

DW 99-073

ROSEBROOK WATER COMPANY

Investigation Into Over-Earnings

Order on Permanent Rates and Settlement Consideration

O R D E R N O. 23,441

April 10, 2000

APPEARANCES: Dom D'Ambruoso, for Rosebrook Water Company, Inc; Lynmarie Cusack, Esq., for Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

An investigation was commenced by the New Hampshire Public Utilities Commission (Commission) after Commission Staff (Staff) completed an audit of Rosebrook Water Company, Inc. (Company). Staff's audit determined that the Company was earning a rate of return in excess of that authorized by the Commission during the Company's prior rate proceeding.

As a result, an order of notice was issued on May 13, 1999, and a prehearing conference took place on June 3, 1999, followed by a technical session during which a procedural schedule was developed. The Office of the Consumer Advocate had the right to intervene as a statutory party under RSA 363:28, II, but did not enter an appearance or participate in the proceeding. No other parties intervened.

Thereafter, the Company and Staff agreed to a stipulation on temporary rates and filed it with the Commission on August 19, 1999. On August 25, 1999, Order No. 23,291 was

issued discussing the prehearing conference and also mandating, pursuant to RSA 378:27, a hearing on the proposed temporary rates. The temporary rate hearing took place on September 16, 1999. The stipulation presented at the hearing provided, in part, that the temporary rates would be set at the current level for the duration of the over-earnings proceeding, and that if the Commission then ordered a rate decrease, the change would be effective retroactively to July 1, 1999. On October 5, 1999, the Commission issued Order No. 23,312 approving the temporary rate agreement.

The Company and Staff engaged in discovery, and also filed testimony relating to the over-earning case. Staff filed testimony from Henry Bergeron, a PUC Examiner in the Finance Department, and Douglas Brogan, the Water Engineer. The Company filed the testimony of Robert Satter, the former Rosebrook President. Mr. Bergeron's testimony concluded that the Company had over-earned by \$50,869. Mr. Satter did not agree with Mr. Bergeron's adjustments and, therefore, did not accept the over-earning figure calculated by Staff.

From November to March the Company and Staff engaged in many settlement discussions which included discussions on setting rates on a going forward basis. The Company and Staff ultimately reached an agreement and presented it to the Commission on March 24, 2000.

At the hearing on the settlement the Company presented the manner in which it would refund non-Mount Washington Hotel (MWH) customers amounts due them as a result of the over-earning.

II. STIPULATION BETWEEN THE COMPANY AND STAFF

The Company presented evidence on the Stipulation and agreed with Staff as follows:

1. The Company shall refund the total amount of \$42,016.33 to non-MWH ratepayers;
2. The Company shall be entitled to recover rate case expenses in the amount of \$11,000.00;
3. The amounts of \$42,016.33 and \$11,000.00 shall be netted against each other for an actual refund to non-MWH ratepayers of \$31,016.33;
4. The actual refund to non-MWH ratepayers shall take effect beginning with bills rendered on April 1, 2000, by means of a billing credit appearing on four consecutive quarterly bills dated April 1, 2000, July 1, 2000, October 1, 2000, and January 1, 2001;
5. The rate base shall be adjusted to \$261,126.00;
6. The new rate shall be .4040¢ per 100 gallons effective April 1, 2000;
7. The Company shall establish a separate Contributions In Aid Of Construction (CIAC) account for CIAC monies received from the Town of Carroll intended for capital improvements and from MWH under the terms of Special Contract-Water No. 7 dated November 3, 1999, and shall

seek Commission approval prior to using any CIAC funds. Reports shall be submitted to the Commission in August and February specifying current balance, interest accrued, and disbursements made; and

8. The special escrow account established pursuant to Commission Order No. 23,379 in Docket DW 99-128 dated January 6, 2000, to hold an amount of \$42,016.33 shall remain the property of the Company. The amount in the escrow account is separate and disparate from the \$42,016.33 amount to be refunded to non-MWH ratepayers pursuant to the stipulation entered into by the Company and Staff in this matter.

III. COMMISSION ANALYSIS

Based on the stipulation, testimony and evidence that was offered at the hearing regarding the over-earning case as well as the permanent rate issue, we find that refunding non-MWH ratepayers by way of credits reflected on four consecutive quarterly bills and reducing the going-forward rate is in the public interest and is a just and reasonable resolution to this over-earnings investigation. We also find that the rates proposed in the stipulation meet the statutory requirements of RSA 378:7 and 28. Thus, we conclude that the stipulation and agreement are reasonable and therefore approve them.

Based upon the foregoing, it is hereby

ORDERED, that the stipulation entered into by the Company and Staff on March 24, 2000, is in the public interest

pursuant to RSA 378:28 and is a reasonable and equitable resolution to this matter; and it is

FURTHER ORDERED, that the Company will file tariff pages reflecting the new rates by April 15, 2000; and it is

FURTHER ORDERED, that the stipulation is APPROVED effective April 1, 2000.

By order of the Public Utilities Commission of New Hampshire this tenth day of April, 2000.

Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary