

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 17-176

**LAKES REGION WATER COMPANY, INC.
WILDWOOD WATER COMPANY, INC.**

Petition for Transfer of Utility Assets and Franchise and for Related Approvals

Order Approving Transfer of Utility Assets

ORDER NO. 26,144

June 15, 2018

APPEARANCES: Upton & Hatfield, LLP, by Justin C. Richardson, Esq., on behalf of Lakes Region Water Company, Inc.; the Office of the Consumer Advocate, by D. Maurice Kreis, Esq., on behalf of residential ratepayers; Alexander F. Speidel, Esq., on behalf of Commission Staff.

In this order, the Commission approves Lakes Region Water Company's acquisition of Wildwood Water Company's assets and utility franchise. The Commission also authorizes Wildwood to discontinue operations as a public utility and approves integration of Wildwood's existing rate schedules into Lakes Region Water's tariff for Wildwood's customers. After the transaction closes, Wildwood will cease to be a regulated New Hampshire public utility.

I. PROCEDURAL HISTORY

Lakes Region Water Company, Inc. (Lakes Region Water), is a public water utility that serves approximately 1,760 customers in 18 separate systems located in the Lakes Region and Mt. Washington Valley. Wildwood Water Company, Inc. (Wildwood), is a public water utility serving 49 customers in the southern part of the Mt. Washington Valley in Albany, New Hampshire.

On November 13, 2017, Lakes Region Water and Wildwood (together, the Joint Petitioners) filed a petition requesting approval of three actions: (1) the transfer of Wildwood's

water utility assets and franchise to Lakes Region Water pursuant to RSA 374:22 and RSA 374:30; (2) discontinuance of Wildwood's operations as a public utility pursuant to RSA 374:28; and (3) revision of tariffs, reflecting Lakes Region Water as the owner of the Wildwood water system and implementing Lakes Region Water's existing, approved terms and conditions to enable Lakes Region Water to operate all of its water systems using consistent terms and conditions. The Joint Petitioners also filed a purchase agreement dated September 21, 2017, which states Lakes Region Water will pay \$25,000 for Wildwood's utility assets.

The Office of the Consumer Advocate (OCA) filed a letter of participation on December 4, 2017, pursuant to RSA 363:28. A prehearing conference and technical session were held on January 23, 2018. On March 15, 2018, Lakes Region Water, Wildwood, the OCA, and the Commission Staff (Staff) (together, the Settling Parties) filed a Settlement Agreement. The Commission held a hearing on the merits on March 29, 2018.

The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted on the Commission's website at <http://puc.nh.gov/Regulatory/Docketbk/2017/17-176.html>.

II. SETTLEMENT AGREEMENT

The Settling Parties agreed that Lakes Region Water should acquire Wildwood's utility assets and that the Commission should approve the acquisition, terminate Wildwood's franchise, and approve tariff revisions.

A. Transfer of Utility Franchise

During the hearing on March 29, 2018, Lakes Region Water witness, Thomas Mason, and Staff witness, Jayson Laflamme, testified in support of the Settlement Agreement. Mr. Mason explained the benefits Lakes Region Water would provide to the Wildwood water

system and its customers, including Lakes Region Water's 24-hour answering service, use of telemetry to monitor its water systems, multiple staff capable of making repairs when needed, and access to lower cost debt financing. He added that Wildwood's water system is within Lakes Region Water's service area.

Mr. Laflamme testified that Lakes Region Water has experience and expertise in acquiring small water systems and making necessary improvements to them. The Settlement Agreement requires Lakes Region Water to prepare a 5-year capital improvement plan and budget for the Wildwood system, which will be included in Lakes Region Water's annual report to the Commission for the year ending December 31, 2018. According to Mr. Laflamme, Lakes Region Water's access to low-cost debt financing allows it to make necessary improvements to the Wildwood system at the lowest possible cost to customers. He stated that Lakes Region Water has the managerial, financial, and technical experience to operate the Wildwood water system effectively and efficiently.

B. Termination of Service

The Settling Parties agreed that discontinuation of Wildwood's franchise would be for the public good. Once Lakes Region Water acquires Wildwood's assets, Wildwood will cease to have assets in New Hampshire.

C. Tariff Revisions

Under the Settlement Agreement, Lakes Region Water will incorporate Wildwood's existing rate schedule into its tariff for service to Wildwood's customers. Lakes Region Water's general terms and conditions will be applied to Wildwood customers and those customers will continue to pay at the existing Wildwood water usage rates. The Settlement Agreement provided that Lakes Region Water would file a revised tariff incorporating the changes within 30 days of

the Commission's approval of the Settlement Agreement, or the Commission's approval of Lakes Region Water's tariff in Docket No. DW 17-106,¹ whichever was later. The Settlement Agreement also required Lakes Region Water to send a customer notice to all Wildwood customers and the Town of Albany detailing the specific tariff changes.

D. Acquisition Costs

Under the Settlement Agreement, Lakes Region Water will record the costs of acquiring the Wildwood system as a deferred asset and seek recovery in its next rate proceeding via an amortization mechanism, subject to review and approval of the Commission as provided by law.

III. COMMISSION ANALYSIS

The Commission finds the proposed Settlement Agreement to be just and reasonable, in the public interest, and in conformance with all applicable legal standards. Therefore, we approve the Settlement. Under RSA 541-A:31, V(a), informal disposition may be made of a contested case at any time prior to the entry of a final decision or order, by stipulation, agreed settlement, consent order, or default. We encourage participants in a proceeding to settle issues through negotiation and compromise, because it is an opportunity for creative problem solving, allows the participants to reach a result in line with their expectations, and is often a better alternative to litigation. *Liberty Utilities (EnergyNorth Natural Gas) Corp.*, Order No. 26,122 at 7 (April 27, 2018); *see* RSA 541-A:31, V(a) ("informal disposition may be made of any contested case ... by stipulation [or] agreed settlement"). The Commission's procedural rules provide for the approval of a settlement "if it determines that the result is just and reasonable and serves the public interest." N.H. Code Admin. Rules Puc 203.20(b). Nonetheless, the

¹ In a letter dated June 14, 2018, in Docket No. DW 17- 106, the Commission accepted Staff's recommendation that Lakes Region Water Company's proposed tariff NHPUC No. 7, filed on March 9, 2018, be allowed to take effect. Accordingly, NHPUC Tariff No. 7 was approved with an effective date of June 13, 2018.

Commission cannot approve a settlement agreement without independently determining that the result comports with applicable standards. *Liberty Utilities (EnergyNorth Natural Gas) Corp.*, Order No. 26,122 at 7. The process leading up to a settlement is one relevant factor in determining approval of the agreement.

We first examine the acquisition of Wildwood's assets and franchise by Lakes Region Water under the standard established by RSA 374:22 and RSA 374:30. Pursuant to RSA 374:22, I, "[n]o person or business entity ... shall commence business as a public utility within this state ... or shall exercise any right or privilege under any franchise not theretofore actually exercised in such town, without first having obtained the permission and approval of the commission." The Commission shall grant requests for franchise authority and allow an entity to engage in the business of a public utility when it finds, after a hearing, that the exercise of the right, privilege, or franchise is for the public good. RSA 374:26. Pursuant to RSA 374:30, I, "[a]ny public utility may transfer or lease its franchise, works, or system, or any part of such franchise, works, or system, exercised or located in this state ... when the commission shall find that it will be for the public good and shall make an order assenting thereto, but not otherwise." In determining whether a proposed franchise or franchise transfer is for the public good, the Commission assesses the managerial, financial, and technical expertise of the petitioners, as well as potential impacts on rates and service. *See Lakes Region Water Co., Inc.*, Order No. 25,964 at 3-4 (November 10, 2016), *Lower Bartlett Water Precinct*, Order No. 23,562 (September 25, 2000).

We find that Lakes Region Water possesses the managerial ability to operate the water system. Lakes Region Water has significant experience operating small water systems similar to Wildwood. Petition at 3. It also employs seven professionals specializing in the operation of

small community water systems, including an office manager, a utility manager, two administrative assistants, and three operators with various levels of certification (compared to Wildwood's single certified employee). *Id.*

We further find that Lakes Region Water has the technical expertise to operate the water system. Combined with their certified employees, larger work force, and the 24 hour a day, seven day a week availability of the technical staff, Lakes Region Water has the technical expertise to address customer concerns. Lakes Region can also provide real-time information to its customers via its one-call notification system and website. *Id.*

We also find that Lakes Region Water has the financial ability to operate the water system. Wildwood's capital structure is 100 percent equity. Lakes Region Water's access to lower cost debt financing will finance upgrades and improvements to the Wildwood system. Lower cost debt financing will benefit customers by providing improved service at a lower cost. *Id.*, at 4. Accordingly, we find that transfer of the Wildwood franchise to Lakes Region Water meets the public good standard necessary for our approval.

RSA 374:28 provides that the Commission "may authorize any public utility to discontinue ... any part of its service ... whenever it shall appear that the public good does not require the further continuance of such service." The Commission has found that discontinuing a franchise following its acquisition by another utility is for the public good based on a finding that the successor has the managerial, financial, and technical skills necessary to run the system. *See Eastman Sewer Co., Inc.*, Order No. 25,634 at 11-13 (March 11, 2014). We find that the public good does not require Wildwood to continue service, given that its assets and franchise will be transferred to Lakes Region Water. We therefore approve the termination of Wildwood's franchise and status as a public utility following the transfer of its assets.

We find the proposal to integrate Wildwood's existing usage rates into the Lakes Region Water tariff reasonable. Maintaining a single tariff with general terms and conditions for all customers served by Lakes Region Water is both fair and administratively efficient. We are concerned that the provision in the Settlement Agreement regarding tariff revisions could create a gap between the date on which the acquisition is complete and the effective date of the Lakes Region Water tariff incorporating the Wildwood rate schedules, contemplated by the agreement. We will therefore require Lakes Region Water to serve Wildwood's customers under the provisions of Wildwood's tariff until such time as those customers have been given 30-days notice that Lakes Region Water's rates, terms, and conditions will be applicable to them.

Based upon the foregoing, it is hereby

ORDERED, that the Settlement Agreement between Lakes Region Water Company, Inc., Wildwood Water Company, Inc., the Commission Staff, and the Office of the Consumer Advocate is hereby APPROVED with certain revisions regarding tariff revisions and customer notice; and it is

FURTHER ORDERED, that pursuant to RSA 374:22 and RSA 374:30, Lakes Region Water Company, Inc., may purchase the assets of Wildwood Water Company, Inc., and operate as a public utility in the Wildwood Water Company, Inc., franchise area; and it is


FURTHER ORDERED, that upon transfer of the utility assets, the franchise of Wildwood Water Company, Inc., is terminated pursuant to RSA 374:28; and it is

FURTHER ORDERED, that the rates, terms, and conditions of Wildwood Water Company, Inc.'s, tariff shall remain applicable to Wildwood Water Company, Inc.'s, customers, and shall be administered by Lakes Region Water Company, Inc., until further action by the Commission; and it is

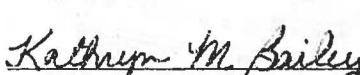
FURTHER ORDERED, that Lakes Region Water Company, Inc., shall incorporate Wildwood Water Company, Inc.'s.. rate schedule into its Tariff No. 7 following Commission approval and notice to customers as contemplated by the Settlement Agreement; and it is

FURTHER ORDERED, that Lakes Region Water Company, Inc., shall file its tariff changes with the Commission and send a notice to all Wildwood customers and the Town of Albany of the Commission's approval of the acquisition, detailing the tariff changes and providing information about the customer service, billing, and payment processes of Lakes Region Water Company, Inc., no later than 30 days prior to the effective date of any tariff changes necessitated by the acquisition, such notice to be approved in advance by the Commission's Director of External Affairs.

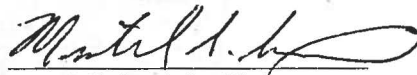
By order of the Public Utilities Commission of New Hampshire this fifteenth day of June, 2018.



Martin P. Honigberg
Chairman

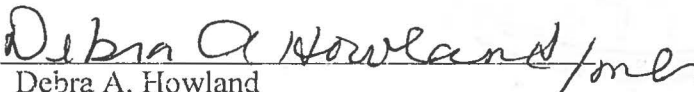


Kathryn M. Bailey
Commissioner



Michael S. Giaimo
Commissioner

Attested by:



Debra A. Howland
Executive Director