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**STATE OF NEW HAMPSHIRE**  
**PUBLIC UTILITIES COMMISSION**

**September 17, 2020 - 1:04 p.m.**

*[Remote Hearing conducted via Webex]*

**RE: DW 20-071**  
**ATKINSON AREA WASTEWATER**  
**RECYCLING, INC.:**  
**Request for Change in Rates and**  
**Request for Waiver of Certain**  
**Puc 1604.01 Requirements.**  
**(Prehearing conference)**

**PRESENT:** Chairwoman Dianne Martin, Presiding  
Cmsr. Kathryn M. Bailey  
Cmsr. Michael S. Giaimo

Jody Carmody, Clerk  
Eric Wind, PUC Remote Hearing Host

**APPEARANCES:** **Reptg. Atkinson Area Wastewater**  
**Recycling, Inc.:**  
Anthony Augeri, Esq.  
  
**Reptg. PUC Staff:**  
Mary Schwarzer, Esq.  
Jayson Laflamme, Asst. Dir./Gas & Water

Court Reporter: Steven E. Patnaude, LCR No. 52

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**STATEMENTS OF PRELIMINARY POSITION BY:**

Ms. Schwarzer	7
Mr. Augeri	10

**P R O C E E D I N G**

1  
2 CHAIRWOMAN MARTIN: We're here this  
3 afternoon in Docket DW 20-071 for a prehearing  
4 conference regarding the Atkinson Area Wastewater  
5 Recycling, Incorporated, request for change in  
6 rates.

7 I need to make the necessary findings,  
8 because this is a remote hearing.

9 As the Chairwoman of the Public  
10 Utilities Commission, I find that due to the  
11 State of Emergency declared by the Governor as a  
12 result of the COVID-19 pandemic, and in  
13 accordance with the Governor's Emergency Order  
14 Number 12, pursuant to Executive Order 2020-04,  
15 this public body is authorized to meet  
16 electronically. Please note that there is no  
17 physical location to observe and listen  
18 contemporaneously to this hearing, which was  
19 authorized pursuant to the Governor's Emergency  
20 Order.

21 However, in accordance with the  
22 Emergency Order, I am confirming that we are  
23 utilizing Webex for this electronic hearing. All  
24 members of the Commission have the ability to

1           communicate contemporaneously during this  
2           hearing, and the public has access to  
3           contemporaneously listen and, if necessary,  
4           participate.

5                         We previously gave notice to the public  
6           of the necessary information for accessing the  
7           hearing in the Order of Notice. If anybody has a  
8           problem during the hearing, please call  
9           (603)271-2431. In the event the public is unable  
10          to access the hearing, the hearing will be  
11          adjourned and rescheduled.

12                        Okay. Let's take roll call attendance  
13          of the Commission. When each Commissioner  
14          identifies him or herself, please also state if  
15          anyone else is with you and identify them.

16                        My name is Dianne Martin. I am the  
17          Chairwoman of the Public Utilities Commission.  
18          And I am alone.

19                        Commissioner Bailey.

20                        CMSR. BAILEY: Good afternoon. Kathryn  
21          Bailey, Commissioner of the Public Utilities  
22          Commission. And I am alone.

23                        CHAIRWOMAN MARTIN: Commissioner  
24          Giaino.

1 CMSR. GIAIMO: Good afternoon. Mike  
2 Giaimo, Commissioner. I, too, am alone.

3 CHAIRWOMAN MARTIN: All right. And  
4 let's take appearances please. And I -- can you  
5 say your last name first for me, counsel for  
6 Atkinson? I don't want to mess it up on you.

7 MR. AUGERI: It's a soft "g". It's  
8 Tony Augeri, --

9 CHAIRWOMAN MARTIN: "Augeri".

10 MR. AUGERI: -- General Counsel for  
11 Atkinson Area Wastewater Recycling, Inc.

12 CHAIRWOMAN MARTIN: Okay. Nice to meet  
13 you. Thank you.

14 MR. AUGERI: Nice to meet you, too.

15 CHAIRWOMAN MARTIN: All right. And  
16 Attorney Schwarzer. And I think you're on mute.

17 MS. SCHWARZER: Good morning -- good  
18 afternoon, I guess, Madam Chair and  
19 Commissioners. I am Mary Schwarzer. Staff  
20 attorney with the PUC, representing Commission  
21 Staff. With me is the Assistant Director of  
22 Water and Gas, Jayson Laflamme.

23 CHAIRWOMAN MARTIN: Okay. Thank you.  
24 And, for preliminary matters, I have

1           that we have a pending Motion for Confidential  
2           Treatment.  And, for purposes of today, we will  
3           treat the information that's the subject of that  
4           motion as confidential and issue a written order  
5           on that later.

6                         Does anyone need to be heard on that or  
7           are there any other preliminary matters?

8                         MR. AUGERI:  Madam Commissioner, we do  
9           not.  We rely on the filings and papers  
10          submitted.

11                        CHAIRWOMAN MARTIN:  Okay.  Thank you.  
12          All right.  If there are no other -- oh, Attorney  
13          Schwarzer, go ahead.  You're on mute.

14                        MS. SCHWARZER:  Thank you, Madam  
15          Chairwoman.

16                        I wanted to bring to the Commission's  
17          attention that Attorney Augeri filed some  
18          additional documents into the record today  
19          showing letters sent to particular clients for  
20          notice, consist with the order suspending the  
21          tariff, to comply with the requirement.

22                        CHAIRWOMAN MARTIN:  Okay.  Thank you.

23                        All right.  Why don't we take initial  
24          positions then, starting with Attorney Schwarzer.

1 MS. SCHWARZER: Okay. Am I unmuted?  
2 Thank you. I wanted to give the Commission a  
3 little background on this particular docket.

4 AAWW filed a petition in 2007 for  
5 approval of acquisition of assets, financing, and  
6 the establishment of permanent rates. And it was  
7 resolved by a Stipulation Agreement among the  
8 parties, and approved by the Commission in Order  
9 24,899, in September of 2008. That was docket  
10 07-131.

11 The order noted that service to  
12 Atkinson Heights, which is a proposed 55+  
13 condominium development of nine buildings and 32  
14 units each, was prospective at the time. And, to  
15 date, no condominiums have been built. In  
16 addition, in 2007, AAWW, it was their first  
17 establishment of rates, and therefore it deviated  
18 from the historical test year method.

19 The substantive matters that Staff and  
20 the parties will address in this current docket  
21 include standard rate case matters. Are the  
22 rates just, reasonable, lawful? Was there an  
23 appropriate return on investment? Were the  
24 investments prudent and useful? There are also

1           some additional issues.

2                   As stated, AAWW continues to serve no  
3 residential customers. And they have one  
4 commercial customer, a country club and golf  
5 course, which is a closely held entity owned by  
6 related parties, who also own AAWW.

7                   The prior rate order was based upon the  
8 Company's estimate that four out of the nine  
9 total approved buildings, 32 units each, or 128  
10 residential customers total, would be paying  
11 residential rates. And, as stated, there are no  
12 residential ratepayers at this time. At present,  
13 there is one building under construction.

14                   In this docket, the Company is  
15 proposing an annual base charge increase of 94.6  
16 percent for the commercial and for the  
17 nonexistent residential customers. They are  
18 proposing a sewer consumption charge increase of  
19 41.6 percent for both classes of customers.

20                   Overall, their Petition says that they  
21 propose a permanent revenue increase of  
22 approximately \$56,000, and a percentage increase  
23 of 94 percent. That actual \$56,000 will come  
24 from the one commercial customer. It would break



1 down to \$979 approximately for each residential  
2 customer. Again, there are not any.

3 So, Staff looks forward to learning  
4 more about the proposed increases as we  
5 investigate this docket in the tech session  
6 that's going to follow.

7 In the 2007 to 2008 rate proceeding, of  
8 necessity, the Company relied upon estimates.  
9 But, now, with more than ten years of experience,  
10 Staff anticipates that the estimates will provide  
11 more substantial -- excuse me -- that AAWW will  
12 provide more substantial support to explain its  
13 stated need to increase the rates.

14 In this docket, temporary rates have  
15 not been requested. The Company is also asking  
16 that they be permitted to charge the Contribution  
17 in Aid of Construction, or CIAC tax, to the  
18 entity making the cash or asset contribution, and  
19 they also wish to reflect that change in their  
20 tariff.

21 I would like to note that AAWW has  
22 requested that the permanent revenue increase be  
23 effective as of December 1st, 2020. Staff does  
24 not feel that that timeframe is possible.

1           However, we anticipate handling the docket in a  
2           timely and efficient matter. Early discussions  
3           with the Company regarding a procedural schedule  
4           suggest the possibility of a hearing before the  
5           Commission in early 2021.

6                        So, in sum, we look forward to working  
7           collaboratively with the Company to resolve the  
8           issues raised in this docket.

9                        Thank you.

10                      CHAIRWOMAN MARTIN: Okay. Thank you.  
11           Attorney Augeri.

12                      MR. AUGERI: Thank you, Madam  
13           Chairwoman. Again, my name is Tony Augeri. I'm  
14           the General Counsel for Atkinson Area Wastewater  
15           Recycling, "AAWW" for short.

16                      Attorney Schwarzer did a fine job of  
17           the history and the background in this matter. I  
18           would just add, rather than repeat that, I'll  
19           just add in a few other items that relate to  
20           this, in terms of the background.

21                      Yes. This was approved, I believe,  
22           filed in '07 and approved in 2008. And one  
23           question or an area of questioning we may  
24           anticipate is "Why now?" And "Why didn't

1 something happen with regard to the residential  
2 construction before now?" And there was a number  
3 of factors, not the least of which was a extreme  
4 downturn in the economy at that time. But also,  
5 and perhaps even more striking to the Companies,  
6 was the death of Peter Lewis in May of 2008. And  
7 those two events really added to -- it caused a  
8 lot of, you know, this to be put on hold to until  
9 now.

10 We are now under construction, nearly  
11 complete of the first building. And the  
12 frame-out, rough roof, and rough end work is  
13 almost complete. It is anticipated that we  
14 will -- we're targeting occupation in February of  
15 2021 now. Originally, we were more optimistic  
16 that perhaps we could get in by December, which  
17 is why the Petition had asked for any rates that  
18 were approved by the Commission to be effective  
19 December 1st. And, as Attorney Schwarzer noted,  
20 and kindly provided a draft procedural schedule,  
21 that the Company has no objection to. And we  
22 look forward to speaking with Staff during the  
23 technical session that follows, and don't foresee  
24 any issues in scheduling in that regard.

1           It has been thirteen years since the  
2           last rate case. There is a history of the  
3           commercial customer, which is the Atkinson Resort  
4           & Country Club. There is still no, although we  
5           have a better handle on the numbers for  
6           residential customers, they are still  
7           projections. So, we hope to flesh that out  
8           during the technical session, and look forward to  
9           doing so.

10           The filing itself, I guess to be kind,  
11           had some hiccups. And, today, even down to the  
12           pagination, which I missed, was just submitted,  
13           so that there's sufficient identification of each  
14           page submitted in the filing for the Staff and  
15           the Commission's ease of reference. And all I  
16           will say to that regard, is I apologize for that,  
17           those omissions. But it has been taken care of.

18           Finally, there was -- I will also take  
19           ownership to the notice that Attorney Schwarzer  
20           referenced to the known customers or known  
21           potential customers that was pursuant to the  
22           order that suspended the tariff of the Company.  
23           I perhaps misread it, to say -- to indicate that  
24           only the affidavit needed to be filed for the

1 publication side, and not the letters to those,  
2 that were mailed to those two entities, which  
3 there was only two. I will confirm on the record  
4 now that there is only still one known customer.  
5 And, in an abundance of caution, a known  
6 potential customer we identified as the  
7 developer, because the building is almost  
8 complete. So, both of those entities were  
9 provided notice.

10 Again, I did not send it by way of an  
11 affidavit, though that was just filed. But it  
12 was sent out and mailed, which I certified in the  
13 record, and do so right here, that it was done  
14 before the August 21st deadline within the  
15 Commission's order. And, in fact, both notices  
16 were mailed through the U.S. Postal Service on  
17 August 18th, 2020.

18 We have -- I would just also note,  
19 especially in regard to Attorney Schwarzer, we  
20 have been in active communication, which has been  
21 great. And we look forward to continuing those  
22 efforts with her and with the rest of Staff.

23 The only comment I would make on the  
24 submitted tariff is there was one other change,

1           besides the addition of the language to CIAC, in  
2           addition to whichever, should the Commission  
3           either reach settlement or otherwise on the  
4           rates. And that is just a small change that  
5           indicates that billing will be now done -- or,  
6           we're seeking that the Commission approve to be  
7           done on a monthly basis, rather than a quarterly  
8           basis.

9                        We look forward to working with the  
10           parties, and also participating in the technical  
11           session to follow this prehearing. And do look  
12           forward to, as back in 2007-2008, reaching a  
13           settlement that can be presented to the  
14           Commission in due course.

15                        Thank you.

16                        CHAIRWOMAN MARTIN: All right. Thank  
17           you.

18                        Is there anything else, counsel, that  
19           we need to cover before the technical session?

20                        MS. SCHWARZER: No.

21                        MR. AUGERI: Other than questions that  
22           may follow, none for the Company.

23                        CHAIRWOMAN MARTIN: Commissioners, do  
24           you have any questions?

1                    *(Commissioner Bailey indicating in the*  
2                    *negative.)*

3                    CMSR. GIAIMO: I'm fine. Thanks.

4                    CHAIRWOMAN MARTIN: All right. Then,  
5                    we will let you get off to your technical  
6                    session. And we are done for today. Thank you.

7                    ***(Whereupon the prehearing conference***  
8                    ***was adjourned at 1:20 p.m., and a***  
9                    ***technical session was held thereafter.)***

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