

The State of New Hampshire
Public Utilities Commission
DW 17-114

RE: Eversource Energy and Aquarion Water Company of New Hampshire, Inc.

TOWN OF HAMPTON'S PETITION TO INTERVENE

NOW COMES the Town of Hampton (the Town or Hampton) in the above entitled matter and petitions the Commission to allow the Town to intervene in these Joint Petition for Approval of the Acquisition of Aquarion Water Company of New Hampshire, Inc. (Aquarion) by Eversource Energy (Eversource) proceedings as a party, and in support of said Petition to Intervene says as follows:

1. The Town of Hampton has approximately 15,000 year round residents and lies at the heart of the Seacoast region of New Hampshire.
2. The population of Hampton in the summer months rises dramatically to the point where Hampton has one of the largest populations in the State.
3. The vast majority of the residents in Hampton receive their water service from Aquarion.
4. Hampton contains about three-quarters of Aquarion's residential customers, and Hampton's Fire Department utilizes more than half of the public fire hydrants for which Aquarion insures the availability of water.
5. The Town of Hampton has participated in all of Aquarion's recent general rate and WICA surcharge cases before the Commission that have been filed by Aquarion.

6. Notwithstanding the representations made by Eversource and Aquarion within the Joint Petition for Approval, based upon its years of experience with Aquarion the Town of Hampton has a number of concerns with the proposed acquisition of Aquarion by Eversource. The following concerns pertain to the potential impact on rates, terms, service, and the operation of the utility, as well as potential adverse impacts as a result of the transaction, and whether the transaction will indeed serve the public good:

a. What are Eversource's plans for Aquarion's next general rate petition?

Given that Aquarion has come close to exhausting the 7.5% cap for between-rate-case-surcharge increases available under the still PILOT Water Infrastructure Conservation Adjustment (WICA) program, which was originally approved on a non-permanent basis by the Commission in its Order No. 25, 019, dated September 25, 2009, will Eversource be having Aquarion file a general rate case shortly after Eversource acquires Aquarion in order to "reset" the WICA clock?

b. Will Eversource be seeking an increase in the percentage return on equity (ROE) and thus in the allowed rate of return in the next rate case?

In the last general rate case PUC Docket No. DW12-085, Aquarion sought an increase from the 9.75% ROE set in 2008 in PUC Case No. DW08-098, to 10.25%. With the assistance of an independent expert (David Parcell) on rates of return, the Towns of Hampton and North Hampton were successful in convincing the Commission to lower the allowed Return on Equity to 9.6%, thereby saving customers several hundred thousand dollars in rate charges. Will Eversource seek to reverse this trend despite the solid earnings performance by Aquarion since that time?

- c. Will Aquarion under the ownership of Eversource effectively seek to penalize customers for conserving water (and thus decreasing revenues to Aquarion) in the next general rate case as occurred in the last, 2012 general rate case?

In PUC Docket No. DW 12-085, the last general rate case, Aquarion sought to increase revenue through proposed rate increases across all classes of customers, in part to make up for lost revenues resulting from customers' conservation of water. This approach should not be countenanced as it penalizes customers' efforts to conserve water, a goal Aquarion professes to believe in.

- d. Will Aquarion under the ownership of Eversource be willing to seek the Commission's permission to restructure rates so as to charge higher water usage customers a different per gallon rate than regular residential customers, using such tools as inclining block rates?

As pointed out by the Town of Hampton during the 2012 general rate case, Aquarion itself proposed implementing inclining block rates during the 2008 rate case, its Massachusetts affiliate has already implemented such a structure. There are a number of high usage commercial customers in Hampton, including a brewery and a manufacturing facility, as well as the heavily used New Hampshire State Park Facilities at Hampton Beach, and several large condominium developments along Ocean Boulevard. In addition, a new assisted-living healthcare facility for Alzheimer's patients and a new hotel/office complex, both located in the Liberty Lane area of Hampton, will soon join the group of high-volume consumers of Aquarion water. The volume of water needed for the new commercial developments

in Liberty Lane projects will be high, as shown on Exhibit A, where the demand for gallons of water will be roughly equal to the gallons of sewage output.

- e. How will Eversource improve the monitoring and remediation of pollution in Aquarion wells by PFC's?

PFC's emanate from the Coakley landfill, which is located in North Hampton, Greenland, and Portsmouth, and could threaten Aquarion wells given that the flow from Coakley goes south to North Hampton. Well testing has revealed trace amounts of some PFC's in some Aquarion wells. The Town of Hampton has alerted the State of New Hampshire to these issues by letter of the Hampton Board of Selectmen dated July 17, 2017, attached hereto as Exhibit B. Proper management of this impending crisis is vital to the long-term health of Aquarion and the water supply.

- f. What are Eversource's intentions regarding implementing the recently disclosed plan of Aquarion NH for construction of a consolidated water treatment facility to cover many of its wells in Hampton and North Hampton?

In recent months, Aquarion engineering personnel have disclosed to Hampton and North Hampton officials its plans for consolidating into one new water treatment plant, the treatment facilities that currently are dedicated to one well each and that are aging and outmoded. The cost of this consolidation is said to be between \$1.7 million and \$1.9 million. Given the threat to Aquarion wells from PFC's and other contaminants, it is imperative that the subject of upgrading water treatment facilities be handled appropriately and that Eversource's commitment be secured to carry out whatever upgrades make sense to protect the public health and safety.

g. What will Eversource's approach be to better meet Aquarion's obligations to maintain fire hydrants?

The Towns of Hampton, North Hampton, and Rye currently pay an annual fee of \$1,839.44 per hydrant for the privilege of having water available for firefighting, a critical public safety service, especially in the high density resort areas that are dominated by older, wooden structures. Hampton has 273 Aquarion owned hydrants located within its Town limits.

Under the Settlement Agreement and Order #24, 648 in DW 05-119, Aquarion is required to flush each hydrant annually, to keep these hydrants clear of snow, and to paint each hydrant a certain color to aid in firefighting. See letter of Sarah B. Knowlton as counsel for Aquarion dated March 23, 2007 with attached engineering review, attached hereto as Exhibit C.

Over the years, Aquarion has been neglectful of its flushing and maintenance obligations and rarely paints its hydrants. Also, Fire Department, and not Aquarion personnel, often end up clearing snow away from hydrants in winter months to ensure they are usable. These failures are of critical concern to the Hampton Selectmen and the North Hampton Water Commissioners. The Towns have set aside money, rather than paying the latest bills from Aquarion in full, for those hydrants believed not to have been serviced as they should have been.

Where hydrants have not been maintained to standard, the Towns should be compensated by a return to the Towns of the per hydrant charges they have paid to Aquarion for non-working hydrants.

- h. What are Eversource's plans to ensure public safety when implementing the large groundwater withdrawal at Well #22 in Hampton, for which Aquarion is currently seeking authorization from the New Hampshire Department of Environmental Services (DES)?

Well #22, a bedrock well, was dug in 2012, but has never been put into service. Only recently has Aquarion proposed to conduct a major groundwater withdrawal pump test of Well #22, which is required prior to bringing that well on line. The capital cost of bringing Well #22 on line to the customer rate base is estimated to be approximately \$1.5 million, which will be added to the rate base in the next general rate case. DES conducted a public hearing in Hampton on June 5, 2017, and invited comments within 45 days thereafter.

The Towns of Hampton and North Hampton have made a major investment in legal and expert services to provide DES with a comprehensive set of comments on this application. As documented by the Town's expert, UNH Professor Thomas Ballestero, there are major public health concerns raised by the prospect of using the well and conducting the pump test. Salt water intrusion and arsenic infiltration are real threats. Neighboring private wells in Hampton could be at risk of dewatering, as could nearby wetlands. Proper precautions need to be made to protect groundwater, which belongs to the State and not to Aquarion. DES has responded to these comments by indicating in a letter dated August 3, 2017 (Exhibit D attached hereto) that it cannot approve the Preliminary Application at this time for lack of environmental due diligence. It has also requested that the applicant reply to a number of Professor Ballestero's concerns (attached hereto as Exhibit E).

i. What are Eversource's plans for Aquarion water tank maintenance and replacement?

In 2016, Aquarion announced plans to take a major water tank offline to perform maintenance. Aquarion discussed its plans with the Towns in several quarterly meetings, but then abruptly canceled them, stating that this tank had to be kept online in order to maintain adequate water pressure in its fire hydrants system-wide. Nonetheless, the tank still needs major maintenance, and as a result, Aquarion may need to build another tank to maintain pressure within the system while the other tank receives maintenance. It is not clear whether Eversource will be willing to make the major investment in infrastructure needed for this project to go forward. The cost estimate for this work received from Aquarion is between \$2 million and \$3 million.

j. Will Eversource seek to expand Aquarion's territory to include Towns such as Stratham?

For the second year in a row, DES has ordered Aquarion on a temporary, emergency basis to provide water to the 46-home Wiggin Way subdivision in Stratham. The Towns of Hampton, North Hampton and Rye are opposed to Aquarion's incorporation of this subdivision into its service area because this provision of water occurs at a time when Aquarion is challenged to produce enough water to meet the needs of its existing and expanding customer base in Hampton, North Hampton and Rye, and because the Wiggin Way Homeowners Association has done nothing to comply with past DES orders to remediate its arsenic (not supply volume) issues. The Towns of Hampton and North Hampton have together appealed the DES Order requiring a permanent interconnection to be made by Aquarion to the Wiggin Way subdivision to the Water Council. This appeal is pending, and

Aquarion's attitude in the face of its municipal customer's adamant opposition has been laissez faire at best. Although the homeowners in the high-end, residential neighborhood at Wiggin Way do need clean water, they have failed to remedy the arsenic in their wells, despite multiple DES orders to that effect dating back more than a decade. Allowing this neighborhood to join the Aquarion system would set a dangerous precedent, which could foreseeably be repeated given the similar approach to providing water used by other subdivisions in that area of Stratham. The current Aquarion customers in Hampton, North Hampton and Rye have paid for the Company's infrastructure over many years, and Aquarion's expansion into Stratham would essentially give the new Stratham customers a free ride on this investment by existing customers. The present community water system serving Wiggin Way would need to be upgraded, and the cost of doing so has not been included in Aquarion's estimates of the cost to connect on a permanent basis.

- k. Will Aquarion, under Eversource's ownership continue the practice of not paying on the principal of long term debts, thereby devaluing the Company's equity?

As the Town of Hampton has learned from closely questioning Aquarion representatives in the last WICA surcharge case, Aquarion has a practice of not paying down the principal on its long-term debts, in favor of paying higher dividends to shareholders. Aquarion of New Hampshire also loans money to its Massachusetts and Connecticut affiliates instead of paying down its own debt. This reduces the Company's equity, and will inevitably negatively impact customers through rate increases.

- l. Does Eversource have the managerial ability to operate a public utility of this kind?

Although Eversource operates one of the largest electrical utilities in the United States, it has not presented any evidence pertinent to managing a public water utility. Eversource's stated commitment to maintain the current employee structure within Aquarion, in light of current management's failure to adequately address the issues outlined above, provides little comfort that needed improvements will be made.

m. Does Eversource have the technical ability to operate a public utility of this kind?

Eversource attests it will maintain the current employee levels, and will not change any operational structures within Aquarion at closing. This, however, raises concerns as to how the utility will be operated following the closing. Given Eversource's lack of experience managing or operating a water utility, more evidence is necessary to assure current Aquarion customers that Aquarion will operate as needed, and that the above stated issues will be dealt with properly by Aquarion under Eversource's ownership.

n. Is Eversource's proposed acquisition of Aquarion for the public good, and in the public interest?

Although Eversource and Aquarion jointly contend that this acquisition is in the public interest, their failure to address any of the above stated issues within their Petition is troubling. The manner in which these issues are addressed over the coming months and years is vital to the public interest, because any acts or failures to act could be detrimental to the availability and quality of the water supply in the Aquarion network.

7. Intervention by the Town of Hampton is needed now in order for Hampton to be kept fully informed of the Joint Petitioners' and the Commission's intentions and to be in a

position to voice the Town's concerns in a timely and meaningful way, and to participate in any discovery.

WHEREFORE, the Town of Hampton requests that the Commission:

- A. Allow the Town of Hampton to intervene as a party in this matter without limitation;
- B. Notify Hampton in advance of any further proceedings herein; and
- C. Grant such other and further relief as may be just.

Respectfully submitted,
Town of Hampton
By its Town Attorney

Dated: August 11, 2017



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Certificate of Service

I hereby certify that I have this 11th day of August 2017 e-mailed the foregoing Petition to Intervene to the service list electronically.



Mark S. Gearreald, Esq.