

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

DW 17-154

Aquarion Water Company of New Hampshire, Inc.

OBJECTION TO TOWN OF HAMPTON MOTION FOR REHEARING

1. Pursuant to N.H. Admin. R. Puc 203.07(f), Aquarion Water Company of New Hampshire, Inc. (“Aquarion-NH”) hereby objects to the Town of Hampton’s (“Town”) Responsive Comments to Commission’s Approval (“Motion”). The Town’s filing requests the Commission reconsider and rescind Order No. 26,094 and thus is a motion for rehearing pursuant to RSA 541:3 and RSA 541:4. The Motion fails to allege any actionable reasons for rehearing or reconsideration; therefore, the Motion should be denied pursuant to RSA 541:3 and RSA 541:4. In support of this objection, Aquarion-NH states as follows:

2. Pursuant to RSA 541:3, the Commission may grant rehearing when the motion states good reason for such relief. Good reason may be shown by identifying specific matters that were either “overlooked or mistakenly conceived” by the deciding tribunal. *Dumais v. State*, 118 N.H. 309, 311 (1978). A successful motion does not merely reassert prior arguments and request a different outcome. *Campaign for Ratepayers Rights*, 145 N.H. 671, 674 (2001). This Commission has reiterated the Supreme Court’s interpretation of RSA Chapter 541 in *Connecticut Valley Electric Co.*, Docket No. DE 03-030, Order No. 24,189 at 3 (July 3, 2003), and in *Public Service Company of New Hampshire*, Docket No. 07-108, Order No. 24,966 at 5 (May 1, 2009). In addition,

pursuant to RSA 541:4, a proponent must “set forth fully every ground upon which it is claimed that the decision or order complained of is unlawful or unreasonable.” The Town has failed to meet both of these requirements by not stating a “good reason for the rehearing” and by failing to explain why the Commission’s decision is “unlawful or unreasonable”.

3. As demonstrated below, the Town merely reasserts prior arguments made to the Commission and requests a different outcome. New Hampshire law is very clear that such arguments do not meet the requirements of RSA 541:3 and RSA 541:4. *Campaign for Ratepayers Rights* at 674.

4. The Town’s reiterated arguments and Commission’s consideration are as follows:

a) Aquarion’s customers will be paying “over and over again” for the same amount of WICA expenditures because the payments are stretched out too long a period of time. This argument appears at page 1 of the Town of Hampton Recommendation (“Recommendation”), dated December 14, 2017, and filed in this docket. The Commission considered this argument in Order No. 26,094 at pages 3 and 4. The Commission more specifically addressed this argument in Aquarion-NH’s prior WICA Docket No. 16-828 in Order No. 25,982 at pages 5 and 6.

b) Aquarion’s 2018 WICA projects will cause it to exceed the 7.5% WICA cap. This argument appears at page 3 of the Recommendation. The Commission addressed this argument in Order No. 26,094 at page 6, footnote 2.

c) Aquarion is exceeding its return on equity. This argument appears at page 4 of the Recommendation. In Order No. 26,094 at page 6, the Commission noted that it previously explained to Hampton in Order No. 25,977 that the WICA docket was not the

proper proceeding to investigate Aquarion-NH's return on equity and that the issue would be addressed as part of Aquarion-NH's next rate proceeding.

5. RSA 541:3 does not afford multiple bites of the apple. Because the Commission has previously considered the Town's arguments in the Recommendation, RSA 541:3 and *Campaign for Ratepayers Rights* do not allow additional consideration of these same arguments. RSA 541:3 and RSA 541:4 bring finality to an agency's consideration akin to the doctrine of *res judicata*. See, e.g., *In re Appeal of University System of New Hampshire Bd. of Trustees*, 147 N.H. 626, 629 (2002) (In consideration of judicial economy and a policy of certainty and finality, *res judicata* acts to avoid repetitive litigation so that an end-point may be reached.) (internal citation and quotations omitted).

6. In addition, the Town's arguments are contrary to established utility ratemaking principles. Regarding paying "over and over again", the Town, is, in essence, asking the Commission to accelerate depreciation. As the Commission is aware, the objective of depreciation is to further the established goal that a utility recover of its investment in assets over the life of the asset. This goal is entrenched in traditional principles of utility ratemaking espoused by James C. Bonbright and is reflected in the Generally Accepted Accounting Principles ("GAAP"). Changes in such deeply-rooted principles should not occur in dockets of limited scope such as the WICA docket.

7. The Town's arguments are also flawed. The Town supports its over-payment argument by referencing depreciation payment schedules it included in its Recommendation. It's argument, however, is directly refuted by Aquarion-NH's response Hampton 2-1 which the Town attached to its Recommendation. In Hampton 2-1, Aquarion-NH explains the impossibility of the Town's scenarios ever playing out.

In conclusion, the Town's Motion fails to meet the requirements of RSA 541:3 and RSA 541:4. As such, Aquarion-NH respectfully request that the Commission deny the Town of Hampton's Motion and request for reconsideration and rescission of Order No. 26,094.

Submitted this 12th day of January, 2018.

**AQUARION WATER COMPANY OF
NEW HAMPSHIRE, INC.**

By its Attorney,



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CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of January, 2018, pursuant to N.H. Code Admin. Rule Puc 203.11, the instant objection has been provided to the parties listed on the electronic service list for this proceeding.



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