

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DW 15-199**

**ABENAKI WATER COMPANY, INC.**

**Permanent and Temporary Rate Proceeding**

**Order Approving Settlement Agreement on Permanent Rates**

**ORDER NO. 25,905**

**June 3, 2016**

**APPEARANCES:** Upton & Hatfield, LLP, by Justin C. Richardson, Esq., for Abenaki Water Company, Inc.; David J. Laflamme, pro se, for Village Shore Estates Association; Office of the Consumer Advocate by Donald Kreis, Esq., on behalf of residential ratepayers; and Staff of the Public Utilities Commission by Rorie E. Patterson, Esq.

In this Order, the Commission approves a settlement agreement granting Abenaki Water Company authority to implement permanent rates pursuant to RSA 378:27. As a result, Abenaki's residential water customers in Bow will experience an annual bill increase of approximately \$229 above the prior permanent rates (\$141 above the \$88 increase already approved as the temporary rate) and residential water customers in Belmont will experience an annual increase of approximately \$38 above prior permanent rates, depending on usage. Residential sewer customers in Belmont will experience an annual bill increase of approximately \$184 over the prior permanent rates (\$116 above the \$68 increase already approved as the temporary rate).

**I. PROCEDURAL HISTORY**

On July 24, 2015, Abenaki Water Company, Inc. (Abenaki or the Company), submitted a permanent rate filing including revised tariff pages designed to consolidate the separate water rates for its Bow and Belmont systems and to increase the Company's consolidated annual water

revenue by a total of \$45,393, or 23.41%. Abenaki also proposed to increase its annual sewer revenue for its Belmont customers by a total of \$39,246, or 50.11%. The Company requested Commission approval for a periodic cost adjustment in order to pass through future fee increases from the City of Laconia for sewage discharge, as well as to recover over a 12-month period deferred sewage discharge costs based on the most recent increase from the City. Abenaki also sought a return on equity of 10.75%, year-end treatment of its test year rate base, and recovery over a 12-year period of its costs to acquire Lakeland Management Company and White Rock Water Company (*i.e.*, Organizational Costs). The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted to the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2015/15-199.html>.

In August 2015, the Company filed a Petition for Temporary Rates seeking an increase in Bow water revenues of \$11,974, or 18.09%; and an increase in Belmont sewer revenues of \$17,237, or 22.01%. Abenaki requested that temporary rates take effect with service-rendered on and after September 8, 2015. The Company proposed temporary rates at current levels for its Belmont water customers.

On September 17, 2015, the Office of Consumer Advocate (OCA) filed a letter notifying the Commission that it would be participating in the proceeding pursuant to its authority under RSA 363:28.

The Commission received intervention requests from several of Abenaki's customers, including the Laconia Housing Authority, the Orchards customers, the Village Shore Estates Association, and Briar Crest Estates ("Customers"). On August 28, 2015, the Commission issued Order No. 25,804, suspending Abenaki's proposed tariff pages and scheduling a

prehearing conference and technical session for September 23. Following the technical session, Staff and the parties submitted a proposed procedural schedule which was approved by the Commission. The Commission also approved full party status to Abenaki's Customers and directed them to participate through a single representative.

On December 11, 2015, Abenaki, the OCA, and Staff (Settling Parties) filed a settlement agreement on temporary rates, which the Commission considered at a hearing on December 21. The temporary rates were proposed to be effective for service rendered as of September 8, 2015, and reconciled following implementation of new permanent rates. On January 11, 2016, the Commission issued Order No. 25,858 approving the settlement agreement which resulted in temporary rate increases of 16.22% for Bow water customers and 19.36% for Belmont sewer customers. Temporary rates for Belmont water customers were set at current levels.

Over the next several months, the Settling Parties engaged in discovery and met in two technical sessions. On March 24, 2016, Staff submitted the testimony of Mark A. Naylor, Director of the Gas and Water Division, and Robyn J. Descoteau, Utility Analyst in the Gas and Water Division. Also on that date, the OCA submitted the testimony of its consultants, Scott J. Rubin, Esq., and Ben Johnson, Ph.D.. The parties met in another technical session on April 12, 2016, and continued settlement negotiations. On May 5, 2016, the Settling Parties filed a settlement agreement with the Commission for its approval at a final hearing on May 12. No witnesses or parties opposed the settlement.

## **II. THE SETTLEMENT AGREEMENT**

For Belmont, the parties propose a decrease in the revenue requirement for the water system of \$2,904 or 2.27%, and an increase in the revenue requirement for the sewer system in the amount of \$32,192 or 41.11%. The Settling Parties also recommend a step adjustment for

2015 plant additions for the Belmont water system, with a proposed increase in the revenue requirement of \$6,662 or 5.22%. For the Bow water system, the Settling Parties propose an increase in the revenue requirement of \$21,654 or 32.71%, with a step adjustment for 2015 capital additions of \$4,116 or 6.22%. The Settling Parties recommend that step adjustment revenues not be reconciled with temporary rates and the increase associated with the steps take effect for service rendered on and after the date of the Commission's final order in this docket.

The Settling Parties agreed to a correction for additional land in the amount of \$9,141, which had inadvertently been omitted from the rate base. They further agreed on a 9.40% return on equity as reasonable, reflecting a compromise between Abenaki's and the OCA's proposed costs of equity. The Settling Parties also agreed to set an amortization period of 21 years to recover a total of \$91,522 for the Company's net Organizational Costs.

The Settling Parties further agreed that Abenaki's revenue requirements for its three systems could utilize a year-end rate base for test year assets, but that this departure from normal ratemaking should be combined with a rate-case "stay out" provision. Therefore, Abenaki's next rate case for each of its three systems must reflect a test year of 2018 or later, excepting exogenous events as defined in the agreement. Exogenous events are limited to (a) unanticipated changes to a regulation or law, or significant events or conditions that would result in failure or significant impairment of utility service not caused by imprudence; and which (b) create a financial obligation for the company exceeding 10% of the net plant in service for that particular system.

Abenaki's Belmont sewer system collects wastewater and discharges it to the City of Laconia for treatment in the Winnepesaukee River Basin Program (WRBP). The WRBP is considering an updated formula for assessing charges to its member communities. Accordingly,

the Settling Parties agree that Abenaki may, no later than December 31, 2017, seek one adjustment to its Belmont sewer rates based on the then-known and measurable change to the charges to be assessed to Abenaki. If the total charges from Laconia decrease by 5% or more from the amount included in the revenue requirement recommended in this agreement (*i.e.*, from \$59,141 to an amount below \$56,184), then Abenaki shall submit a filing to the Commission to reduce its rates accordingly.

The Settling Parties agree and recommend the adoption of a rate design proposal that reflects the testimony of OCA witness, Scott J. Rubin. Mr. Rubin testified that the company should move toward a goal of collecting one-third of its residential revenues through customer charges and that the usage charges for both water systems be moved closer together. The end product reached by the Settling Parties as set forth in the rate schedule appended to the settlement agreement moves the residential volumetric charges of both systems closer together.

Last, the Settling Parties agree that any difference between the approved temporary rates and permanent rates will be subject to reconciliation as of the effective date of September 8, 2015, as provided in RSA 378:29. The step adjustment rates shall be effective on the date of this final order and Abenaki further agrees to continue to track the costs of service for each of the three systems separately. The following chart summarizes the recommendations in the settlement as compared to the company's request and current rates.

	Belmont Water	Belmont Sewer	Bow Water
Current Revenue Requirement	127,666	78,313	66,207
Revenue Requirement Requested by Company	138,684	117,559	100,582
Final Revenue Requirement per Settlement Agreement	131,424	110,505	91,977
Change in Rates per Settlement Agreement (including Step Adj)	2.94%	41.11%	38.92%

### III. COMMISSION ANALYSIS

We encourage parties to settle issues through negotiation and compromise because it is an opportunity for creative problem-solving, allows the parties to reach a result in line with their expectations, and it is often a better alternative than a litigated outcome where neither party may be satisfied with the result. *Granite State Electric Co.*, Order No. 23,966 at 10 (May 8, 2002). The Commission has general authority under RSA 541 A:31, V(a) to resolve contested matters through settlement agreements (“informal disposition may be made of any contested case, at any time ... by stipulation [or] agreed settlement”). The Commission’s procedural rules provide for the approval of a settlement “if it determines that the result is just and reasonable and serves the public interest.” N.H. Code Admin. Rules Puc 203.20(b). The process leading up to a settlement is one relevant factor in determining whether we should approve the agreement. In determining whether rates are just and reasonable, the Commission “must balance consumers’ interest in paying no higher rates than are required with the investors’ interest in obtaining a reasonable return on their investment.” *Eastman Sewer Company, Inc.* 138 N.H. 221, 225 (1994).

#### A. Revenue Requirement, Rates, and Effective Date

The Settling Parties recommend that the Commission approve a decrease in the revenue requirement for Belmont water customers in the amount of \$2,904 or 2.27%, to be reconciled with temporary rates. In addition, they recommend a step adjustment for Belmont water customers for 2015 capital additions which represents an increase in the revenue requirement of \$6,662 or 5.22%. For Belmont sewer customers, the parties recommend an increase in the revenue requirement of \$32,192 or 41.11%. For Bow water customers, the parties recommend an increase of \$21,654 or 32.71%, and a step adjustment for 2015 capital additions that represent an additional increase in the revenue requirement of \$4,116 or 6.22%. The parties recommend

that the step-adjustment rates be effective on a service rendered basis as of the date of the Commission's order and that any difference between the previously approved temporary rates and permanent rates be subject to reconciliation to the effective date of September 8, 2015. The Commission has previously approved negotiated settlements with increases in step adjustments. *See, e.g., West Swanzey Water Company, Inc.*, Order No. 25,606 (Dec. 19, 2013.) The Commission finds the proposed revenue requirements, rates, and effective date reasonable and approves them.

**B. Return on Equity, Rate Base, and Amortization of Organizational Costs**

Along with approving Abenaki's overall revenue requirement, the Commission approves a recommended overall return on equity of 9.4% as reflective of a compromise that takes into account the views expressed by the company, Staff, and OCA. The Settling Parties agreed to the use of a year-end rate base for test year assets. Although this is a departure from normal ratemaking, which uses an average rate base for the year, it is combined with a "stay out" provision. Abenaki's next rate case can be filed no sooner than one reflecting a 2018 historical test year for each of its three systems. A rate case may be filed sooner, but only if an exogenous event as outlined in the agreement triggers a revenue deficiency. We have previously approved changes in our ratemaking process where, as here, the result is justified due to special circumstances. *See Pennichuck Water Works, Inc.*, Order No. 25,230 at 10 (Jun. 9, 2011).

The Settling Parties also recommended a correction for land in the amount of \$9,141, which had been inadvertently omitted from the rate base. Organizational Costs had been adjusted for costs that should have been charged to land, but the offsets had not been recorded. This rate base addition is allocated based on the factors discussed in the testimony of Staff analyst Robyn Descoteau. The result is an allocation of \$2,285 to Bow and \$6,856 to Belmont.

Of the allocation to Belmont, 74% is applied to water and 26% to sewer. The Settling Parties also recommend amortization of net Organizational Costs over the average remaining service life of the acquired plant, estimated to be 21 years. The Commission also finds those rate elements just and reasonable and approves them.

### **C. City of Laconia Sewer Fees and Consolidation of Water Rates**

As discussed above, the Company's Belmont sewer system discharges wastewater to the City of Laconia for treatment in the WRBP. The City is considering an adjustment to the charges but the impact on sewer fees is unknown at this time. If these charges are increased, the parties agree that Abenaki may, no later than December 31, 2017, seek one adjustment to its Belmont sewer rates based on the then known and measurable change to the charges assessed to Abenaki. In the event total charges decrease by 5% or more from the amount included in the revenue requirement in the agreement, Abenaki shall submit a filing to the Commission to reduce its rates.

Finally, the Settling Parties did not support the consolidation of water rates at this time. By submitting the agreed upon rate design, the Company stands to move closer to the target of collecting approximately one-third of its residential revenues through customer charges and moving the residential volume charges of both systems closer together. The Commission also finds these recommendations reasonable and approves them.

## **IV. CONCLUSION**

The Commission had an opportunity to independently review the settlement agreement, hear witness testimony, and ask questions at the hearing held on May 12, 2016. The agreement was the product of differing presentations of what the Company's capital structure should look like, what rates of return would be just and reasonable, what changes should be made to account



for capital improvements, and what changes in rates would be just and reasonable. We believe the agreement represents a reasonable resolution of the issues and results in just and reasonable rates. The settlement of Abenaki's request for a permanent change in its water rates in Belmont and Bow, and its sewer rates in Belmont balances consumer and investor interests, and we find that the public interest will be served by approving the agreement as submitted to the Commission.

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

**ORDERED**, that the settlement agreement between Abenaki, Staff, and the OCA is hereby **APPROVED** as submitted; and it is

**FURTHER ORDERED**, that pursuant to RSA 378:27, Abenaki is authorized to decrease the revenue requirement for the Belmont water system of \$2,904 or 2.27%, and to implement a step adjustment for 2015 capital additions with an increase in the revenue requirement of \$6,662 or 5.22%; and it is

**FURTHER ORDERED**, that Abenaki pursuant to RSA 378:27 is authorized to increase the revenue requirement for the Belmont sewer system by \$32,192 or 41.11%; and it is

**FURTHER ORDERED**, that pursuant to RSA 378:27 Abenaki is authorized to increase the revenue requirement for the Bow water system of \$21,654 or 32.71%, and to implement a step adjustment of \$4,116 or 6.22% increase in the revenue requirement for Bow water customers; and it is


**FURTHER ORDERED**, that these permanent increases in Abenaki's revenue requirements and customer rates are effective for service rendered on or after September 8, 2015; and it is

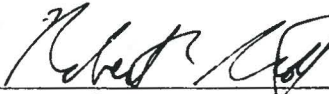
**FURTHER ORDERED**, that the step adjustments for the Belmont water system and the Bow water system are effective on a service-rendered basis as of the date of this order; and it is

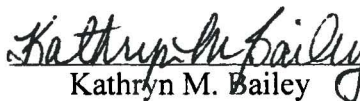
**FURTHER ORDERED**, that Abenaki shall submit its proposed temporary rate reconciliation amounts and proposed surcharges and refund along with its request for rate-case expense recovery to Staff and the parties within 20 days of the date of this order; and it is

**FURTHER ORDERED**, that pursuant to N.H. Code Admin. Rules Puc 1603, Abenaki shall submit properly annotated tariff pages consistent with the settlement agreement within 10 days of the date of this order.


By order of the Public Utilities Commission of New Hampshire this third day of June, 2016.

  
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Martin P. Honigberg  
Chairman

  
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Robert R. Scott  
Commissioner

  
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Kathryn M. Bailey  
Commissioner

Attested by:

  
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Debra A. Howland  
Executive Director