

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on June 20, 2007

COMMISSIONERS PRESENT:

Patricia L. Acampora, Chairwoman
Maureen F. Harris
Robert E. Curry, Jr.
Cheryl A. Buley

CASE 07-W-0324 - Filing by Beaver Dam Lake Water Corporation to
its Tariff Schedule P.S.C. No. 4 - Water,
Pursuant to Public Service Law (PSL) Section
5(4), requesting an Exemption from the Rate
Setting Provisions of PSL Section 89-c(10).

ORDER ALLOWING ANNUAL REVENUE INCREASE

(Issued and Effective June 26, 2007)

BY THE COMMISSION:

SUMMARY

On March 15, 2007, Beaver Dam Lake Water Corporation (Beaver Dam or the company) filed Leaf 12, Revision 2 to its electronic tariff schedule, P.S.C. No. 4 - Water, to become effective July 1, 2007. The company requested, pursuant to Public Service Law (PSL) §5(4), an exemption from the rate setting provisions of PSL §89-c(10). This exemption is generally only granted to water companies owned by homeowners associations (HOA). While Beaver Dam is not legally a HOA, a review of its bylaws indicates that it functions in the same manner.

Beaver Dam is a not-for-profit corporation owned by all of its water users, who have a full voice in its operations. The company proposes that it be allowed to set its own rates, charges and surcharges from time-to-time to cover expenses

associated with operating, maintaining and upgrading the water system. Beaver Dam is not proposing in this filing any changes in its rates and charges. Customers, moreover, would continue to have the right at any time to ask the Commission to investigate the rates and charges.¹ In this order, we grant the company's request to set its own rates and charges as well as surcharges, excluding Environmental Facilities Corporation (EFC) surcharges.

BACKGROUND

Beaver Dam provides flat rate water service to 152 customers consisting of one-, two- and three-family homes in an area known as Beaver Dam Lake in the Towns of Cornwall and New Windsor, Orange County. All homeowners become members of Beaver Dam Lake Water Corporation and have the opportunity to participate in decisions pertaining to its operations. The members elect the directors of the corporation and meetings are held to discuss corporation business such as proposed improvements and increases in rates and charges. The members then have the opportunity to vote on these matters. The current flat rate charge for a single family home is \$340 and there is also a capital improvement surcharge of \$320 per year.

Beaver Dam currently has a request before us in Case 06-W-1561, for approval of a low cost, long-term financing of up to \$2,100,000 through the EFC and a surcharge to repay this proposed EFC loan. These funds would be used to increase and filter the company's sources of supply, finish the main replacement program funded by the existing capital improvement surcharge, and install a storage tank. The company is still finalizing the estimates for the costs of the improvements, and consideration of this matter will be taken up at a future

¹ Details of the filing are shown in Appendix A.

Commission session. The EFC requires that we approve its financings and, consequently, the related surcharges, as well as monitor the EFC surcharge account.

The current surcharge and use of the funds in the escrow account will remain under Beaver Dam's control. These funds are currently being used for emergency repairs and to pay for legal fees and engineering related to obtaining the EFC financing.

PUBLIC NOTICE AND CUSTOMER NOTIFICATION

The company sent its customers a notice of its request to be allowed to set its own rates on May 25, 2007 and requests waiver of the statutory requirement of newspaper publication. No comments have been received concerning the company proposal. The customer notice complies with the intent of the notification requirements; accordingly, we grant the request for waiver.

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), notice of the company's request was published in the State Register on April 4, 2007. No comments were received in response to the notice.

DISCUSSION

Section 5(4) filings like Beaver Dam's for an exemption from the rate setting provisions of PSL §89-c(10). We generally grant these types of exemptions to a HOA that serves only customers with an interest and voice in its operation. The exemption allows the HOA to set its own rates, charges and surcharges based on actual operation, maintenance and improvement costs. While Beaver Dam is not legally a HOA, a review of its bylaws indicates that it functions in exactly the same manner as regards operation of the water system. The leaf filed by Beaver Dam is similar to leaves filed by HOAs that we

have approved in the past. The leaf also provides that a customer has the right at any time to request the Commission to investigate the charges for water service.

CONCLUSION

Since Beaver Dam only serves customers that have full interest and voice in its operations, we grant the company's request for waiver regarding rate setting. The company is directed, however, to file Leaf 12, Revision 3, as set forth on Appendix B, to become effective July 1, 2007, which clarifies that this exemption does not apply to EFC surcharges.

The Commission orders:

1. Beaver Dam Lake Water Corporation, is directed to file on not less than one day's notice, to become effective on July 1, 2007, Leaf 12, Revision 3, as set forth on Appendix B, to its electronic tariff schedule, P.S.C. No. 4 - Water.
2. The requirement of newspaper publication pursuant to Public Service Law §89-c(10)(b) and 16 NYCRR §720-8.1 is waived because the company notified its customers individually.
3. This proceeding is closed upon compliance with clause 1.

By the Commission,

(SIGNED)

JACLYN A. BRILLING
Secretary

FILING BY: Beaver Dam Lake Water Corporation

SUBJECT: Filing by Beaver Dam Lake Water Corporation to its
Tariff Schedule P.S.C. No. 4 - Water, Pursuant to
Public Service Law (PSL) Section 5(4), requesting an
Exemption from the Rate Setting Provisions of PSL
Section 89-c(10).

Schedule P.S.C. No 4 - Water

Leaf 12, Revision 2

ISSUED: March 15, 2007 EFFECTIVE: July 1, 2007

SAPA NO.: 07-W-0324SA1

PUBLISHED IN STATE REGISTER: April 4, 2007

NEWSPAPER PUBLICATION: Waived

NUMBER OF CUSTOMERS: 152

TERRITORY SERVED: Beaver Dam Lake in the Towns of Cornwall and
New Windsor, Orange County

PSC NO. 4 - WATER

LEAF: 12

COMPANY: BEAVER DAM LAKE WATER CORPORATION

REVISION: 3

EFFECTIVE DATE: 07/01/2007

SUPERSEDING REVISION: 2

SERVICE CLASSIFICATION NO. 1

Applicable to use of Service for:
Residential and general use.

Character of Service
Continuous.

Rate
Quarterly rates, charges or surcharges (with the exception surcharges related to Environmental Facilities Corporation loans which must be approved by the Public Service Commission (PSC)) are determined by the Beaver Dam Lake Water Corporation to cover operating, maintaining and upgrading the water system. Currently a two family home pays twice the single family charge and a three family home pays three times the single family charge. Each owner has the right at any time to ask the PSC to investigate the charges.

Terms of Payment:
Bills shall be rendered quarterly in arrears or as otherwise determined by the Company and are due and payable upon receipt. Bills not paid within 23 days of mailing are delinquent and the late payment charge becomes applicable and service may be discontinued after proper notice as required by law.

Late Payment Charge
A late payment charge to be computed at the rate of 1 1/2 percent per month, compounded monthly, may be applied to all balances left unpaid 23 days following mailing of the bill.

Term
Terminable by the customer upon 10 days' written notice to the company.

Issued by: Christopher Sherwood, President, 305 Chestnut Ave.,
New Windsor, NY 12553
(Name of Officer, Title, Address)