

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 22-068

LAKES REGION WATER COMPANY, INC.

Petition for Step Adjustment

Order *Nisi* Approving Recovery of Rate Case Expenses

ORDER NO. 26,929

January 5, 2024

In this order, the Commission authorizes Lakes Region Water Company, Inc. (LRWC) to recover Step I rate case expenses in the amount of \$19,245.01 through a total surcharge of \$10.52 per customer recovered over a set number of quarterly periods depending on the customer group, as explained further in this order.

LRWC's petition and subsequent docket filings, other than information for which confidential treatment is requested of or granted by the Commission, are posted to the Commission's website at

<https://www.puc.nh.gov/Regulatory/Docketbk/2022/22-068.html>.

I. BACKGROUND AND PROCEDURAL HISTORY

On May 27, 2022 the Commission approved a permanent rate settlement in Docket No. DW 20-187. *See* Order No 26,633 (Revised on July 12, 2022). The approved Settlement Agreement established the framework for submission of step adjustments for all customers. *See* Order No. 26,633 at 4. Because of the potential for confusion to its customers over a credit being provided for implementation of the permanent rates and a charge for Step I, the parties agreed that the permanent rate revenue requirement and the Step I rate increase would be implemented concurrently. *See* Docket No. DW 20-187 Hearing Exhibit 9 at 3.

LRWC filed its request for the Step I adjustment on October 19, 2022. The Commission docketed the Step I adjustment in this docket. The Commission denied LRWC motion to consolidate the docket. *See* Order No 26,728 (November 18, 2022) On March 27, 2023, the Commission issued Order No. 26,790 approving the Step I adjustment with an effective date of May 1, 2023.

On July 28, 2023, LRWC filed its request to recover rate case expenses. The request encompassed expenses for both dockets (DW 20-187 and 22-068). LRWC's proposal sought recovery of a total of \$94,767.62 in rate case expenses relative to the establishment of permanent rates and Step I, which when offset by a net temporary-to-permanent rate customer credit of \$38,065.44, resulted in a proposed net recovery amount of \$56,703.18.

The Commission reminded LRWC that it had denied the request to consolidate the dockets. *See* Commission's August 15, 2023 order in Docket No. DW 20-187. Subsequently, the settlement signed by LRWC and the Department of Energy (DOE) separated the rate expenses based on the work performed in each docket.

On November 21, 2023 the Commission issued Order No. 26,905 in Docket No. DW 20-187, which approved the parties October 26, 2023 settlement agreement pertaining to the recovery of rate case expenses related to Docket No. DW 20-187 and approved the proposed reconciliation of Temporary-to-Permanent Rates.

On November 21, 2023, the Commission issued a procedural order in Docket No. DW 22-068 requiring the parties to file legal briefing to support the request for expenses related to the Step I Adjustment. In response to the procedural order, LRWC filed a motion for rehearing of Order No. 26,905¹ on December 21, 2023 and the DOE

¹ LRWC December 21, 2023 filing requests that the Commission accept the motion for rehearing as a comprehensive response to the Commission's November 21, 2023 procedural order. *See* LRWC December

filed a responsive legal brief and technical statement on December 21, 2023. On January 2, 2024, LRWC filed a reply brief to the DOE's December 21, 2023 pleading.

II. POSITION OF THE PARTIES

a. LRWC

LRWC asserts that recovery of Step I related expenses was contemplated and approved by the Commission in Docket 20-187. LRWC cites paragraph 9 of section III (A)(ii) of the permanent rate settlement to support its position. LRWC notes that the entire permanent rate settlement was approved by Order No. 26,633. LRWC asserts that it would be unconscionable to disallow the Step related expenses at this late juncture in the proceeding.

Furthermore, LRWC argues that N.H. Admin. Rules 1900 allow for the approval of the Step expenses because the step and subsequent related expenses were contemplated by the settlement agreement for permanent rates and are therefore part of the "full rate case." *See* LRWC December 21, 2023 motion at 10. LRWC cites prior Commission orders that approve non-recurring, prudently and reasonably incurred expenses during Step proceedings. Because LRWC asserts these expenses are authorized by Puc 1900, LRWC asserts that the Commission cannot deny recovery for an expense in the absence of evidence that the expense was excessive, imprudent or otherwise unreasonable. *See Id* at 15. LRWC relies on the DOE review of its Step related expenses to support its position that the expenses incurred were reasonable and related to the procurement of Step I. LRWC relies on the approved Permanent Rate Settlement and argues that the Commission should approve, as submitted, the remaining \$19,245.01 in expenses.

21, 2023 response at 4. The Commission grants LRWC's request and accepts the December 21, 2023 pleading as responsive to the Procedural Order issued in Docket No. DW 22-068 on November 21, 2023.

b. DOE

The DOE supports recovery of appropriate step related expenses in this docket. The DOE acknowledges that expenses related to step increases do not fall within the perimeters of N.H Admin. Rules Chapter 1900. However, step adjustments are valuable tools for regulating small water utilities and therefore, in DOE's view, appropriate step related expenses should be approved for recovery. *See* DOE December 21, 2023 pleading at 5. The DOE asserts that step adjustments mitigate regulatory lag for small water utilities' plant investments that occur within twelve -to- twenty four months of the approved test year. *See Id.* Step increases extend the timeframe between general rate proceedings.

The DOE distinguishes small water utilities management structure from large public utilities and noted that these utilities do not maintain full time professionals in their ordinary operating budgets and have large expenses solely related to rate cases and step adjustment proceeding. *See Id* at 7. The DOE noted that recovery of the expenses related to the step adjustment was contemplated by the Settling Parties in the original Permanent Rate settlement and throughout subsequent filings. Therefore, it would be unfair to disallow these expenses at this late juncture in the proceedings. Finally, the DOE cited multiple examples of past practice that supported recovery of expenses related to the step increase. These examples include prior LRWC cases as well as other small water utilities. *See Id* at 8.

III. COMMISSION ANALYSIS

Unless precluded by law, informal disposition by stipulation, settlement agreement, consent order or default 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 Puc 203.20(b), the Commission shall approve the disposition of any contested case by

stipulation, settlement, consent order or default, if it determines that the result is just and reasonable and serves the public interest.

The Commission finds LRWC's argument that rate expenses for this Step proceeding is authorized by Puc 1900 unpersuasive. Utilities are only authorized to recover "full rate case expenses." See Puc 1906.01. Adjudication of step increases, even if contemplated in the permanent rate proceeding, are not "full rate case proceedings." Therefore, LRWC's reliance on Puc 1903 is misplaced because the definition of a "full rate case proceeding" is not inclusive of all rate mechanisms and adjustments contained in a permanent rate settlement. Accordingly, the Commission finds that the DOE has accurately reflected that expenses associated with step increases do not fall within the ambit of Puc chapter 1900. See DOE's Legal Brief at 5.

However, the parties demonstrated in their briefs, that small water utilities have historically relied on incremental steps in ratemaking dockets as a tool to limit rate shocks to customers, and to provide time between rate cases. The Commission agrees that in a prior LRWC permanent rate docket, Docket No. DW 08-070, LRWC was authorized to recoup expenses associated with a step proceeding. Furthermore, the Commission has approved expenses attributed to step proceedings for similarly situated small water utilities. See, *e.g.*, Order 25,606 (December 19, 2013) in Docket No. DW 13-213.

Finally, the Commission agrees that in this matter the parties requested an implied waiver of Puc 1900 by containing terms of the submission and review of the step expenses in the permanent rate settlement proceedings. See Hearing Exhibit 9 at 5 in Docket No. DW 20-187. Furthermore, the Commission agrees that it granted the implied waiver by approving the Settlement Agreement on permanent rates as submitted in Order No. 26,633. See Order No. 26,633 at 9. However, in future

proceedings parties will be required to file motions to waive the Commission's rules if waiver is necessary.

As the Company has pointed out, the expenses associated with the Step I proceedings have been delineated in this matter and were anticipated in the 2022 proposed settlement of permanent. The Commission held a duly noticed hearing on the permanent rate settlement on May 5, 2022. Section III (A)(ii) of the Permanent Rate Settlement is entitled Proposed Timeline. Paragraph 9 of the timeline indicates that the Company would seek to recoup expenses related to the Step 1 adjustment. *See* Hearing Exhibit 9 at 5 in Docket No. DW 20-187.

The parties proposed settlement concerning the Step I rate expenses indicate that LRWC incurred a total of \$19,245.01 in expenses associated with the adjudication and approval of Step I in this docket. *See* October 26, 2023 settlement at 9. The parties recommended that the rate case expenses be assessed evenly across the company's 1,829 customer base. This results in a \$10.52 per customer surcharge.

The parties proposed settlement for recovery of the surcharge related to Step expenses is as follows:

Previously Approved-Consolidated Tariff Systems (1,718 customers):

Total Step Related Expense per Customer	\$10.52
Proposed Recovery Quarters	<u>÷ 2</u>
Proposed Surcharge Per Customer Per Quarter	<u>\$ 5.26</u>

Dockham Shores Division (62 customers):

Total Step Related Expenses per Customer	\$ 10.52
Proposed Recovery Quarters	<u>÷ 8</u>
Proposed Surcharge Per Customer Per Quarter	\$ 1.32

Wildwood Division (49 customers):

Total Step Related Expenses per Customer	\$ 10.52
Proposed Recovery Quarters	<u>÷ 8</u>
Proposed Surcharge Per Customer Per Quarter	\$ 1.32

The consolidated group (as established in Section G. of the permanent rate settlement in Docket No. DW 20-187) step expenses are to be collected over two quarters.

Dockham Shores and the Wildwood division's step related expenses would be paid over a period of eight quarters, respectively. This payment schedule is consistent with the recoupment schedule approved in Order No. 26,905 (November 21, 2023).

The Commission has reviewed Lakes Region's responses to DOE data requests and technical session requests that were provided as Attachment B to the Settlement Agreement that support the calculation of the expenses related to the Step I docket. Although Puc 1900 does not apply to this matter for the reasons previously explained, these expenses are consistent with rate case and step adjustments expenses previously approved by the Commission for small water utilities such as LRWC. Implementation of Step I was contemplated in the permanent rate docket as a means to avoid rate confusion for customers who received a credit from the temporary-to-permanent rates and rate shocks for the customers who received increased rates. Given that these expenses have been thoroughly reviewed, the Commission approves the expenses and recoupment associated with Docket No. DW 22-068 as submitted.

Based upon the foregoing, it is hereby

ORDERED NISI, that subject to the effective date below, that Lakes Region Water Company, Inc. is authorized to recover \$19,245.01 in Step I case expenses through a surcharge of \$10.52 per customer; and it is

FURTHER ORDERED, that Lakes Region Water Company, Inc. is authorized to recover the total of its Step related expenses through a surcharge as applicable per customer type outlined on page 6 & 7; and it is

FURTHER ORDERED that Lakes Region Water Company, Inc. shall post a copy of this order on the Company's website within two business days of the date of this order (January 09, 2024), with an affidavit of publication to be filed with this office on or before January 17, 2024; and it is

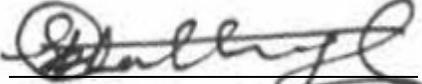
FURTHER ORDERED, that all persons interested in responding to this order be notified that they may submit their comments or file a written request for a hearing, stating the reason and basis for a hearing, no later than January 15, 2024 for the Commission's consideration; and it is

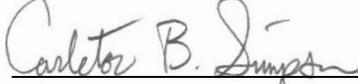
FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than January 23, 2024; and it is

FURTHER ORDERED, that this order shall be effective February 5, 2024, unless the Lakes Region Water Company, Inc. 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 the Lakes Region Water Company, Inc. shall file a compliance tariff with the Commission on or before February 22, 2024, in accordance with New Hampshire Code of Administrative Rules, Puc 1603.02(b).

By order of the Public Utilities Commission of New Hampshire this fifth day of January, 2024.


Pradip K. Chattopadhyay
Commissioner


Carleton B. Simpson
Commissioner

Service List - Docket Related

Docket#: 22-068

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