

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DW 22-058**

**BEDFORD WASTE SERVICE CORPORATION**

**Request for Change in Rates**

**Order *Nisi* Approving Recovery of Rate Case Expenses and Reconciliation of  
Temporary-to-Permanent Rates and Granting Motion for Confidential Treatment**

**ORDER NO. 26,912**

**December 14, 2023**

In this order, the Commission authorizes Bedford Waste Service Corporation (Bedford) to recover rate case expenses in the amount of \$47,864 through a quarterly total surcharge of \$51.14 per customer charged over a period of 12 quarters. Furthermore, Bedford is authorized to reconcile its temporary-to-permanent rates in the amount of \$7,101.29 which results in a recoupment surcharge of \$7.59 per customer per quarter for 12 quarters.

Bedford's petition and subsequent docket filings, other than information for which confidential treatment is requested of or granted by the Commission, are posted to the Commission's website at

<https://www.puc.nh.gov/Regulatory/Docketbk/2022/22-058.html>.

**I. BACKGROUND AND PROCEDURAL HISTORY**

On October 17, 2022, Bedford petitioned the Commission for authority to implement new permanent rates for water services. On March 30, 2023, the Commission issued an order authorizing temporary rates. See Order No. 26,793. On June 28, 2023 Bedford and the Department of Energy (DOE) filed a settlement on permanent rates (Settlement). The Commission held a final hearing on the proposed Settlement on July 12, 2023. On September 12, 2023 the Commission approved the

Settlement agreement and resulting permanent rates. *See* Order No. 26,884. Order No. 26,884 authorized Bedford to file both its request to recover rate case expenses pursuant to Puc 1905.02 and its request to recoup the difference between the temporary-to-permanent rates within thirty days of the final order approving the permanent rate. *See* Order No 26, 884 at 15.

On September 27, 2023, Bedford filed its request to recover \$46,585.98 in rate case expenses over eight quarters through a quarterly surcharge of \$74.66. Bedford also sought to recoup \$7,101.29 for the difference between temporary to permanent rates via a \$11.38 per quarter surcharge over eight quarters. Finally, Bedford also filed a motion for confidential treatment and protective order.

On November 14, 2023, the DOE filed its technical statement of Utility Analyst Robyn Descoteau. After reviewing Bedford's filing and engaging in discovery, the DOE concluded that Bedford's rate case expenses should be amended by removing three rate case expense invoices totaling \$1,355 and including an additional \$2,633 in recoverable expenses related to actual billings replacing estimated billings. The resulting recoverable rate case expense totaled \$47,864 (\$46,586 + \$2,633 - \$1,355). The DOE recommended that recovery of the rate case expenses should occur over 12 quarters in lieu of 8 quarter, resulting in a proposed surcharge of \$51.14 per quarter. The DOE confirmed that Bedford's temporary-to-permanent rate calculation of \$7,101<sup>1</sup> was accurate. However, the DOE recommended a 12-quarter period for the temporary-to-permanent rate recoupment. DOE assessed that the resulting quarterly charge to Bedford's customers for the temporary-to-permanent rate recoupment is \$7.59. *See* technical Statement at 2 &3. The technical statement indicates that the

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<sup>1</sup> The DOE review fails to account for the de minimis 29 cents that was included in Bedford's proposal. Given this discrepancy is less than 1 cent per customer, its removal from the calculation is found to have no effect on the resulting proposed rates.

proposed changes to both the amount of the recoverable rate expenses and the length of time allocated for repayment of expenses were reviewed with Bedford. The DOE indicated that Bedford did not object to its recommendation.

## **II. MOTION FOR CONFIDENTIAL TREATMENT**

In its motion, Bedford requests confidential treatment of legal invoices. Bedford asserts that these invoices are exempt from disclosure because they contain internal personal practices and confidential information. Furthermore, disclosure would cause competitive harm to its legal counsel.

## **III. COMMISSION ANALYSIS**

### **Rate Case Expenses**

The Commission treats prudently incurred rate case expenses as a legitimate cost of service appropriate for recovery through rates, consistent with N.H. Code Admin. Rules Puc Chapter 1900. Puc 1904.02 sets forth the criteria for determining allowed rate case expenses, including that such expenses are consistent with the Chapter 1900 requirements, the costs are actual, known, and measurable expenses associated with a full rate case proceeding, and that recovery of the expenses is just, reasonable, and in the public interest, pursuant to the standards of RSA 378:7 *See, e.g., Hampstead Area Water Company, Inc.*, Order No. 26,185 (Oct. 30, 2018), at 4.

The rate case expenses in this matter were anticipated in the 2023 proposed settlement of permanent rates. The Commission held a duly noticed hearing on the Settlement Agreement, and resultant proposed rates, on July 12, 2023. Section 4.4 of the Settlement Agreement is entitled Rate Case Expense Surcharge. *See* Hearing Exhibit 6 at 9.

The Commission has reviewed the request for rate case expenses and the reconciliation between temporary-to-permanent rates, the Company's responses to

data requests from the DOE, as well as the technical statement provided by the DOE. Furthermore, the Commission notes that the Company did not object to the requested amendment to its rate case expenses and proposed timeframe for repayment contained in the DOE technical statement.

The Commission finds that Bedford has adequately supported, and supplemented where required, its request with expense documentation and thorough responses to inquiries by the DOE. The Commission also finds the DOE's adjustments to be in the public interest and agrees that extending the recovery period from eight to 12 quarters will minimize the financial burden on Bedford's limited customer base. Accordingly, the Commission finds Bedford's request to recover its rate case expenses in the amount of \$47,864, which when divided by the customer base of 78 yields a surcharge of 51.14 per quarter for 12 quarters, is just and reasonable pursuant to RSA 378:7. Furthermore, the Commission finds that Bedford has accurately calculated its recoupment from temporary-to-permanent rates of \$7,101.29. Accordingly, the proposed surcharge of \$7.59<sup>2</sup> per quarter for 12 quarters to recoup the difference between temporary-to-permanent rates is found to be just and reasonable.

#### **Motion for Confidential Treatment**

The New Hampshire Supreme Court has interpreted the exemption for confidential, commercial, or financial information to require an "analysis of both whether the information sought is confidential, commercial, or financial information, and whether disclosure would constitute an invasion of privacy." *Union Leader Corp. v.*

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<sup>2</sup> While DOE's technical statement calculates  $\$7,101 \div 78 \text{ customers} \div 12 \text{ quarters}$  as \$7.58 per customer per quarter, when reviewed, the Commission finds the calculation to total \$7.59 per customer per quarter. This calculation is regardless of the inclusion of the omitted 29 cents.

*NH Housing Fin. Auth.*, 142 N.H. 540, 552 (1997) (quotations omitted). "Furthermore, the asserted private confidential, commercial, or financial interest must be balanced against the public's interest in disclosure, since these categorical exemptions mean not that the information is per se exempt, but rather that it is sufficiently private that it must be balanced against the public's interest in disclosure." *Id.* at 553 (citation omitted). The burden of proving that the information is confidential and private rests with the party seeking non-disclosure. *See Goode v. NH Legislative Budget Assistant*, 148 N.H. 551, 555 (2002).

RSA 91-A:5(IV) expressly exempts from public disclosure requirements any "records pertaining to ... confidential, commercial or financial information ... " In furtherance of the Right-to-Know law, the Commission's rule on requests for confidential treatment, Puc 203.08, is designed to facilitate the balancing test required by the relevant case law. The rule requires petitioners to: (1) provide the material for which confidential treatment is sought or a detailed description of the types of information for which confidentiality is sought; (2) reference specific statutory or common law authority favoring confidentiality; and (3) provide a detailed statement of the harm that would result from disclosure to be weighed against the benefits of disclosure to the public. *See* Puc 203.08(b).

The Supreme Court has stated that the determination of whether information is confidential or private must be made "objectively, and not based on the subjective expectations of the party generating it." *See Union Leader Corp. v. NH. Housing Fin. Auth.*, 142 N.H. at 553. Moreover, the Court has found instructive the federal test for confidential information under which "the party resisting disclosure must prove that disclosure is likely to: (I) impair the State's ability to obtain necessary information in

the future; or (2) cause substantial harm to the competitive position of the person from whom the information was obtained." *Id.* at 554 (quotation and brackets omitted).

In this case Bedford seeks protection for information contained in its legal bills. Bedford argues that disclosure of the information contained in the legal billing would put Bedford's attorneys at a competitive disadvantage by divulging the rates they charged for work.

Bedford argues that attorney billing rates are "confidential, commercial, or financial information" and that confidential treatment of that information would be consistent with RSA 91-A and prior Commission orders. The Commission has previously held such hourly billing rate information exempt from disclosure. *See, e.g., Aquarion Water Company of New Hampshire, Inc.*, Order No. 25,586 at 4–5 (October 22, 2013) (citing *Unitil Energy Systems, Inc.*, Order No. 24,746 (2007)); and DW 17-128 *Pennichuck East Utility, Inc.*, Order No. 26,222 (February 26, 2019). We find that disclosure of billing rates could result in a competitive disadvantage to attorneys hired by Bedford. Further, there is no indication that disclosure of the information would inform the public about the workings of the Commission. Bedford has provided total invoice amounts from its attorney to inform the public of its expenses and we deem this sufficient for purposes of informing the public. We therefore grant the Company's motion to protect the attorney billing information.

**Based upon the foregoing, it is hereby**

**ORDERED NISI**, that subject to the effective date below, Bedford Waste Service Corporation is authorized to recover \$47,864 in rate case expenses over a 12-quarter period through a quarterly surcharge of \$51.14 per customer; and it is

**FURTHER ORDERED** that Bedford Waste Service Corporation is authorized to recover temporary-to-permanent rate revenue recoupment over a 12- quarter period through a quarterly surcharge of \$7.59; and it is

**FURTHER ORDERED** that Bedford Waste Service Corporation shall post a copy of this order on the Company's website within two business days of the date of this order, with an affidavit of publication to be filed with this office on or before January 2, 2024; and it is

**FURTHER ORDERED**, that Bedford Waste Service Corporation's motion for confidential treatment is **GRANTED**; and it is

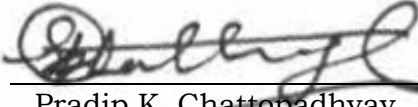
**FURTHER ORDERED**, that all persons interested in responding to this order be notified that they may submit their comments or file a written request for a hearing, stating the reason and basis for a hearing, no later than December 21, 2023 for the Commission's consideration; and it is

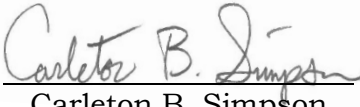
**FURTHER ORDERED**, that any party interested in responding to such comments or request for hearing shall do so no later than December 28, 2023; and it is

**FURTHER ORDERED**, that this order shall be effective January 16, 2024, unless the Bedford Waste Service Corporation fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

**FURTHER ORDERED**, that the Bedford Waste Service Corporation shall file a compliance tariff with the Commission on or before January 25, 2024, in accordance with New Hampshire Code of Administrative Rules, Puc 1603.02(b).

By order of the Public Utilities Commission of New Hampshire this fourteenth day of December, 2023.

  
Pradip K. Chattopadhyay  
Commissioner

  
Carleton B. Simpson  
Commissioner



# Service List - Docket Related

Docket#: 22-058

Printed: 12/14/2023

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