

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DW 10-306

LAKELAND MANAGEMENT COMPANY, INC.

ORIGINAL	
N.H.P.U.C. Case No.	DW 10-306
Exhibit No.	#4
Witness	Panel 1
DO NOT REMOVE FROM FILE	

Petition for Rate Increase

SETTLEMENT AGREEMENT – PERMANENT RATES

I. INTRODUCTION

This Agreement is entered into this 14th day of December, 2011, between Lakeland Management Company, Inc. (Lakeland or Company) and the Staff (Staff) of the New Hampshire Public Utilities Commission (Commission) with the intent of resolving issues in this proceeding. Lakeland and the Staff are referred to collectively in this Agreement as the Settling Parties.

II. TERMS OF AGREEMENT

The Settling Parties have reached agreement on all issues as specified below.

A. Revenue Requirement; Rate Base; Rate of Return; Capital Structure

1) Water Division –

a) The Settling Parties agree that the Commission should authorize a revenue requirement of \$127,215 for Lakeland for its water service, based on a pro forma test year rate base of \$273,178, operating expenses of \$97,348 and an overall rate of return of 9.07%. The overall rate of return is based on a cost of equity of 9.75%, a cost of long-term debt of 7.00%, and a capital structure of 24.8% debt and 75.2% equity. The revenue requirement agreed to by the Settling Parties results in an increase of \$42,570, or 50.29%, over pro forma test year operating revenues of \$84,645. See schedules included as Attachment A.

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b) Step Adjustment – The Settling Parties agree that the Commission should authorize a single step adjustment to reflect plant additions added to service in 2010. These plant additions are composed of two concrete water storage tanks, and variable frequency drives for two existing booster pumps. These plant additions were largely financed by low cost American Recovery and Reinvestment Act (ARRA) funds, with 50% forgiveness of the principal balance. The step increase results from net additional rate base of \$56,623. Additional financing to complete the project was provided by Lakeland’s affiliate, C & C Water Services, in the amount of \$16,727 and at an interest rate of 7.0%. With the ARRA funds carrying an interest rate of 2.34%, the weighted cost of debt for the step increase is 4.49%. With depreciation and property taxes, the step adjustment requires additional revenues of \$6,176, for a total revenue requirement for the water division of \$133,392. See schedules included as Attachment A. As of the date of this agreement, an audit of the new plant placed in service during 2010 has not been performed by the Commission Audit Staff. It is anticipated that this examination will occur in the near future and a report will be issued by the Audit Staff. If the Audit Staff’s report reveals any material discrepancies in the amount presented in the schedules to this Settlement Agreement, Staff will notify the Commission of these as well as the resulting impact on proposed customer rates.

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2) Sewer Division -

a) The Settling Parties agree that the Commission should authorize a revenue requirement of \$80,064 for Lakeland for its sewer service, based on a pro forma test year rate base of \$70,451, operating expenses of \$71,232 and an overall rate of return of 9.75%. The overall rate of return is based on a cost of equity of 9.75%, a cost of long-term debt of 0.0% and a capital structure of 0.0% debt and 100.0% equity. The revenue requirement agreed to by the Settling Parties results in an increase of \$7,784, or 10.77%, over pro forma test year operating revenues of \$72,280. See schedules included as Attachment B.

b) **Step Adjustment** – The Settling Parties agree that the Commission should authorize a single step adjustment for the sewer division to reflect rate base additions added to service in 2010. These rate base additions are composed of improvements to increase the electrical service to the sewer lift station costing \$3,855 as well as a backup pump and motor for the lift station costing \$7,316 which are currently held in inventory. The step increase results from net additional rate base of \$11,123. With a return on rate base of \$1,084 calculated at 9.75%, and with depreciation and property taxes, the step adjustment requires additional revenues of \$1,566, for a total revenue requirement for the sewer division of \$81,630. See schedules included as Attachment B. As of the date of this agreement, an audit of the 2010 rate base additions has not been performed by the Commission Audit Staff. It is anticipated that this examination will occur in the near future and a report will be issued by the Audit

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Staff. If the Audit Staff's report reveals any material discrepancies in the amount presented in the schedules to this Settlement Agreement, Staff will notify the Commission of these as well as the resulting impact on proposed customer rates.

The Settling Parties agree that the foregoing revenue requirements represent a reasonable compromise of all issues relating to the revenue requirements pending before the Commission for purpose of permanent rates, including allowed overall rate of return, return on equity, capital structure, *pro forma* adjustments, capital additions to rate base, and operating expenses. As the sums expressed above are the result of compromise and settlement, they are liquidations of all adjusted net operating income requirement and revenue requirement issues. The Settling Parties agree that the revenue requirements recommended to the Commission in this Agreement result in permanent rates for Lakeland's water and sewer customers that are just and reasonable.

B. Petition to Borrow

On December 5, 2011, Lakeland filed a request for approval pursuant to RSA 369 of two long-term debt instruments; one for \$16,727 and a second for \$47,192. Accompanying this petition was an assented-to Motion to Consolidate this request with the instant rate case docket. The funds associated with the \$47,192 loan were used to complete construction of Well No. 5 and to integrate the well into Lakeland's water system. Lakeland borrowed these funds from C&C Water Services, Inc., an affiliate. The promissory note dated September 1, 2010 for this loan is attached as Attachment C. The funds associated with the \$16,727 loan were used to complete the purchase and installation of two new water storage tanks, totaling 30,000 gallons of water, including main piping, valves, and fittings, as detailed above. Lakeland borrowed these

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funds from C&C Water Services, Inc. as well. The promissory note dated September 1, 2010 for this loan is attached as Attachment D.

The capital improvements made with the two loans are presently used and useful in the provision of water service to customers. The capital improvements were necessary for the provision of safe and adequate service. The Settling Parties recommend the Commission provide its approval of these loans.

C. Rate Design

The Settling Parties recommend the rate design for the water division as illustrated on Attachment A, Schedule 5. The Residential Multi-Family (MRM) class consists of the new Maple Hill Acres development, which consists of four buildings with 8 units in each building. The customer in this class is recommended to see an increase of 92.75% because test year revenues for this class were based on application of the Commercial Class B (MCB) to these customers until new rates could be set in this docket. Customer rates on a per-unit basis resulting from this revenue allocation are the same for the MRM class as in the Residential Single Family (MRS) class. For the sewer division, the rate design is recommended as shown on Attachment B, Schedule 5. The Commercial Class A (CA), Commercial Class B (CB) and Residential Single Family (MRS) are to see increases in revenues of 6%. The Residential Multi-Family (MRM), consisting of Maple Hill Acres, is to see an increase of 63.53% due to 1) direct allocation of operation and maintenance expenses for the lift station dedicated to providing service to Maple Hill Acres, and 2) the test year base of revenues results from the application of the CB rate in the test year.

D. Effective Date for Permanent Rates

The Settling Parties recommend the proposed revenue requirements and rates be effective for service rendered on/after October 1, 2011.

E. Rate Case Expense Surcharge

The Settling Parties agree that Lakeland should be allowed to recoup its reasonable and prudent rate case expenses for this docket through a surcharge. Rate case expense are estimated to be approximately \$208 per customer, on average, and may include, but shall not be limited to, Lakeland's legal expenses and consultant expenses, and incremental administrative expenses such as copying and delivery charges. Lakeland agrees to submit its final rate case expense request to the Commission no later than December 31, 2011. Staff will review Lakeland's proposed rate case expenses and proposed surcharge and will file its recommendation with the Commission.

Upon receipt of the Commission's final order, the Company agrees to file a compliance tariff supplement including the approved surcharge relating to recoupment of the rate case expenses.

F. Affiliate Agreements

On December 31, 2009, Lakeland Management Company, Inc. entered into an agreement with C&C Water Services, Inc., a water system operator, for the period January 1, 2010 to December 31, 2011. See Attachment E. The two companies are under common ownership. Under the agreement, C&C Water Services, Inc. will operate Lakeland's water system and provide general maintenance and repair of operations structures, among other things. Lakeland

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will pay C&C a monthly fee of \$3,798, an hourly rate for a licensed water operator of \$60, an hourly rate for a mechanic of \$50, and a quarterly rate for billing services of \$2,450. Staff and Lakeland agree that the fees contained in this affiliate agreement are reasonable and appropriate. The fees have been included in the revenue requirement proposed above.

On December 2, 2011, Lakeland Management Company, Inc. entered into a service agreement with Theresa Crawshaw, President of Lakeland, to provide various administrative services for the Company not covered by the C & C Water Services contract. See Attachment F. These services include various accounting tasks, the hiring and oversight of various contractors, attorneys, accountants and other professionals as well as oversight of regulatory matters involving various state agencies. Lakeland will pay Ms. Crawshaw a fee of \$25 per hour. It is estimated that the annual cost of these services will amount to \$3,450 per year which has been incorporated into the revenue requirements proposed above and is less than the amount booked for the test year.

III. CONDITIONS

This Agreement is expressly conditioned upon the Commission's acceptance of all its provisions, without change or condition, and if the Commission does not accept said provisions in their entirety, without change or condition, any party hereto, at its sole option exercised within thirty days of such Commission order, may withdraw from this Agreement, in which event it shall be deemed to be null and void and without effect and shall not be relied upon by Staff or any party to this proceeding or by the Commission for any purpose.

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The Commission's acceptance of this Agreement does not constitute continuing approval of, or precedent regarding, any particular principle or issue in this proceeding, but such acceptance does constitute a determination that (as the Settling Parties believe) the adjustments and provisions set forth herein in their totality are just and reasonable and that the revenues contemplated will be just and reasonable under the circumstances.

The Commission's approval of the recommendations in this Agreement shall not constitute a determination or precedent with regard to any specific adjustments, but rather shall constitute only a determination that the income requirement, rates, rate base and rate of return, as specified in Section II.A., and the other provisions of this Agreement, when considered as a whole, are just and reasonable.

The discussions that produced this Agreement have been conducted on the explicit understanding that all offers of settlement relating thereto are and shall be confidential, shall be without prejudice to the position of any party or participant representing any such offer or participating in any such discussion, and are not to be used in connection with any future proceeding or otherwise.

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IN WITNESS WHEREOF, the Settling Parties have caused this Agreement to be duly
executed in their respective names by their fully authorized agents.

Lakeland Management Company, Inc.

By its attorney

David William Jordan

Dated: December 14, 2011

By:


David William Jordan

STAFF OF THE NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

Dated: December 14 2011

By:


Marcia A. B. Thunberg
Staff Attorney