

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
Albany on March 14, 2013

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman  
Patricia L. Acampora  
Maureen F. Harris  
James L. Larocca  
Gregg C. Sayre

CASE 12-W-0559 - Petition of Rainbow Water Company, Inc. and  
Sunrise Ridge Water Company for Recovery of  
Storm Expenses.

ORDER AUTHORIZING PAYMENT AND EXTENDING SURCHARGE

(Issued and Effective March 14, 2013)

BY THE COMMISSION:

INTRODUCTION

On December 12, 2012, Rainbow Water Company, Inc. (Rainbow) and Sunrise Ridge Water Company (Sunrise) requested authority to recover a net \$25,769<sup>1</sup> in emergency expenses required to repair damage caused by Hurricane Sandy. The Hurricane snapped the tops off three utility poles owned by Rainbow and used to supply power to its pump house. Instead of recovering the emergency expenses through a future rate increase, the Companies propose using funds in an existing

---

<sup>1</sup> The petition requested authority to recover the entire \$63,384.00 loan required for the repairs and extend the surcharge for 16 quarters, or 4 years. Subsequently, the Companies informed the Department of Public Service Staff (Staff) that they received a \$37,615 insurance payment, reducing the amount required for repayment of the loan to \$25,769, which would require an estimated 18 month extension (June 2016) of the SCI Surcharge.

Source Capacity Improvement (SCI) Surcharge Account<sup>2</sup> established to construct a supplemental water supply and to extend SCI Surcharge authority to collect the additional funds needed for the water supply construction.

Rainbow serves 88 ratepayers in the Town of Carmel, Putnam County. Sunrise serves 56 ratepayers in the Town of Carmel and the Town of Yorktown, Westchester County. The two interconnected water systems share common ownership; and, two Rainbow wells supply water to the two systems. The Companies provide metered residential service under separate tariffs. No fire protection service is provided.

We find that the expenses incurred by the Companies for repair of Hurricane Sandy damage are extraordinary and material and that the Companies do not earn sufficient revenues to pay for these expenses. Accordingly, we determine that the Companies' request complies with our standards for the recovery of these emergency repair expenses in their rates. Rather than requiring the Companies to wait until their next rate case to recover the expenses, together with the carrying charges that would accrue, we authorize the Companies to use the funds in its SCI Surcharge Accounts and to extend the quarterly SCI Surcharge to obtain sufficient funds to construct an additional water supply source, subject to the terms and conditions established in our SCI Surcharge Order. Ratepayers will benefit from immediate repayment of the loan because they will avoid payment of the interest charges on the debt. Because the Companies maintain sufficient well capacity to supply demand, no immediate need for the increased capacity exists at this time, and an

---

<sup>2</sup> Case 08-W-0874, Rainbow Water Company, Inc. and Sunrise Ridge Water Company -Source Capacity Improvement Surcharge, Untitled Order (issued December 16, 2008) (SCI Surcharge Order).

estimated 18 month delay in construction of its back-up water supply is acceptable.

#### BACKGROUND

##### SCI Surcharge

The Commission's SCI Surcharge Order authorized the Companies to recover an annual SCI surcharge of \$120 per customer to fund a new well at an estimated \$103,680 cost. The Surcharge is in effect January 1, 2009 through December 31, 2014. The New York State Department of Health (DOH) requires the Companies to increase their water supply capacity to provide sufficient capacity to satisfy peak and average demands when Rainbow's largest well is out-of-service. The Companies plan to comply with this requirement by rebuilding a Sunrise pump house and well, capable of producing 50 gallons per minute, when they accumulate sufficient SCI Surcharge funds. In the event of a loss of capacity or malfunction of the Rainbow wells prior to collection of sufficient funds for construction of the new water source, the Companies would immediately begin work on the new water source.<sup>3</sup>

##### Summary of Rates

Rainbow and Sunrise customers pay an average annual bill that includes: base rate charges for water services; Environmental Facilities Corporation Surcharges for payment of principle and interest on an estimated \$337,000 Drinking Water State Revolving Fund loan for rehabilitation of the Rainbow system scheduled to expire in 2023 (EFC Surcharge);<sup>4</sup> capital

---

<sup>3</sup> SCI Surcharge Order, p. 7.

<sup>4</sup> Case 03-W-1026, Rainbow Water Company, Inc. - Financing and Surcharge, Order Authorizing the Issuance of Debt and Surcharge to Repay the Loan (issued September 10, 2003).

improvement surcharges for construction of an interconnection between the Rainbow and Sunrise water systems financed by a \$130,000 loan from the owners scheduled to expire at the end of 2013 (Interconnection Surcharge);<sup>5</sup> a surcharge to accumulate sufficient funds for a future new Sunrise pump station and well authorized for collection through 2014(SCI Surcharge); and unlimited surcharges to replenish their escrow repair accounts limited to a maximum of \$5,280 for Rainbow and \$3,360 for Sunrise.<sup>6</sup>

The annual base rate charges for Rainbow and Sunrise, excluding surcharges, is \$544.71. Rainbow customers pay \$360.64 in annual surcharges (\$117.20 for the EFC Surcharge, \$123.44 for the Interconnection Surcharge and \$120 for the SCI Surcharge) for a total \$905.35 bill. Sunrise ratepayers pay \$497.24 in annual surcharges (\$117.20 for the EFC Surcharge, \$260.04 for the Interconnection Surcharge and \$120 for the SCI Surcharge) for a total \$1,041.95. The customers of the two companies pay variable surcharges to replenish their escrow repair accounts; in 2011, the Companies recovered annual charges of \$98 from customers.

#### PUBLIC NOTICE

In accordance with State Administrative Procedure Act (SAPA) §202(1), notice of the petition was published in the State Register on January 9, 2013. The Secretary received no comments by the expiration of the comment period, which occurred on February 23, 2013. Rainbow and Sunrise notified their

---

<sup>5</sup> Case 06-W-9112, Sunrise Ridge Water Company - Rates and Case 06-W-0114, Rainbow Water Company, Inc. - Rates, Order Approving Rates and Surcharges (issued December 19, 2006).

<sup>6</sup> Case 02-W-0791, Rainbow Water Company, Inc. - Rates, Untitled Order (issued November 5, 2002); Sunrise Ridge Water Company - Rates, Untitled Order (issued November 5, 2002).

customers of the petition by direct mail through letters dated January 10, 2013. No comments were received.

PETITION

The petition explains that electric service is provided to the Rainbow pump house by means of power lines located on three poles owned by Rainbow. On October 29, 2012, the winds from Hurricane Sandy snapped the three poles, knocking down the power lines and cutting off electrical service to the pump house. The petition states that work to restore service began immediately and ended on November 10, 2012. Rainbow's emergency generator was used during the repairs; and, water service was not interrupted.

The Companies informed Staff that the total cost of the repairs is \$63,384.00 and the net cost, after receipt of a \$37,615 insurance payment, is \$25,769. The owners of Rainbow and Sunrise advanced the money to pay their contractor in a timely manner and now seek to recover the net amount outstanding from ratepayers. The Companies explain that it is important to resolve this matter as quickly as possible in order to minimize financial impact on customers by avoiding payment of interest charges on the loan.

The Companies state that, as of the end of 2012, they collected \$69,312 through the SCI Surcharge for the new water source, estimated to cost about \$104,000. Rainbow and Sunrise propose that they use a portion of these funds to pay for the cost of the emergency repairs and extend the Surcharge for an additional period to collect sufficient funds for construction of the new water source. After removal of \$25,769 from the SCI Surcharge Account, it is estimated that the Companies would need to recover the SCI Surcharge for an additional 6 quarters, or 18 months, to June 30, 2016, to obtain sufficient funds for their

infrastructure improvements.<sup>7</sup> Rainbow and Sunrise state that the main purpose of the capacity expansion is to establish a back-up alternative supply source, in the event that the water supply furnished by Rainbow's two main wells declines or fails. Because the main wells continue to meet system needs, the Companies state that a delay in the capacity expansion is reasonable. The petition states that this approach benefits ratepayers because it avoids the imposition of an additional surcharge or the accrual of interest on the loan for the repairs.

#### DISCUSSION

The Commission authorizes prospective recovery of past expenses if the following standards are met: the cause is extraordinary, unanticipated and out of a company's control; the expense is material and results in a major impact on a company's level of earnings, specifically, at least 5% of net income; and, a small water company without a rate base and allowed rate of return earns insufficient earnings, maintains no reserves and is not authorized to recover this type of expenditure in its rates.

The repair expense qualifies as extraordinary, unanticipated and outside the Companies' control; Hurricane Sandy, the largest Atlantic hurricane on record, devastated parts of New York State and took out the three poles necessary for the electrical supply to Rainbow's pump house. The cost of the repairs is six times the Companies' combined operating income of \$4,269 and, therefore, material.

---

<sup>7</sup> In their petition, the Companies proposed extension of the SCI Surcharge for a longer period, based upon the need to repay the full \$69,312 cost of the repairs.

Staff reviewed the Companies' books and determined that the only reason the Companies are not running deficits is because the owner has not taken the salaries authorized for the officers and operators of the two water systems. Thus, the Companies earn insufficient revenues and maintain no reserves. No expense allowance for storm damage or extraordinary repairs is included in the Companies' revenue requirement; and, thus, repairs of hurricane damage are not accounted for in rates. The Companies' annual allowance for repairs is \$8,640; and, Staff reports that this amount did not pay the full cost of the necessary repairs to the Companies water systems performed in 2012, relating to repairs of a well and leaks in the distribution systems. We conclude that the Companies' request for recovery of repair costs due to the damage caused by Hurricane Sandy complies with our standards.

Generally, we would authorize the Companies to defer the amount of these expenses on their books and request recovery from ratepayers in their next request for a rate increase. In this case, Rainbow and Sunrise propose to use the money collected from the SCI Surcharge to repay their owner and then extend the surcharge to replenish the account. This arrangement would benefit ratepayers by avoiding the interest payments that would accrue if the matter is deferred until the Companies' next rate proceeding. We find the use of the SCI Surcharge funds benefits ratepayers.

The SCI surcharge is scheduled to expire in the last quarter of 2014, at which time work on connecting the new well could commence. With the extension, it is estimated that ratepayers will continue to pay the quarterly \$30 charge through the second quarter of 2016, with a corresponding delay in work on the new well. Given the benefits to ratepayers, lack of immediate need for the well, and the Companies' commitment to

begin work early if water capacity becomes a concern, a delay in construction of the additional well to allow for the repayment of the owner's loan is reasonable. Accordingly, we authorize the Companies to use funds in the SCI Surcharge Accounts for repayment of the net \$25,769 loan to repair damage resulting from Hurricane Sandy and to extend the SCI Surcharge subject to the conditions established in our SCI Surcharge Order until sufficient funds are collected for construction of the new water source, an estimated 18 months (June 2016).

CONCLUSION

The costs related to restoring Rainbow's electric service after Hurricane Sandy comply with our standards and qualify for our rate recovery authorization. The proposal to use funds collected through the SCI Surcharge and extend the SCI surcharge to replenish the Surcharge Account is in ratepayers' interest because ratepayers avoid carrying charges.

The Commission orders:

1. Rainbow Water Company, Inc. and Sunrise Ridge Water Company are authorized to withdraw \$25,769 from the Source Capacity Improvement Surcharge Accounts, in accordance with the discussion in the body of this Order.

2. Rainbow Water Company, Inc. and Sunrise Ridge Water Company are authorized to replenish the Source Capacity Improvement Surcharge Accounts by extending the recovery period for the Surcharges until the Accounts reach the maximum allowable balance of \$103,680, in accordance with the discussion in the body of this Order.

3. Rainbow Water Company, Inc. and Sunrise Ridge Water Company are directed to file their updated Source Capacity Improvement Surcharge (SCIS) Statement No. 2 as shown in



Appendix A on not less than one day's notice, to become effective April 1, 2013.

4. Rainbow Water Company, Inc. and Sunrise Ridge Water Company are authorized to put into effect their tariff revisions extending the surcharges prior to the end of the 30 day notice period and without compliance with the requirement to publish notice of the proposed tariff amendments in a newspaper of general circulation (§89-c(10)(b) of the Public Service Law and 16 NYRCRR § 720-8.1). Rainbow Water Company, Inc. and Sunrise Ridge Water Company are directed to notify their customers by direct mail, not later than April 1, 2013, of the Commission's determination in this proceeding and file a copy of the notification with the Secretary to the Commission no later than April 15, 2013.

5. The Secretary to the Commission may extend the deadline established in Ordering Clause No. 4 for good cause shown.

6. This case is closed, upon compliance with Ordering Clauses Nos. 1 through 4.

By the Commission,

(SIGNED)

JEFFREY C. COHEN  
Acting Secretary

**P.S.C. NO: 3 WATER**  
**COMPANY: Rainbow Water Company, Inc.**  
**Sunrise Ridge Water Company**  
**INITIAL EFFECTIVE DATE: April 1, 2013**

**STATEMENT TYPE: SCIS**  
**STATEMENT NO. 2**

Issued in compliance with Commission Order dated December 16, 2008 in Case 08-W-0874, amended in compliance with Commission Order dated (this date is when actual Order is issued) March xx, 2013 in Case 12-W-0559 .

## **SOURCE CAPACITY IMPROVEMENT SURCHARGE**

### **STATEMENT NO. 2**

Rainbow Water Company, Inc. and Sunrise Ridge Water Company (the companies) are authorized to establish a Source Capacity Improvement Surcharge (SCIS), which will be used to pay for improvements necessary to meet New York State Department of Health source capacity requirements as described in the Commission Order in Case 08-W-0874, issued December 16, 2008, unless otherwise directed by the Commission.

This SCIS is subject to the following conditions:

1. The SCIS of \$30 per customer per quarter will be collected from all customers beginning January 1, 2009 and continuing until the balance reaches \$103,680.
2. Proceeds from the SCIS will be deposited into a separate interest-bearing Certificate of Deposit established in a bank and will be under the control of the companies' owners.
3. The companies' owners will have access to the funds in this account solely for the purposes noted above and any associated revenue taxes.
4. Proceeds from the SCIS will remain in the account and continue to accrue interest until sufficient funds are accumulated to pay for the improvements described in the Commission order in Case 08-W-0874 in cash.
5. A complete accounting of the account must be submitted to the Secretary to the Commission by March 1st of each year. In addition, the companies' owners may be required to submit, at Staff's request, additional SCIS information.
6. Should it become necessary to make the described improvements prior to accruing enough cash to completely pay for the improvements, the companies' owners will be allowed to use all proceeds deposited in the account plus accrued interest to that point in time and, after consultation with Staff of the Department of Public Service, adjust the SCIS to provide adequate cash flow to complete the improvements or make other arrangements.
7. Any funds remaining after the described improvements are made will be returned to ratepayers.

Issued By: Joseph Maggi, President, 21 Toon Drive, Hilton Head Is., SC 29928  
(Name, Title, Address)