



The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 10-51

June 23, 2010

Petition of Milford Water Company for Approval of a Reconciliation Surcharge for Water Purchased Pursuant to Rate Schedule M.D.T.E. 17A.

ORDER

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FOR: MILFORD WATER COMPANY
Petitioner

I. INTRODUCTION

On April 28, 2010, Milford Water Company (“Milford Water” or “Company”) filed with the Department of Public Utilities (“Department”) a rate adjustment filing (“Application”) pursuant to its surcharge for water purchased (“SWP”) tariff, M.D.T.E. 17A, Original Sheets 8 and 9.¹ The SWP tariff allows the Company to recover, by means of an annual surcharge, the difference between the cost of water purchased from other water systems under emergency conditions and the Company’s own metered service rates. Milford Water Company, D.P.U. 08-5, at 4, 6 (2008).

This filing seeks approval of the Company’s reconciliation of the costs and revenues relating to SWP amounts previously approved for collection in Milford Water Company, D.P.U. 08-5 and Milford Water Company, D.P.U. 09-04 (Application at 1-2). In D.P.U. 08-5, the Department approved collection of \$588,755 for water purchased from third parties during 2007. Of that amount, the Company states that \$26,638.06 remains uncollected (hereinafter referred to as “D.P.U. 08-5 Under-collection”) (Application at 1-2). In D.P.U. 09-04, the Department approved an additional collection of \$26,714.73 for water purchased from third parties during 2008. Of that amount, the Company states that \$10,335.70 remains uncollected (hereinafter referred to as “D.P.U. 09-04 Under-collection”) (Application at 1-2). The Company now seeks to collect the total under-collection of \$36,973.76 (Application at 1-2).

¹ The Company’s SWP tariff was approved by the Department as part of a settlement in Milford Water Company, D.T.E. 05-61 (2006).

The Company proposes to collect this total under-collection through an across-the-board increase of 9.8567 percent to the Company's current customer charge over the seven-month period beginning June 1, 2010 and ending December 31, 2010 (Application, Sch. 4). For the average residential customer using 10,000 cubic feet of water per year, the surcharge would be \$1.65 per quarter in addition to the Company's base rates, which remain the same.

On May 7, 2010, the Department issued a notice of filing and request for comments on the Company's proposal. The Town of Milford Board of Selectmen ("Town") filed comments on May 25, 2010. The evidentiary record consists of eight exhibits.²

II. COMPANY PROPOSAL

A. Background

The Department approved the SWP tariff as part of the settlement of Milford Water's most recent base rate case. D.T.E. 05-61, at 3-4. The SWP tariff addresses the Company's water supply constraints by allowing it to recover annually the price differentials between its own metered service rates and those of other water suppliers from which the Company may purchase supplemental water under emergency conditions. Id. Specifically, the SWP tariff provides a formula for calculating the allowable surcharge for emergency water purchases if the Company demonstrates that the cost of water purchased from all sources other than Clarks Island Well Station during the previous calendar year exceeds 1.5 percent of the Company's

² The Department, on its own motion, moves the eight exhibits attached to the Company's initial filing into the evidentiary record. In addition, the Department incorporates by reference the evidentiary record in D.P.U. 08-5 and D.P.U. 09-04 . See 220 C.M.R. § 1.10(3).

gross revenues from water sales as reported in the same period (Milford Water Company, M.D.P.U. No 17A, Original Sheet 8). Unless the Department otherwise directs, the SWP factor is to become effective on customer bills rendered on and after April 1st of the year in which the surcharge is sought through March 31st of the following year, and is subject to all powers of suspension and investigation vested in the Department pursuant to G.L. c. 164, § 94 and G.L. c. 165, § 2 (Milford Water Company, M.D.P.U. No 17A, Original Sheet 9).

B. Reconciliation Filing

Milford Water states that, in D.P.U. 08-5, the Department allowed the recovery of \$588,755 in purchased water-related expenses incurred during 2007 by means of a surcharge to all customers (Application, Sch. 1). The Company states that it collected \$562,116.94 pursuant to the SWP factor approved in D.P.U. 08-5 (“D.P.U. 08-5 Surcharge”) (Application at 1-2, Sch. 1). Therefore the D.P.U. 08-5 Under-collection is \$26,638.06 (Application, Sch. 1). The Company also states that, in D.P.U. 09-04, the Department allowed the recovery of \$26,714.73 in purchased water-related expenses incurred during 2008 by means of a surcharge to all customers (Application, Sch. 2). The Company states that it collected \$16,379.03 pursuant to the SWP factor approved in D.P.U. 09-04 (“D.P.U. 09-04 Surcharge”) (Application at 1-2, Sch. 2). Therefore the D.P.U. 09-04 Under-collection is \$10,335.70 (Application, Sch. 2). According to the Company, it is not necessary to reexamine the Department’s findings on either the existence of the drought emergency that necessitated the purchase of additional water supplies or the prudence of the Company’s purchase decisions in this proceeding, because the Department already decided those issues in D.P.U. 08-5 and

D.P.U. 09-04 and because this proceeding is more appropriately characterized as a “true-up” of previously-approved charges (Application at 2).

The Company proposes to recover the total under-collection through the operation of the SWP tariff (Application at 2-3). The SWP tariff provides that in any year where an SWP charge is not applicable, any over- or under-collection of prior years’ SWP costs will be recovered through an across-the-board percentage surcharge factor applied to metered service charges (Milford Water Company M.D.T.E. No. 17A Original Sheet 8). The surcharge factor is calculated by dividing the total over- or under-collection by the customer service charge revenues received during the previous year (Application at 3).³

To establish the proposed surcharge factor, the Company first added the D.P.U. 08-5 Under-collection of \$26,638.06 and the D.P.U. 09-04 Under-collection of \$10,335.70, resulting in a combined under-collection of \$36,973.76 (Application at 3). Next, the Company determined the total customer service charge revenues collected over the seven-month period from June 1, 2009 through December 31, 2009, were \$375,523.88, which the Company then

³ Milford Water’s SWP tariff provides in relevant part:

If no SWP charge is applicable in a given year, any over- or under-collection resulting from the previous year's application of the SWP shall be passed back or collected from customers through a true-up adjustment on customer's bills issued after April 1 of the following year. The amount of such credit or surcharge will be determined by dividing the outstanding balance by the Company's total revenues received through the customer service charge component for the previous year to develop a percentage factor, that in turn will be applied to the Company's then-current customer service charge to derive a customer surcharge or credit based on meter size.

(Milford Water Company, M.D.P.U. No. 17A, Original Sheets 8. 9).

reduced to \$375,112.88 in order to remove revenues associated with its sales to the Town of Hopedale (“Hopedale”) as previously required by the Department in D.P.U. 09-04 and D.P.U. 08-5 (Application at 4, Sch. 3).⁴ The Company then divided the under-collection of \$36,973.76 by the adjusted customer charge revenues of \$375,112.88, producing a surcharge factor of 9.8567 percent (Application at 4, Sch. 4). Finally, Milford Water increased its existing customer service charges for all metered rate classes (except for its sales to Hopedale) by the surcharge factor of 9.8567 percent, thereby incorporating the surcharge factor in the Company’s customer service charges (Application at 4, Sch. 4).

Milford Water proposes to apply the proposed surcharge factor to bills rendered during the seven-month period from June 1, 2010 through December 31, 2010 (Application at 2). This would allow for collection of \$36,941.93 of the total \$36,973.76 under-collection (Application, Sch. 5). According to the Company, this recovery period will both allow the Department sufficient time to review and issue an order on this filing, allow for complete and final calculations of the reconciliation in time for the next annual SWP factor filing date of February 15, 2011, and result in a reasonable surcharge reconciliation factor (Application at 3-4). In the alternative, the Company provided the calculations associated with a surcharge recovery period beginning June 1, 2010 and ending March 31, 2011 (Application at 4, Schs. 6, 7, 8). Under this approach, the applicable SWP surcharge factor would be

⁴ The Company selected this historic period to match the proposed recovery period of June 1, 2010 through December 31, 2010 (Application at 3).

6.9164 percent, and the amount that would be collected under the SWP would be \$37,030.25 (Application, Schs. 7, 8).

III. COMMENTS OF THE TOWN OF MILFORD

The Town filed comments with the Department on May 25, 2010. The Town makes four primary points. First, the Town states that the Department should find that Milford Water waived recovery of the D.P.U. 08-5 Under-collection because the Company did not file for a reconciliation adjustment mechanism to recover this under-collection for more than a year (Town of Milford Comments ¶ 1). Second, the Town states that the Department should carefully review why the Company has only collected 60 percent of the amount allowed in D.P.U. 09-04 (Town of Milford Comments ¶ 2). Third, the Town states that the Department should require, to the extent that any recovery of the under-collection is allowed, that the under-collection be recovered through the Company's volumetric rate instead of through an adjustment to the customer charge (Town of Milford Comments ¶ 3). Finally, the Town requests that the Company be required to prepare comparative bill analyses showing what a typical residential customer using 70,000 gallons per year would pay under both the Company's proposal and the Town's preferred method of recovery (Town of Milford Comments ¶ 4).

IV. ANALYSIS AND FINDINGS

A. Eligibility for Recovery

In D.P.U. 08-5, at 41, the Department approved a SWP factor of \$0.5067 per hundred cubic feet ("HCF") to all bills rendered for the period August 1, 2008 through July 31, 2009,

except those to Hopedale, associated with emergency water purchases made during 2007. In D.P.U. 09-04, at 15, the Department approved a SWP factor of \$0.02299 per HCF for all bills rendered for the period beginning August 1, 2009 through March 31, 2010, associated with emergency water purchases made during January of 2008. In both cases, the Department examined the underlying purchased water expenses and associated costs, including the applicability of the SWP tariff to the relevant expenses and the prudence of the expenditures. D.P.U. 09-04, at 5-14; D.P.U. 08-5, at 6-41. Because the Department has previously determined the eligibility of the Company's purchased water expenses, we will confine our review in this proceeding to the calculation of the under-collection and appropriate recovery method.

B. Timing of Reconciliation Filing for D.P.U 08-5 Under-collection

The Town contends that Milford Water waived recovery of the D.P.U. 08-5 Under-collection due to its delay in filing the instant reconciliation (Town of Milford Comments ¶ 1). The SWP tariff requires that the Company file for a proposed SWP factor no later than February 15 (Milford Water Company, M.D.T.E. No. 17A Original Sheet 9). At the time the Company had to file its proposed D.P.U. 09-04 Surcharge, the Company did not know what the under-collection (or over-collection) would be for the D.P.U. 08-5 Surcharge.⁵ While the Company could have filed for recovery of the under-collection upon expiration of

⁵ The D.P.U. 08-5 Surcharge began on August 1, 2008 and expired on July 31, 2009. D.P.U. 08-5, at 41. On February 11, 2009, the Company applied for the D.P.U. 09-04 Surcharge, which the Department approved on July 23, 2009. D.P.U. 09-04, at 1, 15. The D.P.U. 09-04 Surcharge was effective on August 1, 2009 and expired March 31, 2010. D.P.U. 09-04, at 1, 15.

the D.P.U. 08-5 surcharge, the Department finds, for the reasons discussed below, that it was reasonable for the Company to choose to net the relatively small D.P.U. 08-5 Under-collection against any over- or under-collection that might result from the D.P.U. 09-04 Surcharge. First the SWP tariff does not specify a date by which a true-up adjustment must take effect. Rather, the SWP tariff states that the true-up adjustment must take effect after April 1 of the year following the application of the SWP that resulted in an over- or under-collection. Second, by delaying the filing for nine months, the Company avoided the costs of two back-to-back proceedings in 2009 that would have resulted in two surcharges on customer bills. In addition, the Company timely filed this reconciliation approximately one month after the expiration of the D.P.U. 09-04 surcharge.

Although the Department expects Milford Water to file for reconciliation of its surcharge amounts as soon as possible, we find that, in this instance, the Company's actions were reasonable, especially in light of the fact that no additional interest will be collected from customers. Therefore, the Department finds that the filing delay does not constitute a waiver by Milford Water of its right to seek recovery of the \$26,638.06 D.P.U. 08-5 Under-collection.

C. D.P.U. 09-04 Under-collection

The Town also requests that the Department carefully review why the Company has only collected 60 percent of the amount allowed in D.P.U. 09-04 (Town of Milford Comments ¶ 2). The Department has examined the Company's request, including the supporting exhibits filed with D.P.U. 08-5 and D.P.U. 09-04. Pursuant to the tariff, the initial

D.P.U. 09-04 Surcharge was collected through the volumetric rates (M.D.P.U. No 17A, Original Sheet 8). The D.P.U. 09-04 Surcharge that appeared on customer bills was calculated using the previous calendar year's sales as a forecast of water sales for 2009 (Milford Water Company, M.D.P.U. No 17A, Original Sheet 8).⁶ However, because sales levels are volatile, forecasts generally do not match up perfectly with actual sales, which results in cost recovery that is higher or lower than forecasted.⁷ Recognizing this, the SWP tariff allows the Company to recover any over- or under-collection through a reconciling mechanism (Milford Water Company, M.D.P.U. No 17A, Original Sheet 8, 9). In this instance, lower sales than forecasted contributed to the D.P.U. 09-04 Under-collection (see Application, Sch. 2). See D.P.U. 09-04, Exh. 4. An additional reason for this under-collection is that the D.P.U 09-04 Surcharge was calculated using a twelve-month period to determine the purchased water expense, but was applied to a reconciliation period of only eight months (D.P.U. 09-04, Att. G, Exh. 4). There is no evidence that the resulting under-calculation of the D.P.U 09-04

⁶ See Bay State Gas Company, D.P.U. 09-30, at 92 (2009) (“The Department’s existing practice for recovery of adjustments, such as those in the . . . [cost of gas adjustment clause], is to use forecasted sales”). In D.P.U 08-5, the Department stated that the SWP tariff was conceptually similar to the cost of gas adjustment clause. D.P.U 08-5, at 6.

⁷ See D.P.U. 09-30, at 92 (“The use of forecasted sales volume is only for the purpose of determining the applicable unit charge to be billed to all customers to recover the total amount of adjustment. The question of whether the actual volume, during the period when the amount of adjustment was incurred, or the forecasted volume, over the period when the amount of adjustment will be recovered, is not the paramount consideration. Rather, the critical consideration is how accurate the estimate of the unit charge will be such that in the next reconciliation period, the reconciliation amount will be as low as practicable”) (internal citations omitted).

Surcharge was the result of Company imprudence. Therefore, the Department declines to penalize the Company for the D.P.U. 09-04 Under-collection.

D. Method of Recovery

The Town also argues that the Department should require recovery of any allowed under-collection through a volumetric rate instead of through an adjustment to the customer charge, and further requests that the Company prepare bill analyses comparing the Company's proposal with that of the Town (Town of Milford Comments ¶¶ 3, 4). The Company's SWP tariff provides for different reconciliation methods, the selection of which depends upon whether an SWP factor or surcharge is in effect during the reconciliation year (Milford Water Company, M.D.T.E. No. 17A, Original Sheet 9). Through this two-step reconciliation method, the SWP tariff provides for the probability that emergency water purchases may not necessarily be made on an annual basis. In this instance, the Company did not purchase supplemental water during 2009, so there was no 2009 SWP factor to which a reconciliation adjustment could have been applied.⁸ For these situations, the SWP tariff specifies recovery through an adjustment to the customer charge (Milford Water Company, M.D.T.E. No. 17A, Original Sheet 9). In so doing, the SWP tariff attempts to reduce the volatility associated with forecasted sales and volumetric rates described above in order to enable final collection of allowed SWP amounts when there is no surcharge in effect during the reconciliation year. The Department finds that Milford Water's proposed method of collection through an adjustment to

⁸ As noted above, the SWP factor in effect between August 1, 2009 and March 31, 2010 was associated with emergency water purchases made during January of 2008. D.P.U. 09-04, at 4, 6.

the customer charge component complies with the provisions of the Company's SWP tariff (Milford Water Company, M.D.T.E. No. 17A, Original Sheet 9).⁹

E. Conclusion

The Department has reviewed the Company's calculations, including its proposed treatment of sales to Hopedale. Based on our review, we find that the Company has calculated its proposed SWP reconciliation factor in a manner consistent with the terms of its SWP tariff, as well as Department precedent governing the applicability of the SWP tariff to Hopedale.

Milford Water has proposed a reconciliation period of seven months, covering the period from June 1, 2010 through December 31, 2010 (Application at 4). While the Company's SWP tariff contemplates the use of a twelve-month reconciliation period, the SWP tariff is also subject to all of the Department's powers of suspension and investigation, including effective and termination dates (Milford Water Company, M.D.T.E. No. 17A, Original Sheet 9).¹⁰ In recognition of the discretionary provisions of the Company's SWP tariff, administrative considerations, and resulting bill impacts, we find that recovery of the

⁹ Notwithstanding its decision here, the Department has also evaluated the bill impacts associated with the Town of Milford's proposal using the annual consumption data provided in Exhibit 4 from D.P.U. 09-04. Based on the results of this analysis, the Department finds that there is no significant rate difference between the Company's proposal and that of the Town.

¹⁰ By way of example, as noted above, the SWP tariff specifies that, unless otherwise ordered by the Department, the SWP factor would take effect on April 1 and apply through March 31 of the following year. However, because of the need in D.P.U. 08-5 to investigate a complex filing that included issues of first impression, the Department approved a twelve-month recovery period running from August 1, 2008 through July 31, 2009. D.P.U. 08-5, at 40.

SWP under-collection over a seven-month period would allow for complete and final calculations of any reconciliation to be prepared in time for or shortly after the annual February 15 filing date, if an SWP filing is made, while still maintaining a reasonable SWP reconciliation factor. However, given the timing of the Order, the Company will be unable to apply the SWP factor to its June 1, 2010 bills. Consequently, we direct the Company to apply the approved SWP reconciliation factor to bills rendered for the period beginning July 1, 2010 through January 31, 2011, with the exception of bills for service to Hopedale. The approved SWP factor, re-calculated for this seven-month period, is 9.8134 percent. If the Company makes any emergency water purchases in 2010 for which it will seek a SWP factor in 2011, the Company should comply with the filing deadline provided in the tariff, and must seasonably update that filing with any under-collection resulting from the surcharge approved in this Order. Such amounts will be factored into any surcharge approved for water purchased in 2010. Otherwise, the Department directs the Company to book any remaining over- or under-collection associated with this SWP reconciliation to Account 218, Other Unadjusted Debits, pending a final disposition.

V. ORDER

Accordingly, after due notice and consideration it is

ORDERED: that the Surcharge for Water Purchased reconciliation factor of 9.8567 percent filed with the Department on April 28, 2010, to become effective June 1, 2010, by the Milford Water Company, be and hereby is DISALLOWED; and it is

An appeal as to matters of law from any final decision, order or ruling of the Department 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 Department be modified or set aside in whole or in part. Such petition for appeal shall be filed with the Secretary of the Department within twenty days after the date of service of the decision, order or ruling of the Department, or within such further time as the Department may allow upon request filed prior to the expiration of the 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. G.L. c. 25, § 5.