D.T.E. 98-127 July 29, 1999

Investigation by the Department on its own motion as to the propriety of the rates and charges set forth in the following tariff: M.D.T.E. No. 9, filed with the Department on December 17, 1998 to become effective January 1, 1999, subsequently extended to July 30, 1999, by East Northfield Water Company.

APPEARANCES: Robert E. Henry

East Northfield Water Company

Chief Executive Officer

206 Main Street

East Northfield, MA 01360

FOR: EAST NORTHFIELD WATER COMPANY

Petitioner

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Boston, MA 02110

FOR: DEPARTMENT OF TELECOMMUNICATIONS

AND ENERGY

SETTLEMENT INTERVENTION STAFF

Intervenor

I. INTRODUCTION

On December 17, 1998, East Northfield Water Company ("East Northfield" or "Company") filed new rates and tariffs with the Department of Telecommunications and Energy ("Department"), designed to collect additional annual revenue of $161,545, pursuant to G.L. c. 164, § 94 and G.L. c. 165, § 2. This proposal represented an increase of 126.22 percent over rates in effect on May 1, 1993. By Department Orders dated December 22, 1998 and June 21, 1999, the Department suspended the proposed rates until July 30, 1999. On May 28, 1999, the Department appointed the Settlement Intervention Staff ("SIS") to act as a full intervenor in the proceeding in order to promote negotiations and effect a settlement if feasible. A public hearing was held in the Town of Northfield on February 17, 1999. Also on that date, representatives of the Company, SIS, and the Department conducted a site visit of the Company's facilities. No other parties sought to intervene.

On June 19, 1999 the Company and SIS ("Settling Parties") filed a Joint Motion for Approval of Offer of Settlement requesting that the Department approve the Offer of Settlement ("Settlement") on or before June 30, 1999. This date was later revised to July 30, 1999 by agreement of the Settling Parties. In addition, the Settling Parties requested that the Department move into the record the Company's initial filing and responses to information requests provided during the Settlement proceeding. The Department grants the request of the Settling Parties to move the initial filing and responses to information requests into the record and marks them as Exhibit East Northfield-1 and Exhibits SIS 1-1 through 1-20.

II. PROPOSED SETTLEMENT

By its terms, the Settlement filed by the Settling Parties on June 10, 1999, with the Department is intended to resolve all issues in D.T.E. 98-127 and is expressly conditioned upon the Department's acceptance without change or condition by July 30, 1999, of all of the provisions therein (Settlement at 4).

The key provisions of the proposed Settlement are as follows:

First, the Settlement specifies that the additional annual revenues shall be $122,402[(1)] and that the overall rate of return on rate base shall be 9.10 percent, based on a return on common equity of 11.5 percent and a capital structure consisting of 60 percent debt and 40 percent common equity (id. at 2).

Second, the accounting changes initially proposed by the Company included an adjustment to correct an addition to the plant for the 1985 chemical treatment plant, plus three proposed changes for (1) Allowance for Funds Used During Construction ("AFUDC") on its 1985 plant construction, (2) post-in-service AFUDC, and (3) deferral of depreciation. The Settlement provides that the Company will forego rate relief regarding post-in-service AFUDC and deferral of depreciation on the 1995 plant construction and will recalculate the AFUDC on the 1995 plant construction over a shorter period of time than originally requested (id.).

Third, the Settlement provides that the Company would charge seasonal rates to seasonal customers.[2] Pursuant to a cost allocation study prepared by the Company, East Northfield would introduce a customer charge based on meter size for all of its customers except: (1) The Rustic Ridge area customers, who would pay a customer charge of $80 per year, and (2) the Northfield Mt. Hermon School ("NMH"), owner of the Company, who would pay the applicable customer charges based on meter size, plus a surcharge designed to recover approximately 50 percent of the cost of the chlorine contact tank. The Settlement also provides that volumetric rates would change among four different customer classes (1) year-round, non-NMH customers, (2) year-round NMH customers, (3) seasonal customers and (4) major seasonal demand customers (id., M.D.T.E. No. 10, at 3-4).

III. STANDARD OF REVIEW

The Department instituted the settlement intervention process to reduce administrative costs incurred by small water companies and their ratepayers in adjudicating rate cases (SIS Appointment at 2). In assessing the reasonableness of the settlement and the revenue increase reflected in it, the Department must review the entire record presented in the Company's filing and other record evidence to ensure that the settlement is consistent with Department precedent and the public interest. See Western Massachusetts Electric Company, D.P.U. 92-13, at 7 (1992); Barnstable Water Company, D.P.U. 91-189, at 4 (1992); Cambridge Electric Light Company, D.P.U. 89-109, at 5 (1989); Southbridge Water Supply Company, D.P.U. 89-25 (1989); Eastern Edison Company, D.P.U. 88-100, at 9 (1989).

IV. ANALYSIS AND FINDINGS

Based on the Department's review of the record in this proceeding, the Department finds that the Settlement submitted by the Settling Parties results in just and reasonable rates, and is consistent with Department precedent and the public interest. The Department finds that the Settlement includes a rate structure that balances the competing goals of allocating costs among all rate classes while maintaining rate continuity. See Boston Gas Company, D.P.U. 96-50-A at 4 (1996); see also Whitinsville Water Company, D.P.U. 96-111, at 6 (1997). Therefore, the Department approves the Settlement. We note that our acceptance of the Settlement does not set a precedent for future filings whether ultimately settled or adjudicated.

V. ORDER

After due notice, hearing and consideration, it is

ORDERED: That the Joint Motion for Approval of Offer of Settlement, as filed by

East Northfield Water Company and the Settlement Intervention Staff is hereby granted; and it is

FURTHER ORDERED: That the East Northfield Water Company's tariffs as set forth in the December 17, 1998 filing are rejected; and it is

FURTHER ORDERED: That the East Northfield Water Company's tariff,

M.D.T.E. No. 10 attached to the Offer of Settlement will become effective July 30, 1999; and it is

FURTHER ORDERED: That the tariffs set forth in M.D.T.E. No. 8 are canceled.

By Order of the Department,

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Janet Gail Besser, Chair

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James Connelly, Commissioner

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W. Robert Keating, Commissioner

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Eugene J. Sullivan, Jr., Commissioner

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Paul B. Vasington, Commissioner

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).

1. This revenue increase represents an increase of 95.64 percent over rates in effect on May 1, 1993 (Settlement at 2).

2. For purposes of the Settlement, the Company withdrew the rate design originally filed in this proceeding (Settlement at 2). The original rate design included specific rates for winter/summer seasons (Exh. East Northfield-1, M.D.T.E. No. 9, at 3).