

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 09-098

LAKES REGION WATER COMPANY, INC.

Petition for Authority to Finance and to Increase Rates

Order *Nisi* Approving Financing

ORDER NO. 24,983

July 2, 2009

I. BACKGROUND

On June 1, 2009, Lakes Region Water Company, Inc. (LRWC) filed a petition seeking authority to borrow \$1,500,000 in long term debt to complete seven separate projects. The funds are made available through the American Recovery and Reinvestment Act (ARRA) of 2009 and will be disbursed through the existing State Revolving Loan Fund (SRF) administered by the Department of Environmental Services (DES). The petition also included a request for an associated step increase in rates.

The projects include a uranium treatment system for an existing, unused well in LRWC's Tamworth system, at an estimated cost of \$46,000. The project would allow LRWC to use the well as an additional source of supply to the approximately Tamworth 70 customers. Treatment of the existing well was chosen over other options due to factors including cost, land availability, and potential treatment requirements for a new well.

LRWC plans to construct a pump station, increase storage tank size, add new pumps, and install a SCADA system for remote monitoring at its Woodland Grove system in Conway at an estimated cost of \$145,000. This project would greatly improve access, eliminate moisture problems, and accommodate treatment requirements.

Water main replacement projects are proposed in Gunstock Glen/Brake Hill (Gilford), Echo Lake Woods (Conway) and 175 Estates (Thornton). All three systems have old, undersized mains that are prone to leakage. Estimated costs are \$750,000, \$161,000, and \$345,000, respectively. The projects reflect systems having both the greatest water main upgrade needs and ability to qualify for funding.

LRWC proposes to install meters at 175 Estates and Tamworth so that it can monitor consumption, detect leaks and assess true system demands. Metering of LRWC's systems has been the subject of Commission review in recent years¹ and is required by the Commission's rules.² Metering is expected to cost \$21,000 in 175 Estates and \$32,000 in Tamworth. ARRA funding was not available for the Company's remaining three unmetered systems due to their seasonal nature and, in one case, small size in relation to minimum funding thresholds.

The loan that LRWC anticipates is expected to have terms and conditions similar to those of prior SRF loans, and is expected to be repaid over a 20 year term, with an interest rate of 3.744% per year. As with prior SRF loans, DES would make disbursements of funds based on invoices submitted by contractors engaged by LRWC, and those advances would accrue interest at an annual rate of 1% until substantial completion of the capital projects. Approximately six months after project completion, monthly payments of principal and interest will begin, with 50% of the \$1,500,000 principal forgiven, leaving LRWC with only \$750,000 to repay.

Commission Staff, by letter of June 19, 2009, recommended that the request for financing be approved and noted that due to the favorable terms of the loan, LRWC's resulting debt to

¹ See, for example, Order No. 21,872 (October 18, 1995) in Docket No. DR 95-028; Order No. 24,576 (January 6, 2006) in Docket No. DW 05-137; Order No. 24,692 (October 31, 2006) in Docket No. DW 05-137; and Order No. 24,883 (August 5, 2008) in Docket No. DW 08-070.

² Puc 603.03 (a)

equity ratio would be within acceptable standards. LRWC's data responses were attached to Staff's letter. Staff noted that the ARRA funding is competitive, with only half of the fourteen projects LRWC applied for making the funding cut. Staff concurred with LRWC's proposed uses of the funds and the improvements planned for its water systems. Staff also noted that the petition requested approval for an associated step increase in rates to be implemented at the conclusion of the seven projects, which is anticipated by the summer of 2010. Staff expressed its preference than any increase in rates occur instead in the context of a full rate case, given discussion of that issue in another recent LRWC docket.³

On June 23, 2009, the Office of the Consumer Advocate (OCA) filed a letter expressing various concerns. It stated a concern about the ability of LRWC to continue to provide safe and adequate service to its customers and function effectively as a regulated utility. It stated a concern that LRWC was not doing more metering. It stated a concern that LRWC planned to use Lakes Region Water Services, an affiliate of LRWC, to perform some of the construction work and that the arrangement could jeopardize the ARRA financing. It also questioned the accuracy of LRWC's proposed operating expenses for the uranium treatment project in Tamworth and proposed project costs for the Gunstock Glen-Brake Hill project. The OCA also stated that it opposed step increases because it believes such mechanisms constitute single issue ratemaking and it stated that waiting until 2012 for LRWC to file a full rate case would be unacceptable. Lastly, OCA recommended that LRWC only be allowed to recover necessary costs related to payment of principal and interest in any approved step increase.

On June 29, 2009, LRWC responded to OCA's concerns. With respect to meters, LRWC stated that it plans to meter two systems with ARRA funds and that its request to use ARRA

³ See Order No. 24,925 (December 30, 2008) in Docket No. DW 08-070.

funds to install meters at LOV and Indian Mound were denied by DES and that meters for Deer Cove did not meet minimum ARRA funding requirements. LRWC stated that using Lakes Region Water Services will allow LRWC to perform work quicker and with less cost. LRWC assured the Commission that it would not jeopardize the ARRA funding through its use of an affiliate. As to the cost estimates for the Tamworth uranium system, LRWC stated that the treatment process is fairly new in New Hampshire and that its engineer has worked with DES to develop the proposed treatment, process, and costs. Regarding the cost estimates for the Gunstock Glen and Brake Hill project, LRWC stated that its cost estimate is high because of the number of service connections and disconnections that must be made as the main is replaced.

II. COMMISSION ANALYSIS

Pursuant to the provisions of RSA 369:1, public utilities engaged in business in this State may issue evidence of indebtedness payable more than 12 months after the date thereof only if the Commission finds the proposed issuance to be “consistent with the public good.” Analysis of the public good consideration involves looking beyond actual terms of the proposed financing to the use of the proceeds of those funds and the effect on rates to insure the public good is protected. *See Appeal of Easton*, 125 N.H. 205, 211 (1984).

LRWC seeks to borrow \$1,500,000 to finance capital improvements in five of its community water systems. The loan funds originate through the recently passed American Recovery and Reinvestment Act of 2009 and are being disbursed through the existing SRF structure on extremely favorable terms. As repayment commences, half of the loan principal will be forgiven and will not accrue interest. We find the availability of financing according to these terms to be beneficial to customers and consistent with the public good.

With respect to LRWC's intended use of the funds, we find that LRWC has demonstrated that each project will enable it to provide better quality service to its customers. The Tamworth treatment installation will allow connection of a needed second source of supply and LRWC has explained that it worked closely with DES on developing the treatment process and costs, and that it will determine more specific operational costs at a later date. Replacement of the aging Woodland Grove pump station will provide benefits including improved access, storage, monitoring capability and moisture reduction. Water main upgrades in three systems will improve flows and system reliability and reduce leakage. Customer metering in two systems will enable monitoring of consumption, detection of losses and tracking of overall demand.

Clearly, given the important nature of the capital projects to be undertaken with the requested funds and the favorable terms of financing, including the fact that the impact on ratepayers will be minimized due to the low interest rate and the 50% principal forgiveness of the loan, Lakes Region customers will benefit from the financing. Therefore, we find that the proposed financing is consistent with the public good and we will approve the amount and purpose of the financing. At the same time, we share the OCA's concerns in certain respects, but those concerns are better considered in another forum and we will continue to monitor LRWC's progress toward ensuring it is providing safe and adequate service to its customers in Docket No. DW 07-105.

With respect to LRWC's request for a step increase in rates, we will not approve any specific mechanism for increasing rates at this time, rather, once the projects are complete, the company may request an increase in the form it deems appropriate. We are cognizant that LRWC agreed in Docket No. DW 07-105 to file a full rate case if its actual rate of return is

sufficiently below its last authorized rate of return and the filing of a rate case may obviate LRWC's proposed step increase. Finally, although LRWC's petition did not specifically request it, recent experience with petitions for SRF loans suggests that a security interest in the borrower's assets may be required. Accordingly, approval is granted pursuant to RSA 369:2 and LRWC may provide a security interest in its real and personal property if needed to secure the loan.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that subject to the effective date below, authority to undertake the financings proposed by LRWC, upon the terms and conditions proposed in its petition and as discussed above, is hereby **APPROVED**; and it is

FURTHER ORDERED, that LRWC shall cause a copy of this Order *Nisi* to be published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to be no later than July 8, 2009 and to be documented by affidavit filed with this office on or before July 14, 2009; and it is

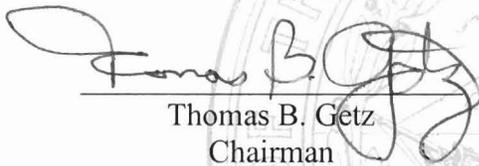
FURTHER ORDERED, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than July 10, 2009 for the Commission's consideration; and it is

FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than July 13, 2009; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective July 14, 2009, unless LRWC 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

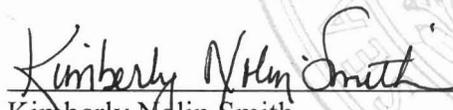
FURTHER ORDERED, that LRWC shall file true copies of the loan documents executed or otherwise finally issued in connection with the closing of the transactions contemplated hereby.

By order of the Public Utilities Commission of New Hampshire this second day of July, 2009.


Thomas B. Getz
Chairman


Clifton C. Below
Commissioner

Attested by:


Kimberly Nolin Smith
Assistant Secretary

