



NIXON PEABODY LLP  
ATTORNEYS AT LAW

NIXONPEABODY.COM  
@NIXONPEABODYLLP

**Stanley W. Widger, Jr.**  
*Partner*  
T 585-263-1529  
swidger@nixonpeabody.com

1300 Clinton Square  
Rochester, NY 14604-1792  
585-263-1000

May 23, 2017

Hon. Kathleen H. Burgess  
Secretary  
New York Public Service Commission  
Three Empire State Plaza  
Albany, New York 12223-1350

**RE: Case 17-W-\_\_\_\_ - Bristol Water-Works Corporation - Filing to Increase Rates for Water Service, to Establish Capital Improvement Surcharge or System Improvement Charge, and for Waiver of Notice Requirements**

Dear Secretary Burgess:

Enclosed for filing with the Public Service Commission (the "Commission") pursuant to Public Service Law ("PSL") § 89-c(10)(b) please find third revised leaf 12, third revised leaf 13, and third revised leaf 14 to Bristol Water-Works Corporation's ("Bristol" or the "Company") tariff, PSC No: 3 – Water, to become effective on October 1, 2017, together with supporting information and a proposed State Administrative Procedure Act ("SAPA") notice for publication in the *New York State Register*. The enclosed tariff leaves are also being filed in the Commission's electronic tariff filing system. Our Method of Service Form is also enclosed.

**PROPOSED INCREASE**

By this filing, based on historical data through December 31, 2016, Bristol seeks a \$154,329 (116%) increase in total operating revenues for water service for a Rate Year commencing October 1, 2017. This increase is necessary to provide sufficient revenues to enable the Company to continue providing safe and reliable service to its customers, including making necessary improvements, and to permit the Company's owners to earn a rate of return on investment in the Company that is commensurate with returns granted other comparable water companies under the Commission's jurisdiction. Bristol was last granted an increase in rates pursuant to the Commission's March 17, 2009 Order in Case 08-W-1272 *et al.* (Minor Rate Filing of Bristol Water Works Corporation to Increase its Annual Water Revenues by \$38,542 or 42.5%). As the enclosed materials demonstrate, current rates are clearly inadequate to cover the costs of operating the system and the Company has been operating at a loss for several years. This situation cannot be permitted to persist.

Hon. Kathleen H. Burgess  
May 23, 2017  
Page 2

NIXON PEABODY LLP  
ATTORNEYS AT LAW

NIXONPEABODY.COM  
@NIXONPEABODYLLP

## BACKGROUND

Bristol provides water service to approximately 360 customers in the Town of South Bristol, Ontario County. The area served by the Company is known as Bristol Harbour, a residential and recreational development commenced in the 1960s. The customer base consists primarily of residential customers, but also includes a restaurant, a hotel, a sewer plant, and a golf course. The Company does not offer fire protection service. Bristol has three Service Classifications (“SC”). SC 1, for treated water, applies to residential, small commercial and general use customers. Under SC 1, condominiums for which individual metering is impracticable receive service at quarterly flat rates, depending on size, while single-family homes and townhouses are billed quarterly for a service charge, as well as metered consumption. SC 2 applies to treated water used for general purposes and has no service charge. SC 3 is for metered untreated water for irrigation purposes, has no service charge, and is used only by the golf course.

In the future, it is anticipated that Bristol will provide water service to the Everwilde Inn & Spa (“Everwilde”), which is currently proposed for development adjacent to Bristol Harbour. Permitting for Everwilde, however, is not complete and commencement of construction is not likely until 2018. While the addition of Everwilde as a customer of the Company is expected to provide benefits to existing customers in the form of a broader base over which to spread the fixed costs of the system, such benefits will not materialize until after Everwilde is completed and becomes fully operational, which is not likely before 2019.

## NEED FOR INCREASE

As indicated in the enclosed materials, the costs of operating the Bristol system have increased substantially since the last rate increase in early 2009, and revenues at current rates are grossly inadequate to cover the cost of just maintaining the *status quo*, much less providing funds for needed repairs and improvements, and the opportunity to earn an adequate return on investment, to which the owners of the system are constitutionally entitled. The Company has not had the benefit of increases to reflect inflation, much less activity level changes. In addition, even if existing rates had been sufficient at some point to maintain the *status quo*, they clearly are inadequate to cover the types of additional costs that are necessary to update an aging system and to support modernized, efficient operations. Some of the major drivers underlying the need for a substantial increase in rates are described briefly below. A more complete discussion of these items can be found in the enclosed supporting documentation.

### Labor

While Bristol has been able to function safely and reliably, current staffing arrangements are simply not suited to assuring such positive performance over the long term. The addition of a Distribution Operator, together with payment of competitive compensation and corresponding increased benefits costs, is necessary to assure continued satisfactory operation of the system.

Hon. Kathleen H. Burgess  
May 23, 2017  
Page 3

NIXON PEABODY LLP  
ATTORNEYS AT LAW

NIXONPEABODY.COM  
@NIXONPEABODYLLP

### **Shared Costs**

Bristol realizes efficiencies through the sharing of certain labor, management and other costs with Bristol Sewerage Disposal Corporation (“BSDC”) and the parent of both utilities, Bristol Harbour Resort Management, LLC (“BHRM”). The Management Fee included in this filing is based on an understanding of the level of effort required to support the Company, as well as reasonable, arm’s length rates to be applied to that level of work.

### **Purchased Power**

The cost of electric power supplied by Rochester Gas and Electric Corporation (“RG&E”) continues to be a major expense for the Company. RG&E’s electric rates have increased significantly since Bristol’s last rate case. This significant increase is reflected in the accompanying material.

### **Insurance**

The cost of insurance continues to increase. Among the reasons for the increase in premiums is the additional amount required for Workers Compensation insurance to reflect the increase in labor costs, per the earlier discussion of “Labor.”

### **Repairs and Maintenance**

Historically, on an annual basis, Bristol’s expenditures on repairs and maintenance of the system have significantly exceeded the amount allowed in the 2009 Rate Order. That overage exists even in the absence of the extraordinary repair costs incurred in 2015 that are the subject of the Company’s pending petition for deferral and recovery of leak repair costs in Case 17-W-0010, described below. As a consequence, the Company has had no choice but to defer non-critical, but necessary, repair and maintenance activity. At this point, however, Bristol believes that it can no longer postpone such activity and proposes to step up certain activities, as described in the accompanying supporting material. It should be noted that, where feasible, the Company is proposing a multi-year approach to certain repairs and replacements.

### **Professional Fees**

The proposed increase in this filing reflects the cost of retaining professional accounting and legal services to assist in the preparation and prosecution of this application, as well as to assist the Company with other accounting and legal activities, required to meet regulatory and other obligations. The filing reflects these two basic categories of expense by proposing that the cost of this proceeding be amortized over a three-year period, consistent with Commission practice in other water company rate proceedings. On-going accounting and legal costs pertaining to the day-to-day business of the Company, including dealing with Commission-related activity, such as response to customer issues, are the subject of a proposed annual allowance. Bristol recognizes that the cost of professional services incurred in connection with this proceeding is

Hon. Kathleen H. Burgess  
May 23, 2017  
Page 4

NIXON PEABODY LLP  
ATTORNEYS AT LAW

NIXONPEABODY.COM  
@NIXONPEABODYLLP

likely to be considered greater than that typically allowed by the Commission in small water company rate cases. The Company believes, however, that this proceeding warrants a greater allowance in that it is the first filing by the Company in nine years. Had Bristol filed for rate relief at three-year intervals, for example, recovery of the cost of three proceedings, as opposed to just this one, would have been entirely appropriate. Customers have thereby benefited not only from savings in the cost of preparing and prosecuting at least two other rate cases, but they have not had to pay fully compensatory rates for much of the last eight years. Moreover, the Company, in connection with this filing, is attempting to place its regulatory affairs on a sound footing, to avoid the criticisms of the quality of its rate presentations that were leveled at it in the last case. The value of this effort will ultimately inure to the benefit of customers, the Commission and the Company in this case and in the future.

### **Auto and Mileage Expense**

The Company has determined that it is more cost-effective to lease a truck for its business, rather than to make mileage payments for the use of employee vehicles.

### **Payroll Taxes**

The increase in payroll taxes is directly related to the increase in payroll discussed above.

### **Rate Base and Depreciation**

Bristol has recently acquired new meter reading equipment and software to allow for electronic reading of all water meters that will increase the accuracy and efficiency of the meter reading and billing processes. These additions are the major contributors to increased rate base and depreciation expense.

### **Inflation**

Unless otherwise indicated in this filing, expense items have been increased at an inflation rate of 2.0%.

### **Rate of Return**

Bristol proposes a pre-tax rate of return of 11.0%. Although the Company is cognizant of recent decisions in which the Commission has granted lower returns to small water companies, Bristol believes that circumstances warrant a higher return for the Company. Bristol is seeking to make major improvements to the Company's system, as indicated above. The Company has already made a significant investment in meter reading equipment and software to improve efficiency and will soon be making a much larger capital commitment to construct a new water tank. The Company will be borrowing money for some or all of the projects in progress or in the planning stage and will need a sound balance sheet to obtain such financing on reasonable terms. A return at 11.0% or higher will send a signal to financial institutions that the

Hon. Kathleen H. Burgess  
May 23, 2017  
Page 5

NIXON PEABODY LLP  
ATTORNEYS AT LAW

NIXONPEABODY.COM  
@NIXONPEABODYLLP

Commission is supportive of Bristol's financing capabilities. Moreover, as the enclosed material demonstrates, Bristol's earnings have been negative for years as the Company's owners, both former and current, have financed expenses that should have been borne by customers. The Company does not seek to have the Commission engage in retroactive ratemaking or otherwise to be made whole for past failures to seek rate relief. At the same time, however, just as the Commission looks at past deficiencies of utilities in setting prospective rates of return (as it did at page 11 of its February 21, 2017 Order in Case 16-W-0121 involving Rolling Meadows Water Corporation), the Commission should consider the extent to which former and current owners have subsidized customers for years and the fact that current ownership is undertaking a major effort to get the Company's finances and other aspects of the business on a sound footing. While such positive efforts may not rise to the level of warranting a special reward, they certainly support the position that the currently allowed return of 11.0% should not be reduced.

## **RATE DESIGN**

Bristol proposes to allocate the proposed rate increase among the three customer classes, SC 1, SC 2 and SC 3, by increasing the base period revenues of each class by the same percentage (*i.e.*, 116%).

## **CAPITAL IMPROVEMENT SURCHARGE OR SYSTEM IMPROVEMENT CHARGE**

Bristol has determined that it will be necessary to replace an existing water storage tank with a new tank. The Company has requested and received a feasibility study and recommendation supporting the need for the new tank. At this stage, without disclosing the precise parameters of the project, the components or total amount of the bid, or other information that might compromise the Company's ability to obtain the best pricing for the project, a working estimate for the total cost is in the range of \$725,000 to \$975,000. Because the project is not likely to be undertaken until at least the summer of 2018, and is not likely to be completed and in service until the fall of 2018, Bristol has not proposed to include the cost pertaining to the new tank in the rates to be established in this proceeding. Instead, the Company believes that this project warrants the implementation of a Capital Improvement Surcharge ("CIS"), such as that established for Forever Wild Water Company in Case 14-W-0307, or a System Improvement Charge ("SIC"), such as that established for New York Water Service Corporation in Case 06-W-0700, to address similar system improvements and their financing. The current situation is ideally suited to the use of a SIC/CIS because it will enable Bristol to prepare a refined analysis of the benefits and costs of a new tank and permit the Staff of the Department of Public Service to review that analysis and confirm the need for and reasonable cost of the project, together with its financing. If the project is approved by the Commission or a designee, Bristol will be able to obtain financing and commence the project without having to await the next general rate case. Customers will get the benefit of prompt construction and integration into the system and the Company will be in a position to recover the cost thereof promptly.

Hon. Kathleen H. Burgess  
May 23, 2017  
Page 6

NIXON PEABODY LLP  
ATTORNEYS AT LAW

NIXONPEABODY.COM  
@NIXONPEABODYLLP

## NOTICE

In addition to providing the enclosed draft SAPA notice for the Commission's possible use, Bristol, consistent with PSL § 89-c(10)(b), is serving courtesy copies of this filing on the Supervisor of the Town of South Bristol and on the Ontario County Administrator by e-mail. The Company is also notifying its customers of this filing by first class mail. Because the Company is providing direct notice to its customers, it hereby seeks a waiver of the provisions of the Commission's regulations (16 NYCRR § 720-8.1) that would otherwise require publication of notice in a newspaper of general circulation in Ontario County.

## RELATIONSHIP TO OTHER PROCEEDINGS

### **Case 17-W-0010 – Petition of Bristol Water-Works Corporation to Defer Extraordinary Water Main Leak Repair Costs Over and Above the Level Last Established in Rates**

As indicated above, Bristol's Petition for deferral and recovery of extraordinary leak repair costs incurred in 2015 is currently pending before the Commission. Those extraordinary costs are not included in the revenue relief Bristol is seeking in this rate filing (and they were excluded from the base period expenses used in this filing). Although Bristol believes that the deferral request should be ripe for decision before a decision is made with regard to the instant filing, and the Company would welcome rate relief pertaining to the extraordinary expense as soon as possible, to the extent that this case can be concluded promptly, so that the results of both proceedings could be implemented simultaneously, the Company would not object to such an approach. If, however, such simultaneous implementation would delay Bristol's recovery of the extraordinary leak repair expenses, the Company respectfully requests that it be kept whole through the collection of carrying charges on the amount it is entitled to recover.

### **Case 17-W-0049 – Complaint of Property Owners and Customers of Bristol Water-Works Corporation to Conduct a Survey of Water Usage for Both Commercial and Residential Customers**

On January 3, 2017, the Bristol Harbour Village Association filed a petition, on behalf of the signatory customers of the Company, requesting review of the Company's rates to determine if they are "fair and equitable to all residential and commercial customers." Since the purpose of the instant filing is to set rates that are "just and reasonable" within the meaning of PSL § 89-b(1), the request of the signatory customers will effectively be addressed within the context of this proceeding.

## CONCLUSION

Bristol respectfully requests that the rate and other relief requested in this filing be granted as expeditiously as possible.

Hon. Kathleen H. Burgess  
May 23, 2017  
Page 7

NIXON PEABODY LLP  
ATTORNEYS AT LAW

NIXONPEABODY.COM  
@NIXONPEABODYLLP

Should you have any questions regarding this matter, please contact me.

Very truly yours,

*Stanley W. Widger, Jr.*

Stanley W. Widger, Jr.

Enclosures

cc (w/encs.): Hon. Daniel Marshall (Supervisor, Town of South Bristol)  
Hon. Mary A. Krause (Administrator, Ontario County)