

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 20-112

ABENAKI WATER COMPANY, INC.

Request for Change in Rates

Order on Temporary Rates

ORDER NO. 26,482

May 18, 2021

APPEARANCES: NH Brown Law, by Marcia A. Brown, Esq., for Abenaki Water Company, Inc.; George Woodruff and Jeff Phillips, for the Tioga-Belmont Intervenors; Jennifer Speck, for the Bow Intervenors; the Office of the Consumer Advocate by Christa Shute, Esq., on behalf of residential ratepayers; and Staff of the Public Utilities Commission by Eric Wind, Esq.

In this order, the Commission authorizes Abenaki Water Company, Inc., to implement temporary rates set at the level of its current rates, for service rendered after December 31, 2020. As a result, the average bill for a metered customer will remain unchanged until the conclusion of this general rate proceeding. The temporary rates will be subject to reconciliation for service rendered after December 31, 2020, based on the outcome of the permanent rate case.

I. PROCEDURAL HISTORY

On July 16, 2020, Abenaki Water Company, Inc. (Abenaki) filed a notice of intent to file rate schedules. On July 20, the Office of the Consumer Advocate filed a letter of participation, notifying the Commission that it would participate in the proceeding on behalf of residential ratepayers. On September 15, Abenaki filed a request for permanent rate increases and then withdrew the filing with Commission approval. On September 29, 2020, Abenaki re-filed its notice of intent to file rate schedules.

On October 30, 2020, Abenaki filed a petition seeking individual increases in the permanent rates for its Belmont sewer system and four of its water systems (Belmont, Bow, Tioga-Gilford Village, and Tioga-Belmont), as well as further modifications to its current ratemaking structure, including rate consolidation of the four water systems. On November 19, Abenaki filed amended proposed consolidated, temporary, and permanent rate tariffs to replace previously proposed tariffs. As part of its petition for a permanent rate increase and pursuant to RSA 378:27, the Company requested temporary rate increases for each of the systems that are the subject of the permanent rate petition, to be effective as of December 1, 2020. The Company's petition included supporting testimony and proposed revised tariff pages with an effective date of December 1, 2020.

The Commission issued Order No. 26,427 on November 30, 2020, suspending Abenaki's proposed tariff for eighteen months. The Commission issued a corrected Order of Notice on December 24, which scheduled a prehearing conference for February 1, 2021. Between January 6, 2021, and January 30, numerous requests for intervention were filed by individual ratepayers and associations of ratepayers. A prehearing conference was held on February 1, 2021. On February 16, Staff filed a revised proposed procedural schedule which included a hearing on temporary rates to be held on March 31. On February 23, the Commission issued a secretarial letter approving the proposed schedule, granting requests for intervention, and requiring the intervening ratepayers to consolidate into agreed upon groups.

On March 25, 2021, Commission Staff filed a settlement agreement (Settlement Agreement) regarding temporary rates reached between Abenaki; the Ratepayer Intervenors;¹ the

¹ The Ratepayer Intervenors are ratepayers of the Bow and Tioga-Belmont water systems. They are: Jeff Phillips; James Cook; Gene Preul; Cristy Bresson on behalf of herself and the residential customers in Village Shore Estates Association; Robert Carchia; Kevin and Janet Monahan; Diana Staples; Matthew Gatzke and Sandra Crystall; Alan and Sharon Burgess; Jared and Jennifer Sadeck; Kristen and Mike Lang; Susan and Richard Rudolf; George

Office of the Consumer Advocate; and Commission Staff participating in this matter (the Settling Parties). A hearing on Abenaki's petition for temporary rates and the Settlement Agreement was held on March 31, 2021.

Abenaki's request for permanent and temporary rates, and related docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted at <https://www.puc.nh.gov/Regulatory/Docketbk/2020/20-112.html>.

II. POSITIONS OF THE PARTIES AND STAFF

The Settling Parties all agreed that the Commission should grant Abenaki temporary rates at current rates, effective for service rendered after December 31, 2020, for the pendency of Abenaki's rate proceeding. Settlement Agreement at 4-5. In its temporary rate petition, Abenaki referenced having negative net earnings in 2019 for its water systems in Bow, Tioga-Gilford, and Tioga-Belmont. *Id.* at 2. Based on the Company's annual filings, as of December 2019, for Belmont Sewer and the four water systems identified in the instant docket, it is Staff's position that, overall, Abenaki had combined under-earnings. *Id.* at 3. According to the Settlement Agreement, Abenaki agreed that temporary rates will yield operating revenues sufficient to enable Abenaki to meet its operational expenses and debt obligations for the duration of the rate case. *Id.* at 4. The Settling Parties also agreed – as testified to by Staff and Abenaki – that temporary rates set at current rates are in the public interest, and just and reasonable given the recoupment mechanism afforded under RSA 378:29. *See* Hearing Transcript of March 31, 2021, at 26-29.

Woodruff; Dawn Tinsley; Cathy Collette; Carolyn Bancroft; Barbara Hayes; Peter Spain; Tyler and Jennifer Speck; and Benjamin LeVasseur. *See* Secretarial Letter of February 23, 2021.

III. COMMISSION ANALYSIS

Unless precluded by law, informal disposition by stipulation may be made of any contested case at any time prior to the entry of a final decision or order. RSA 541-A:31, V(a). Pursuant to N.H. Admin. R., Puc 203.20(b), the Commission shall approve the disposition of any contested case by stipulation if it determines that the result is just and reasonable and serves the public interest. The Commission encourages parties to settle disagreements through negotiation and compromise because it is an opportunity for creative problem solving, allows parties to reach a result in line with their expectations, and is often a better alternative to litigation. *Hampstead Area Water Company, Inc.*, Order No. 26,131 at 3 (May 3, 2018). Nonetheless, the Commission cannot approve a settlement, even when all parties agree, without independently determining that the result comports with applicable standards. *Id.*

Pursuant to RSA 378:27, the Commission may approve temporary rates for the duration of a rate proceeding if the Commission finds that the public interest so requires and the reports of the public utility filed with the Commission indicate that the proposed temporary rates are reasonable. The standard for approval of temporary rates, which are reconcilable, is less stringent than that for permanent rates, “in that temporary rates shall be determined expeditiously, without such investigation as might be deemed necessary to a determination of permanent rates.” *Appeal of Office of Consumer Advocate*, 134 N.H. 651, 660 (1991) (quoting *New Eng. Tel. & Tel. Co. v. State*, 95 N.H. 515, 518 (1949) (internal quotations omitted).

The Settlement Agreement requests that the Commission approve temporary rates at the level of current rates. We find, based on the Company’s annual reports filed with the Commission, that such temporary rates are sufficient. RSA 378:27. Taking into consideration that temporary rates will be set at current rates, so that customers will not experience a bill

increase at this time, and that the Company and customers are protected by the reconciliation mechanism pursuant to RSA 378:29, we also find that temporary rates set at current rates are just and reasonable under the circumstances. Accordingly, we find the Settlement Agreement just and reasonable and in the public interest, and approve the temporary rate request, subject to reconciliation.

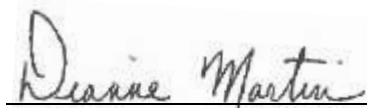
Based upon the foregoing, it is hereby

ORDERED, that the Settlement Agreement on temporary rates is APPROVED; and it is

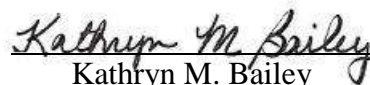
FURTHER ORDERED, that the temporary rates will be effective for service-rendered after December 31, 2020, subject to reconciliation pursuant to RSA 378:29 at the conclusion of Abenaki Water Company, Inc.'s., permanent rate proceeding; and it is

FURTHER ORDERED, that Abenaki shall submit to the Commission properly annotated tariff pages consistent with this order within 15 days of the date of this order, as required by N.H. Admin. R., Part Puc 1603.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of May, 2021.

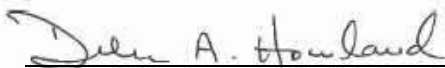


Dianne Martin
Chairwoman



Kathryn M. Bailey
Commissioner

Attested by:



Debra A. Howland
Executive Director

Service List - Docket Related

Docket#: 20-112

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