

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 08-160

FOREST EDGE WATER COMPANY

Notice of Intent to File Rate Schedules

Order Approving Stipulation on Temporary Rates

ORDER NO. 24,971

May 22, 2009

APPEARANCES: Stephen P. St. Cyr, for Forest Edge Water Company; and Matthew J. Fossum, Esq., for Commission Staff

I. PROCEDURAL HISTORY

On December 11, 2008, Forest Edge Water Company (Forest Edge or Company), a water utility serving 38 customers in Conway, filed a Notice of Intent to File Rate Schedules. On February 10, 2009, the Company filed its rate schedules, which included a request that, should the Commission suspend the proposed tariff, the current rates be set as temporary rates. In addition, the Company sought an increase in its permanent rates as well as authorization for a financing it had obtained in 2007. Forest Edge seeks to increase its annual revenues by \$10,852.00 in order to earn an overall rate of return of 7%. The new rate would result in an average annual residential water bill for a single family home of approximately \$485.58. Bills in the amount of \$242.79 would be due semi-annually in May and November, which would represent an annual customer bill increase of \$285.58, or 143%, over current rates.

By Order 24,946 (March 3, 2009) the Commission suspended the Company's proposed tariff and scheduled a pre-hearing conference for March 25, 2009. That order also required the Company to provide a copy of the Commission's order to all current and known prospective

customers, and to the Town Clerk for the Town of North Conway. On March 20, 2009, the Commission received a petition to intervene from a group of homeowners served by the Company. At the pre-hearing conference, the Commission approved the intervention of the homeowners. The following day, Staff filed a letter with the Commission seeking approval of a proposed procedural schedule as well as a ruling on the adequacy of the notice to customers regarding the Company's request for temporary rates. By secretarial letter dated April 9, 2009, the Commission approved the proposed procedural schedule, which included a hearing on temporary rates on May 1, 2009.

On April 27, 2009, Staff filed with the Commission a stipulation on temporary rates (Stipulation) to which only Staff and the Company were signatories. According to the Stipulation, attempts to contact the intervening homeowners were unsuccessful and, therefore, they were not parties to the Stipulation. In brief, the Stipulation provides that temporary rates are to be set at the level of current rates, with an effective date of April 1, 2009 on a service rendered basis. In addition, the Stipulation provides that temporary rates would be subject to reconciliation pursuant to RSA 378:29 after final rates are determined. On May 1, 2009, the Commission held its scheduled hearing to consider the issue of temporary rates. None of the intervening homeowners appeared at the hearing or otherwise expressed any opinion on temporary rates or the Stipulation.

II. POSITIONS OF THE PARTIES

A. Forest Edge

Forest Edge stated that it supports the Stipulation. According to the Company, it has been experiencing losses for years and had experienced a net loss of \$15,870 in its test year.

Further, the Company noted that it has not had a rate change since 1985 and that its current revenue is insufficient to meet its operating expenses. The Company has been borrowing money from its parent, Kearsarge Building Company, in order to meet its operating expenses. The Company indicated that its parent is willing to continue that arrangement.

The Company stated that setting temporary rates at the level of current rates, while it would not alleviate the Company's financial problems, would avoid the delay caused by a temporary rate filing that requests a rate change. Moreover, the Company pointed out that setting temporary rates at current rates as contemplated in the Stipulation would decrease rate case expenses in that a more thorough filing on temporary rates would not be needed. The Company concluded, therefore, that setting temporary rates at the level of current rates would result in just and reasonable rates.

B. Staff

Mark Naylor, Director of the Gas and Water Division, testified on behalf of Commission Staff and affirmed that Staff supported the Stipulation. Staff agreed to the setting of current rates as temporary rates in this matter because it was clear that the Company was in need of rate relief, and setting temporary rates at current rates would allow for a more expeditious conclusion to the matter. Staff did have some concern about the potential for a large recoupment when the temporary rates are reconciled with permanent rates. Staff noted, however, that a compact timeframe for the case would limit any recoupment and resulting "rate shock." Thus, Staff concluded that the Stipulation's provision for temporary rates at the level of current rates would result in just and reasonable rates.

III. COMMISSION ANALYSIS

In any proceeding involving the rates of a public utility, the Commission may, after notice and a hearing, determine temporary rates for the duration of the proceeding, provided that it is of the opinion that the public interest so requires. RSA 378:27. The standard for approval of temporary rates, which are fully reconcilable, is “less stringent” than that for permanent rates, “in that temporary rates shall be determined expeditiously” without the level of investigation undertaken when determining permanent rates. *Appeal of Office of Consumer Advocate*, 134 N.H. 651, 660 (1991). We have reviewed the Stipulation and based upon our review of the document, as well as the testimony presented, we conclude that temporary rates are in the public interest and that the proposed temporary rates set forth in the Stipulation are just and reasonable.

The Company and Staff agree that the establishment of temporary rates pursuant to the Stipulation is justified in light of Forest Edge’s desire to minimize the duration of its rate case, as well as expenses related to the establishment of temporary rates. While the rates in the Stipulation will not alleviate the Company’s under-earnings, they will permit the Company to contain costs and to limit the administrative requirements of altering bills and rates to reflect a higher temporary rate which may only last a short time. That is especially true in this case where the timeframe for the conclusion of the case is only a few months. Also, the Company noted that it was prepared to continue operating at its current level of income with support from its parent. Therefore, setting the temporary rates at the level of current rates would allow for a faster and, by extension, less expensive permanent rate case, and will not further damage the financial position of the Company. In addition, the notice approved in the April 9, 2009 secretarial letter

was sufficient notice that Forest Edge had requested current rates as temporary rates. Thus, customers were on notice to expect a continuation of current rates, as opposed to an increase.

Since temporary rates are subject to reconciliation pursuant to RSA 378:29, any current shortfall will be remedied later. While we share in the concern that, without an increase in rates in the short term through temporary rates, customers may experience some level of “rate shock,” in the event there is a substantial increase in permanent rates, any large recoupment may be spread out over time to minimize the impact. .

Based upon the foregoing, it is hereby

ORDERED, the Stipulation filed by the Company and Staff, including the proposed temporary rates, is approved; and it is

FURTHER ORDERED, that Forest Edge may set temporary rates at the level of its current rates effective for service rendered on or after April 1, 2009; and it is

FURTHER ORDERED, that Forest Edge shall submit tariff pages in compliance with this order within 14 days of the date of this order.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of May, 2009.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

Lori A. Davis
Assistant Secretary