

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

**Docket No. DW 20 – 187**

*Lakes Region Water Co., Inc.*

*Petition for Permanent and Temporary Rate Increases*

Lakes Region Water Co., Inc. (“Lakes Region”) petitions for temporary and permanent rate increases pursuant to RSA 378:28 as follows:

**I. SUMMARY**

1. Lakes Region requests both temporary and permanent rate increases in this proceeding pursuant to RSA 378. Lakes Region’s request is the result of increased costs to serve its customers since its last rate case which was based on a 2014 test year. As set forth in the testimony of Lakes Region President Thomas A. Mason and its rate consultant Stephen P. St. Cyr, Lakes Region has made substantial investments in system improvements to 19 water systems since its last rate case in order to replace aging infrastructure and to improve the quality of service to customers.

2. Lakes Region seeks a permanent rate increase based on its 2019 test year financial results. In 2019, Lakes Region’s net operating income was \$242,025 resulting in an actual rate of return of 6.42% based on a 13-month average rate base of \$3,771,357. This is significantly less than both Lakes Region’s allowed rate of return and a reasonable return on Lakes Region’s investment in utility plant to serve its customers. As explained in the Testimony of Stephen St. Cyr, Lakes Region’s *pro forma* operating income requirement for the 2019 test year is \$327,545, resulting in an operating income deficiency of \$85,520.

3. Lakes Region also seeks a temporary rate increase effective as of the date of publication of notice to customers. As explained in the testimony of Stephen St. Cyr, Lakes Region requests an increase in temporary rates on a consolidated basis of \$56,673 or 4.51% above its approved permanent rates. This minor increase is reasonable, particularly because RSA 378:29 allows for reconciliation to the final rates approved by the Commission. Approval of temporary rates will reduce the impact of recoupment and rate case expense recovery.

## II. STANDARD FOR TEMPORARY AND PERMANENT RATE INCREASES

4. RSA 378:7 authorizes the Commission to fix rates after a hearing upon determining that the rates, fares, and charges are just and reasonable. In determining whether rates are just and reasonable, the Commission must balance the customers' interest with the investors' interest in obtaining a reasonable return on their investment. *Appeal of Eastman Sewer Co.*, 138 N.H. 221, 225 (1994).

5. RSA 378:27 governs the establishment of temporary rates and provides:

**378:27 Temporary Rates.** – In any proceeding involving the rates of a public utility brought either upon motion of the commission or upon complaint, the commission may, after reasonable notice and hearing, if it be of the opinion that the public interest so requires, immediately fix, determine, and prescribe for the duration of said proceeding reasonable temporary rates; provided, however, that such temporary rates shall be sufficient to yield not less than a reasonable return on the cost of the property of the utility used and useful in the public service less accrued depreciation, as shown by the reports of the utility filed with the commission, unless there appears to be reasonable ground for questioning the figures in such reports.

6. RSA 378:28 governs the approval of permanent rates and provides:

**378:28 Permanent Rates.** – So far as possible, the provisions of RSA 378:27 shall be applied by the commission in fixing and determining permanent rates, as well as temporary rates. The

commission shall not include in permanent rates any return on any plant, equipment, or capital improvement which has not first been found by the commission to be prudent, used, and useful. Nothing contained in this section shall preclude the commission from receiving and considering any evidence which may be pertinent and material to the determination of a just and reasonable rate base and a just and reasonable rate of return thereon.

7. The two statutes direct that temporary rates be set based on the “used and useful” standard applied to plant of the utility “as shown by the reports of the utility, unless there appears to be reasonable ground for questioning the figures in such reports”. Permanent rates involve consideration of whether the utility investment in plant meets both the “prudence” and “used and useful” standards.

8. In the *Investigation of Scrubber Costs and Cost Recovery and Determination Regarding Eversource's Generation Assets*, DE 11-250 and DE 14-238; Order No. 25,920 (July 01, 2016), the Commission explained the “prudence” standard to be applied under RSA 378:28 when setting utility rates. The Commission explained:

"The commission shall not include in permanent rates any return on any plant, equipment, or capital improvement which has not first been found by the commission to be prudent, used, and useful." RSA 378:28. In order to approve the settlements, which permit placement of the scrubber in rate base, we must determine the investment was prudent, used, and useful.

Supreme Court precedent provides the standard for our prudence review: "(t)he principle of prudence requires that an investment or a constituent element of an investment that was foreseeably wasteful when made be excluded from the rate base." *Appeal of McCool*, 128 N.H. 124, 139 (1986). "[P]rudence judges an investment or expenditure in the light of what due care required at the time an investment or expenditure was planned and made." *Appeal of CLF*, 127 N.H. 606, 638 (1986). Prudence does not require that the utility make the correct choice, which can only be known in hindsight, but that the utility's decision was within a "range of reasonableness." *Incentives for Conservation and Load Management*, 75 NH PUC 527, 541 (1990).

9. Approval of Lakes Region’s requests for temporary and permanent rate increases will allow it to continue to provide exemplary service to customers. As explained in the Testimony of Lakes Region President Thomas A. Mason, the Company operates very small water systems that could not survive on a stand-alone basis. Lakes Region employs a team of water service professionals that upgrade and maintain these small water systems in compliance with NHDES Drinking Water Standards and the Commission’s rules governing water service. All of the plant improvements were prudent, used and useful, and necessary to maintain service in compliance with RSA 374:1. Lakes Region requests that the Commission approve its temporary and permanent rates as provided by RSA 378.

10. As directed by the Commission, Lakes Region has included schedules showing its costs to serve customers on a consolidated basis (“Total Company”) as well as schedules showing Dockham Shores, Wildwood and existing “LRWC” systems on a stand-alone basis. Lakes Region requests that its temporary and permanent rates be consolidated. Consolidated rates benefit all customers by reducing ‘rate shock’ that can occur when significant capital improvements are required in an individual system. Over time, this benefits all customers as each system is upgraded. In the absence of rate consolidation, Lakes Region would be required to seek rate relief for each individual system as improvements were placed in service. This would greatly increase the costs to serve customers and deny customers the benefits in improved service that result directly from having a greater resources in a larger portfolio of systems.

WHEREFORE Lakes Region requests that the Commission approve its permanent rate increase and grant such other relief as justice may require.

Respectfully submitted,

**LAKES REGION WATER  
COMPANY, INC.**

By its Counsel,

**NH WATER LAW**



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Dated: January 15, 2021

**CERTIFICATE OF SERVICE**

I certify that a complete copy of the foregoing is being sent this day to all persons on the Commission's official service list for this proceeding.



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Justin C. Richardson, Esq.