

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 07-115

FRYEBURG WATER COMPANY

Permanent Rate Proceeding

Order Approving Step Increase to Rates

ORDER NO. 24,950

March 20, 2009

APPEARANCES: Upton & Hatfield, LLP by Justin C. Richardson, Esq. for Fryeburg Water Company, Inc.; and Marcia A.B. Thunberg, Esq. for Staff of the New Hampshire Public Utilities Commission.

I. BACKGROUND

Fryeburg Water Company (Fryeburg) is a New Hampshire and Maine regulated public utility with its principal place of business in the Town of Fryeburg, Maine. It serves approximately 700 customers in that community and approximately 67 customers in the adjacent Town of East Conway, New Hampshire. It is Fryeburg's service to these latter 67 customers that subjects it to RSA 362:2 and 362:4 and the Commission's jurisdiction. Because 92.2% of Fryeburg's customers are in Maine, it has been customary over the years for Fryeburg to file its rate case in Maine and, when concluded, file its case in New Hampshire. This Commission has generally adopted the Maine Public Utilities Commission's decisions. *See e.g., Fryeburg Water Co., 75 NH PUC 133 (1990).*

On November 20, 2007, Fryeburg filed its approved Maine rate filing with the Commission. After discovery and hearing, the Commission approved Fryeburg's filing, with one adjustment relating to construction work in progress (CWIP) agreed to by Fryeburg and Staff. In Order No. 24,873 (July 9, 2008) the Commission approved a new revenue requirement

for Fryeburg based on its pro-formed 2006 test year, authorized Fryeburg to impose increased permanent rates, and allowed Fryeburg to file for a step increase to its permanent rates for capital improvements made after November 15, 2007. On December 31, 2008, Fryeburg filed its request for a step increase. In support of its request, Fryeburg filed a copy of the step increase request it made with the Maine Public Utilities Commission as well as rate sheets approved by the Maine Public Utilities Commission on December 23, 2008. The Maine Public Utilities Commission approved the capital improvements as additions to Fryeburg's rate base and approved an increase in Fryeburg's revenue requirement of \$17,366, or 3%.

The capital improvements approved by the Maine Public Utilities Commission included: East Conway Main/Drift Road Project, \$42,719; Transfer Services, \$31,283; Land, \$243,293; Meter Installation for Unmetered Customers, \$20,802; and GIS/Auto Cad Mapping, \$22,325. Retirements (\$2,000) and the Reservoir Loop project (\$82,000) were removed from these expenditures, leaving a net capital improvement amount added to rate base of \$276,422.

If approved in New Hampshire, the additional revenue requirement necessitated by these rate base additions would increase customer rates for 5/8-inch metered service as follows: Quarterly rates for 1,200 cubic feet (cf) or less would rise from the present charge of \$37.70 to \$39.24; Monthly rates for 400 cf or less would rise from the present charge of \$12.57 to \$13.08; and Seasonal rates for 2,400 cf or less would rise from the present charge of \$105.95 to \$109.80. Most of Fryeburg's customers take service through a 5/8-inch meter but for the few New Hampshire customers taking service using a 1-inch meter, those rates would rise from \$87.02 to \$89.40, with quarterly billing. These proposed rates are fully described in Fryeburg's December 30, 2008 filing at page 8 and are identical to the rates the Maine Public Utilities Commission approved for Fryeburg's Maine customers on December 23, 2008.

On March 9, 2009, Staff filed a letter recommending that the Commission approve Fryeburg's request to increase its revenue requirement by \$17,366. Staff stated that it had reviewed Fryeburg's filing and conducted discovery and an audit of Fryeburg's \$276,422 in net capital improvements. Staff reminded the Commission that costs relating to the Reservoir Loop project had been removed from Fryeburg's rate base, pursuant to RSA 378:30-a, because it was not in service and constituted CWIP. Exclusion of CWIP from rate base caused rates approved for the New Hampshire customers to be slightly lower than the rates approved by the Maine Public Utilities Commission. With the addition of the recent capital improvements and removal of the proposed Reservoir Loop project from rate base in Maine, Staff stated that Fryeburg's rate base would be the same in both Maine and New Hampshire and that all customers should be charged the same rates.

Lastly, Staff concluded that, based on its review, the capital improvements were in service and were used and useful, and that the rates resulting from the increased revenue requirement would be just and reasonable.

II. COMMISSION ANALYSIS

Changes in rates utilities charge to customers are governed by RSA Chapter 378. Specifically, RSA 378:7 authorizes the Commission to establish rates for utilities that are lawful, just, and reasonable. In determining just and reasonable rates, the Commission must balance the consumers' interest in paying no higher rates than are required with the investors' interest in obtaining a reasonable return on their investment. *Eastman Sewer Co.*, 138 N.H. 221, 225 (1994). The Commission has authorized step increases in rates to allow recovery of expenditures made after the test year for capital projects that are subsequently placed in service and are necessary for the provision of safe and adequate service. *Pennichuck Water Works, Inc.*, Order

No. 23,923, 87 NH PUC 97, 102 (2002). Typically, these expenditures are for larger capital projects which, if not recoverable, would have a detrimental impact on a utility's rate of return. *See Hampstead Area Water Company, Inc.*, Order No. 24,626, 91 NH PUC 225, 230 (2006). We apply these principles to our analysis of the rate increases proposed by Staff and Fryeburg.

In Order No. 24,873, the Commission approved a revenue requirement of \$564,563, which was \$3,900 less than that approved in Maine due to the removal of CWIP. As Staff testified, Fryeburg's looping project, in the amount of \$82,000, had been included in its Maine rate base but due to permitting difficulties Fryeburg instead completed another project, known as the Drift Road main replacement project, which amounted to \$43,718. This difference in rate base caused a reduction in Fryeburg's revenue requirement of \$3,900. Hearing Transcript of June 19, 2008 at 19, lines 1-14. Staff and Fryeburg anticipated that once Fryeburg filed its request for a step increase to rates, its rate base for Maine and New Hampshire customers would be the same and thus rates would become equal.

Fryeburg's rate filing was based on a 2006 test year and the Commission recognized that Fryeburg had either completed or intended to complete a number of necessary capital improvements to its system after November 15, 2007. As evidenced in Fryeburg's December 23, 2008 filing, these capital improvements total \$276,422. Consistent with the Commission's policy of allowing recovery of expenditures for large capital projects which, if not recoverable, would have a detrimental impact on a utility's rate of return, we find that these capital improvements ought to be recovered through a step adjustment to rates. Having reviewed the filing and Staff's recommendation, we agree with Staff that the capital improvements are prudent, used, and useful, pursuant to RSA 378:28 and that customer rates should be adjusted accordingly. Approval of Fryeburg's request for a step increase to its rates will defer the need

for Fryeburg to file a full rate proceeding and avoid additional rate case costs to the utility and its customers.

Fryeburg noted on its proposed tariff pages that it anticipated the step increase to rates to become effective January 1, 2009. We will, however, approve the new rates on a service rendered basis effective as of the date of this order. Other than the notation on the proposed tariff pages, neither Staff nor Fryeburg provided an analysis of how Fryeburg would recover the difference between a January 1, 2009 effective date and the date of the order approving the step increase. Also, N.H. Code. Admin. Rule Puc 1203.05 requires changes to rates to occur on a service rendered basis and neither Fryeburg nor Staff provided an analysis of how customer bills will be prorated to comply with Puc 1203.05. For these reasons, we find it reasonable to approve the step increase to rates on a service rendered basis effective as of the date of this order.

Based upon the foregoing, it is hereby

ORDERED, that an increase to Fryeburg Water Company's revenue requirement of \$17,366 is hereby approved; and it is

FURTHER ORDERED, that Fryeburg Water Company is authorized to collect from customers the rates as set forth in N.H. P.U.C. No. 8 – First Revision Page 4, commencing with service rendered on and after the date of this order; and it is

FURTHER ORDERED, that Fryeburg Water Company file with the Commission a compliance tariff identifying the approved rates within ten (10) days of the date of this order.

By order of the Public Utilities Commission of New Hampshire this twentieth day of
March 2009.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary