

BEFORE THE  
STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION

*Lakes Region Water Co., Inc.*  
*Docket No. DW 15 – 209*

MEMORANDUM IN SUPPORT OF SETTLEMENT  
AGREEMENT AND RECOVERY OF TEMPORARY RATES

NOW COMES Lakes Region Water Co., Inc. (“Lakes Region”), by and through Upton & Hatfield, LLP, and offers this *Memorandum in Support of Settlement Agreement and Recovery of Temporary Rates* as follows:

I. THE TEMPORARY RATE SETTLEMENT AGREEMENT.

Lakes Region requests that the Commission approve the Settlement Agreement (“Agreement”) filed separately this day. Lakes Region petitioned for temporary rates because its existing rates provided for less than a reasonable rate of return in 2014. According to Lakes Region’s petition and schedules, the Company earned an actual rate of return of 3.64% which is well below its approved rate of return (8.19%). Lakes Region has accepted certain modifications recommended by Staff and will amend its Annual Report accordingly. However, the Settling Parties have agreed that the Lakes Region is entitled to a temporary rate increase of \$103,694 (9.94%) above the test year water revenues earned from general customers of \$1,043,143 as set forth in the Agreement and Schedule JPL-1. No testimony or evidence has been offered to suggest that Lakes Region is not entitled to this increase.

The Agreement represents a reasonable compromise and the costs of a full evidentiary hearing far outweigh its benefits, particularly when the Settling Parties agree

that permanent rates are to be reconciled to an effective date of September 14, 2015, as provided by RSA 378:29. Lakes Region requests that the Commission approve the Settlement Agreement.

## II. TEMPORARY RATES ARE RECOVERED DURING THIS PROCEEDING.

Lakes Region requests that the Commission decide one issue not directly addressed by the Agreement. Under RSA 378, rate increases may be effective as of “the date on which the utility files its underlying request for a change in its permanent rates.” *Appeal of Pennichuck Water Works*, 120 N.H. 562, 567 (1980); RSA 378:3 (“30 days”); RSA 378:6. Lakes Region filed its permanent rate request on August 5, 2015. The Agreement provides for an effective date of September 14, 2015 which is the date of publication of the Commission’s *Order of Notice*.

Lakes Region will have already issued bills for nearly five months at existing rates by the time the Commission approves the Agreement. This will result in an “unbilled temporary rate increase” of \$29,363.04 as shown on the attached schedule using Lakes Region’s actual bills for period from September 14, 2015 to December 31, 2015 and estimates for January 2015. Recovery of this amount is important to Lakes Region because its existing rates are legally insufficient and because of the costs of this proceeding. Lakes Region therefore requests that the Commission allow it to recover the unbilled temporary rate increase during this proceeding.

Lakes Region submits that RSA 378:27 is clear and directs the Commission to “immediately fix ... for the duration of said proceeding reasonable temporary rates”. It also provides that temporary rates “shall be sufficient to yield not less than a reasonable return ... as shown by the reports of the utility filed with the commission”. The

Agreement and testimony are clear that Lakes Region's existing rates provide for less than a reasonable return. RSA 378:27 therefore directs the Commission to fix temporary rates "immediately." A delay to the end of this proceeding is unreasonable and would make the promise of immediate rate relief under RSA 378:27 illusory.

RSA 378:27 is also clear that temporary rates are to be effective "for the duration of said proceeding". This means that temporary rates are to be recovered while this proceeding is pending. If recovery of the \$29,363.04 is deferred until permanent rates are set, then the effective temporary rate increase will not be recovered until *after this proceeding*. This is contrary to RSA 378:27 which provides for temporary rates to be effective immediately "for the duration of said proceeding". RSA 378:27 simply does not contemplate recovery of temporary rates after a proceeding has concluded.

### III. THE RECOUPMENT STATUTE DOES NOT DELAY RECOVERY OF TEMPORARY RATES

Lakes Region understands Staff's position to be that the recoupment statute, RSA 378:29, provides for recovery of unbilled temporary increases at the conclusion of this proceeding. However, rate recoupment RSA 378:29 is a mechanism to recover "the difference between the gross income obtained from the rates prescribed in such temporary order and the [g]ross income which would have been obtained under the rates finally determined". It is not intended to delay recovery of temporary rates, which are to be fixed "immediately ... for the duration of said proceeding". RSA 378:27.

In fact, delaying recovery of \$29,363.04 would require customers to pay this amount at the conclusion of this proceeding, concurrent with: (1) a permanent rate increase; (2) permanent rate recoupment; and (3) approved rate case expenses. This

conflicts with the intent of RSA 378:29 which directs the Commission to consider the effect of rate increases and minimize overlap of recoupment.<sup>1</sup>

#### IV. CONCLUSION.

RSA 378:27 directs the Commission to “immediately fix ... for the duration of [this] proceeding reasonable temporary rates” which “shall be sufficient to yield not less than a reasonable return”. The Settling Parties agree that Lakes Region is entitled to a temporary rate increase as set forth in the Agreement. Lakes Region requests that the Commission fix temporary rates immediately as provided by the Agreement and provide for a reasonable recovery of unbilled temporary rates during this proceeding.

Respectfully submitted,

LAKES REGION WATER  
COMPANY, INC.

By its Counsel,

UPTON & HATFIELD, LLP



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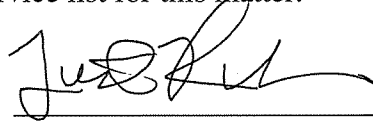
Dated: January 6, 2015

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<sup>1</sup> RSA 378:29 directs the Commission to “*consider the effect of such rates* in fixing, determining, and prescribing rates to be thereafter demanded or received by such public utility on final determination of the rate proceeding.” The Legislature intended the Commission to minimize overlapping increases, not increase them by delaying recovery of temporary rates until well after their effective date.

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was this day forwarded via Electronic Mail to all persons on the Commission's official service list for this matter.

A handwritten signature in black ink, appearing to read "Justin C. Richardson", written over a horizontal line.

Justin C. Richardson

Lakes Region Water Company, Inc.																				
Calculation of Temporary Rate Recovery																				
For the Billed Period of 09/14/15 - 12/31/15																				
and Estimated for the Quarter Ending 01/31/16																				
	Quarterly Rates:																			
	Fixed Rate Pool				Current		Temporary													
					\$ 363.19	[ 1 ]	\$ 399.29	[ 5 ]												
	Fixed Rate Non-Metered				\$ 155.54	[ 2 ]	\$ 171.96	[ 6 ]												
	Fixed Rate Metered				\$ 123.58	[ 3 ]	\$ 135.26	[ 7 ]												
	Volume Rate Metered / ccf				\$ 4.81	[ 4 ]	\$ 5.26	[ 8 ]												
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)	(n)	(o)	(p)	(q)	(r)	(s)	(t)	
					# days		# days from													
					From Beg	Percent	9/14/2015	Percent	Current	Temp	Total	# of		Current	Temp	Total		Total Charges	Actual	Temporary
					of Qtr to	of Total	to end of	of Total	Fixed	Fixed	Fixed	Customers	Total	Volume	Volume	Volume	Volume	Current &	Billed	Unbilled
System	From	To	in Qtr	Total	9/13/2015	Days	Quarter	Days			Rate		Fixed	Rate	Rate	Rate	Charge	Temp		
Metered Customers:									[ 3 ] * (g)	[ 7 ] * (i)	(j) + (k)		(l) * (m)	[ 4 ] * (g)	[ 8 ] * (i)	(j) + (k)	(q) * (e)	(n) + (r)		(s) minus (t)
					9/13/2015		9/14/2015													
02-PS	7/1/2015	9/30/2015	92	3605	75	81.522%	17	18.478%	\$ 100.745	\$ 24.994	\$ 125.738	398	\$ 50,043.83	\$ 3.921	\$ 0.972	\$ 4.893	\$ 17,639.81	\$ 67,683.64	\$ 66,609.64	\$ 1,074.00
02-PS	10/1/2015	12/31/2015	92	1671	0	0.000%	92	100.000%	\$ -	\$ 135.260	\$ 135.260	401	\$ 54,239.26	\$ -	\$ 5.260	\$ 5.260	\$ 8,789.46	\$ 63,028.72	\$ 57,593.09	\$ 5,435.63
					9/13/2015		9/14/2015													
08-DR	7/1/2015	9/30/2015	92	456	75	81.522%	17	18.478%	\$ 100.745	\$ 24.994	\$ 125.738	59	\$ 7,418.56	\$ 3.921	\$ 0.972	\$ 4.893	\$ 2,231.28	\$ 9,649.83	\$ 9,484.58	\$ 165.25
08-DR	10/1/2015	12/31/2015	92	404	0	0.000%	92	100.000%	\$ -	\$ 135.260	\$ 135.260	59	\$ 7,980.34	\$ -	\$ 5.260	\$ 5.260	\$ 2,125.04	\$ 10,105.38	\$ 9,261.44	\$ 843.94
					9/13/2015		9/14/2015													
09-WG	7/1/2015	9/30/2015	92	825	75	81.522%	17	18.478%	\$ 100.745	\$ 24.994	\$ 125.738	74	\$ 9,304.63	\$ 3.921	\$ 0.972	\$ 4.893	\$ 4,036.85	\$ 13,341.48	\$ 13,113.17	\$ 228.31
09-WG	10/1/2015	12/31/2015	92	709	0	0.000%	92	100.000%	\$ -	\$ 135.260	\$ 135.260	73	\$ 9,873.98	\$ -	\$ 5.260	\$ 5.260	\$ 3,729.34	\$ 13,603.32	\$ 12,541.63	\$ 1,061.69
					9/13/2015		9/14/2015													
10-ELW	7/1/2015	9/30/2015	92	357	75	81.522%	17	18.478%	\$ 100.745	\$ 24.994	\$ 125.738	44	\$ 5,532.48	\$ 3.921	\$ 0.972	\$ 4.893	\$ 1,746.86	\$ 7,279.34	\$ 7,154.69	\$ 124.65
10-ELW	10/1/2015	12/31/2015	92	304	0	0.000%	92	100.000%	\$ -	\$ 135.260	\$ 135.260	44	\$ 5,951.44	\$ -	\$ 5.260	\$ 5.260	\$ 1,599.04	\$ 7,550.48	\$ 6,899.76	\$ 650.72
					9/13/2015		9/14/2015													
01-FEH	8/1/2015	10/31/2015	92	614	44	47.826%	48	52.174%	\$ 59.103	\$ 70.570	\$ 129.674	85	\$ 11,022.28	\$ 2.300	\$ 2.744	\$ 5.045	\$ 3,097.50	\$ 14,119.78	\$ 13,457.64	\$ 662.14
01-FEH	11/1/2015	1/31/2016	92	86	0	0.000%	92	100.000%	\$ -	\$ 135.260	\$ 135.260	85	\$ 11,497.10	\$ -	\$ 5.260	\$ 5.260	\$ 452.36	\$ 11,949.46	\$ 10,913.15	\$ 1,036.31
					9/13/2015		9/14/2015													
03-WP	8/1/2015	10/31/2015	92	303	44	47.826%	48	52.174%	\$ 59.103	\$ 70.570	\$ 129.674	42	\$ 5,446.30	\$ 2.300	\$ 2.744	\$ 5.045	\$ 1,528.57	\$ 6,974.87	\$ 6,647.79	\$ 327.08
03-WP	11/1/2015	1/31/2016	92	112	0	0.000%	92	100.000%	\$ -	\$ 135.260	\$ 135.260	42	\$ 5,680.92	\$ -	\$ 5.260	\$ 5.260	\$ 589.12	\$ 6,270.04	\$ 5,729.08	\$ 540.96
					9/13/2015		9/14/2015													
05-HV	8/1/2015	10/31/2015	92	753	44	47.826%	48	52.174%	\$ 59.103	\$ 70.570	\$ 129.674	118	\$ 15,301.52	\$ 2.300	\$ 2.744	\$ 5.045	\$ 3,798.72	\$ 19,100.24	\$ 18,204.37	\$ 895.87
05-HV	11/1/2015	1/31/2016	92	338	0	0.000%	92	100.000%	\$ -	\$ 135.260	\$ 135.260	118	\$ 15,960.68	\$ -	\$ 5.260	\$ 5.260	\$ 1,777.88	\$ 17,738.56	\$ 16,331.80	\$ 1,406.76
					9/13/2015		9/14/2015													
04-WVG	9/1/2015	11/30/2015	91	549	13	14.286%	78	85.714%	\$ 17.654	\$ 115.937	\$ 133.591	84	\$ 11,221.68	\$ 0.687	\$ 4.509	\$ 5.196	\$ 2,852.45	\$ 14,074.13	\$ 13,021.41	\$ 1,052.72
04-WVG	12/1/2015	2/28/2015	(should be billed with full temp rate)																	
					9/13/2015		9/14/2015													
06-WC	9/1/2015	11/30/2015	91	412	13	14.286%	78	85.714%	\$ 17.654	\$ 115.937	\$ 133.591	55	\$ 7,347.53	\$ 0.687	\$ 4.509	\$ 5.196	\$ 2,140.63	\$ 9,488.16	\$ 8,783.43	\$ 704.73
06-WC	12/1/2015	2/28/2015	(should be billed with full temp rate)																	
					9/13/2015		9/14/2015													
07-PC	9/1/2015	11/30/2015	91	625	13	14.286%	78	85.714%	\$ 17.654	\$ 115.937	\$ 133.591	71	\$ 9,484.99	\$ 0.687	\$ 4.509	\$ 5.196	\$ 3,247.32	\$ 12,732.31	\$ 11,780.43	\$ 951.88
07-PC	12/1/2015	2/28/2015	(should be billed with full temp rate)																	
					9/13/2015		9/14/2015													
11-BH	9/1/2015	11/30/2015	91	586	13	14.286%	78	85.714%	\$ 17.654	\$ 115.937	\$ 133.591	47	\$ 6,278.80	\$ 0.687	\$ 4.509	\$ 5.196	\$ 3,044.69	\$ 9,323.49	\$ 8,626.92	\$ 696.57
11-BH	12/1/2015	2/28/2015	(should be billed with full temp rate)																	

