the existing tariff rates; file a copy of an appropriately recorded deed concerning the Deer Cove North Corporation (DCNC) property within ninety days; negotiate with DCNC for more secure access to wells on DCNC property; and book any amount of the purchase price that exceeds the net book value of the assets at the

time of the closing as an acquisition adjustment so that it is not reflected in future customer rates. We recognize the time period for completing these conditions has not yet expired and we will make our instant finding contingent upon completion of these same conditions. Accordingly, based upon our review of the Petition and other filings in this docket, as well as our review of the underlying asset purchase dockets and conditions contained therein, we approve the financing amount requested as well as the purpose of the financing.

We next review the rate and the possible effect the proposed financing may have on the overall cost of capital to the ratepayers. We recognize Lakes Region's efforts to establish a relationship with BNH and its sense that it can obtain financing more readily as a result of this relationship. In its letter of support, Staff stated that establishment of this relationship was valuable and reiterated that low cost loans from the State Revolving Loan Fund were not available. We have also previously approved requests for financing for Lakes Region through BNH. *Lakes Region Water Company, Inc.*, 87 NH PUC 87 (2002); *Lakes Region Water Company, Inc.*, Order No. 24,254 (December 19, 2003). Notwithstanding this history and relationship, we are still obligated to review the reasonableness of the proposed rate and its impact upon ratepayers. Lakes Region anticipates it will be paying a rate of approximately 6.87% for the first five years of the financing, before the rate is adjusted. Comparing this rate to other financing requests we have recently approved, this rate appears to be competitive with interest rates available through commercial lenders.<sup>2</sup> For this reason, we find the proposed financing rate is reasonable.

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<sup>2</sup> In December 2003, we approved Lakes Region Water Company Inc.'s, financing tied to the FHLBB five-year classic rate, plus 3 percent. *Id.* In May 2003, the rate was slightly lower when we approved Tilton & Northfield Aqueduct Company, Inc.'s financing at a rate of the FHLBB, plus 2.75 percent. *Tilton & Northfield Aqueduct Company, Inc.*, Order No. 24,169 (dated May 9, 2003).

Concerning the possible effects of the proposed financing on the overall cost of capital to ratepayers, Staff stated that the transaction would cause Lakes Region's capital structure to be 56% debt and 44% equity. We believe such a capital structure is well-balanced. Although the interest rate on the proposed financing would slightly increase the overall cost of debt for Lakes Region, we find the benefit of the financing overall outweighs this impact.

In conclusion, based upon our review of the record in this matter, we find that the terms and conditions of the loan are just and reasonable and the proposed use of the funds to be prudent and in the public good. We approve Lakes Region's financing request in this docket, subject to the conditions set forth in Order No. 24,376 and Order No. 24,374. Further, we approve the request on the condition that the final terms be substantially similar to those identified in the Petition. Any terms which vary substantially from the proposed terms will require a further proceeding.

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

**ORDERED *NISI***, that Lakes Region Water Company, Inc.'s request to finance \$142,000 according to the terms and conditions proposed in Lakes Region's Petition, and subject to the terms and conditions specified in this Order, is consistent with the public good and is hereby **APPROVED**; and it is

**FURTHER ORDERED**, that Lakes Region Water Company, Inc. shall cause a copy of this Order *Nisi* to be published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to be no later than November 29, 2004 and to be documented by affidavit filed with this office on or before December 20, 2004; and it is

**FURTHER ORDERED**, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing which states the reasons and basis for a hearing no later than December 6, 2004 for the Commission's consideration; and it is

**FURTHER ORDERED**, that any party interested in responding to such comments or request for hearing shall do so no later than December 13, 2004; and it is

**FURTHER ORDERED**, that this Order *Nisi* shall be effective December 20, 2004, unless the Petitioner fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

**FURTHER ORDERED**, that Lakes Region Water Company, Inc. shall file copies of the executed loan documents with Bank of New Hampshire once the transaction has been completed.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of November, 2004.

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Thomas B. Getz  
Chairman

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Graham J. Morrison  
Commissioner

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Michael D. Harrington  
Commissioner

Attested by:

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Debra A. Howland  
Executive Director & Secretary