

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 08-052

PITTSFIELD AQUEDUCT COMPANY, INC.

Notice of Intent to File Rate Schedules

Order Authorizing Recovery of Rate Case Expenses and Temporary Rate Recoupment

ORDER NO. 25,076

February 24, 2010

I. BACKGROUND

On December 11, 2009, by Order No. 25,051, the Commission approved a settlement agreement establishing new permanent rates for Pittsfield Aqueduct Company, Inc. (PAC) and accepted the recommendation of Staff and the settling parties that PAC file a reconciliation report to recover the difference between temporary and permanent rates in the proceeding. The Commission also authorized PAC to recover rate case expenses incurred in the instant docket, and directed PAC to file within 20 days of the order a calculation of its rate case expenses as well as a proposed surcharge to recover the expenses.

On December 15, 2009, PAC provided Staff a summary of invoices supporting recovery of \$109,157.59 in rate case expenses. PAC proposed to recover these expenses through a surcharge of \$3.40 per customer over the course of an 18-month period.

Staff reviewed PAC's submission and, on January 5, 2010, filed its recommendation that \$3,377.87 in expenses be eliminated from PAC's request. Staff attached to its recommendation a copy of PAC's December 15, 2009 summary of invoices and surcharge calculation. Staff stated that \$3,157.55 of that total comprised legal fees associated with a contemplated filing by PAC for emergency rate relief. PAC ultimately did not seek emergency rate relief. Staff

recommended elimination of \$42.82 relative to a publishing discount that was offered by the Union Leader Corporation but that was not taken advantage of by PAC. Lastly, Staff recommended elimination of \$177.50 for legal fees relative to the Commission's audit of PAC. Staff, therefore, recommended the Commission approve recovery of \$105,779.72 through a monthly surcharge of \$3.30 per customer over a period of 18 months. Staff stated that PAC, PEU, Town of Pittsfield, and Birch Hill Water District concurred with its recommendation.

On December 18, 2009, PAC filed its report reconciling temporary rates and permanent rates back to June 6, 2008 for customers in its North Country and Town of Pittsfield systems. Consistent with the recommendation in the settlement agreement, PAC proposed that a surcharge or credit to customer bills be collected or applied over a period of 18 months, except for Birch Hill customers who would pay over a period of 24 months. PAC based its calculation on the actual usage of its customers, and determined surcharges and credits as follows: an average Locke Lake customer would pay a monthly surcharge of \$3.48 over 18 months; an average Sunrise Estates customer would receive a monthly credit of \$2.68 over 18 months; an average Birch Hill customer would pay a monthly surcharge of \$24.16 over 24 months; a general metered customer in the Town of Pittsfield would pay an average monthly surcharge of \$6.37 over 18 months; private fire protection customers in the Town of Pittsfield would receive a monthly credit of \$47.59 over 18 months; and PAC's sole public fire protection customer, the Town of Pittsfield, would receive a monthly credit of \$3,947.22 over 18 months.

On January 7, 2010, and in compliance with Order No. 25,051, PAC filed a schedule that showed alternative surcharge and credits for Town of Pittsfield customers over a period of 12 to 18 months. On January 12, 2010, the Office of the Consumer Advocate filed a letter stating that

it took no position on the substance of PAC's accounting or Staff's recommendation on rate case expenses.¹

On January 14, 2010, PAC filed a letter modifying its proposed temporary and permanent rate reconciliation for North Country customers. PAC proposed a one-time credit for customers receiving a credit. PAC said this modification would benefit customers who have significant arrearages and are facing disconnection. PAC proposed no additional changes to its proposed recoupment.

On January 28, 2010, the Town of Pittsfield recommended that the credit for public fire protection be refunded in one of two ways: either as an initial credit of \$23,683.32 followed by 12 smaller credits of \$3,947.22; or 12 equal credits of \$5,920.83 per month. The Town of Pittsfield stated that such a repayment period would be more consistent with how the Town first paid the charges, that is, it made one large payment for June to December 2008 followed by 12 additional payments over the course of 2009.

On February 5, 2010, Staff filed a letter recommending approval of the proposed temporary and permanent rate recoupment and credits. Staff stated that, on January 26, 2010, PAC had communicated electronically with Staff and the parties to state that it agreed with the Town of Pittsfield's proposal of equal monthly credits of \$5,920 over a 12-month period.

¹ The OCA expressed concern that the Company had not filed its December 15, 2009 itemization of rate case expenses directly with the parties in the first instance. It further observes that such filings "could be made available to the general public through the Commission's...website" and would "afford the public the opportunity to comment." The relevant ordering clause in Order No. 25,051 directed the Company to "file an accounting of its rate case expenses" within twenty days. The better course for the Company would have been to interpret this directive to include filing with all the parties, which is how it treated its report reconciling temporary and permanent rates. The OCA's comment that "[n]either the Commission nor the parties benefit from a process that is done outside the public's view," however, is obviously inapplicable here inasmuch as Staff attached the Company's accounting of rate case expenses to its recommendation, both items are available through the Commission's website, and the opportunity to comment was available, as demonstrated by the OCA letter itself.

II. COMMISSION ANALYSIS

RSA 378:29 requires the Commission to allow utilities to amortize and recover the difference between temporary rates and permanent rates over the effective period of the temporary rates if, upon the final disposition of the rate proceeding, the rates ultimately approved exceed the earlier imposed temporary rates. The revenue shortfall, when compared with the temporary rates actually charged after the June 6, 2008 effective date, totals \$52,788.81 for Locke Lake, \$121,177.04 for Birch Hill, and \$73,062.08 for Pittsfield general metered customers. The reconciliation of temporary and permanent rates also produced an over-collection of \$3,908.74 for Sunrise Estates, \$9,422.44 for Pittsfield private fire protection customers, and \$71,050.00 for the Town of Pittsfield's public fire protection service. We have reviewed the settlement agreement and the various filings from Staff and the parties concerning how to recover and credit the difference between temporary and permanent rates. We find PAC's proposal, as modified for a one-time credit to North Country customers and for a credit over 12 months for the Pittsfield public fire protection customer to be just and reasonable and we concur with Staff and the parties' recommendations. Therefore, we approve recovery and credit of the proposed revenue differential between temporary and permanent rates in the amounts specified above. We understand that this revenue differential comprises amounts calculated on a customer-specific basis, reflecting each customer's actual water consumption during the period temporary rates were in effect.

The Commission has historically treated prudently incurred rate case expenses as a legitimate cost of business appropriate for recovery through rates. *Lakes Region Water Company, Inc.*, Order No. 24,708, 91 N.H. PUC 586, 587 (2006). Consistent with that policy,

we have reviewed PAC's rate case expense summary as well as recommendations filed in this docket. We agree with Staff that charges totaling \$3,377.87 for expenses related to the lack of availing itself of a publishing discount, the contemplated filing for emergency rates, and Commission Audit should be disallowed. PAC ought to take advantage of discounts when it can, legal fees for filings contemplated but not made are not prudently incurred rate case expenses, and responding to audit requests is a continuing obligation of utilities under RSA 374:18 and is recognized in calculating permanent rates per RSA 378:28. Allowing expenses associated with responding to audit requests as a surcharge for rate case expenses would, in effect, amount to a double recovery of these expenses. Accordingly, we will approve PAC's recovery of \$105,779.72 in rate case expenses. We further find that recovery of these expenses through a monthly surcharge of \$3.30 per customer over a period of 18 months is consistent with the settlement agreement previously approved in this docket, is just and reasonable, and that such recovery will not unduly burden customers.

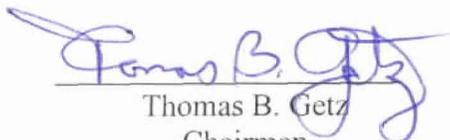
Based upon the foregoing, it is hereby

ORDERED, that Pittsfield Aqueduct Company, Inc. is authorized to recover and shall refund the difference between its temporary rates approved in *Pittsfield Aqueduct Company, Inc.*, Order No. 24,942, 93 NH PUC 639 (2008) and the permanent rates approved in Order No. 25,051 dated December 11, 2009 through surcharges and credits as detailed above; and it is

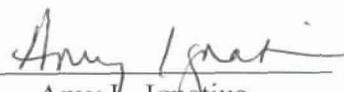
FURTHER ORDERED, that Pittsfield Aqueduct Company, Inc. is authorized to charge a monthly surcharge of \$3.30 per customer over 18 months, or until the full amount of \$105,779.72 in rate cases expenses is collected, whichever is earlier; and it is

FURTHER ORDERED, that Pittsfield Aqueduct Company, Inc. shall file a compliance tariff within fourteen calendar days of the date of this order.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of
February, 2010.


Thomas B. Getz
Chairman


Clifton C. Below
Commissioner


Amy L. Ignatius
Commissioner

Attested by:


Lori A. Davis
Assistant Secretary

