

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

DW 21-090

ABENAKI WATER COMPANY AND AQUARION COMPANY

**Petition for Approval of the Acquisition of
Abenaki Water Company by Aquarion Company**

**SUPPLEMENTAL RESPONSE OF OMNI MOUNT WASHINGTON, LLC
TO JOINT PETITIONERS' AMENDED FILING**

NOW COMES Omni Mount Washington, LLC ("Omni"), by and through its undersigned counsel, and respectfully submits this Supplemental Response to the Joint Petitioners' Amended Filing in Support of the Verified Joint Petition for Approval of the Acquisition of Abenaki Water Company by Aquarion Company ("Amended Filing") by stating as follows:

1. On August 30, 2021, Omni filed a Response to the Amended Filing ("Response") presenting arguments that support the Commission's preliminary determination that the transfer of ownership of Abenaki Water Company ("Abenaki") to Aquarion Company ("Aquarion") "will have an adverse effect on Abenaki's rates and would unfairly burden the rate payers." *Abenaki Water Company and Aquarion Company*, DW 21-090, Order No. 26,506 (Aug. 6, 2021) ("Order"), p. 10. Omni's Response, at paragraph 12, reserved the right to supplement the Response after Omni's review of the report that was to be filed by the New Hampshire Department of Energy Staff in Docket IR 21-024.

2. On August 31, 2021, the Department of Energy, Division of Enforcement filed a report with the Commission in Docket IR 21-024 entitled “Investigation Report of Water Pressure Reduction Matter in Rosebrook Water System” (“Staff Report”).

3. The Staff Report contains a detailed and thorough analysis of the Rosebrook Water System. Among other things, the Staff Report noted: “serious water utility failures” due to the inoperability of a 16-inch water main valve, *Staff Report*, p. 38; inability to locate a 12-inch main that was reportedly installed and connected to the 16-inch main in the area of Fairway Village extending eastward past Mount Adams Lane, *Staff Report*, p. 44; and failure to inspect, maintain and flush fire hydrants on Omni property which presents “a serious life safety hazard”, *Staff Report*, p. 46.

4. The Staff Report contained twelve (12) separate conclusions, including: #5. “Valves that are currently inoperable should be repaired as soon as practical”; #6. “Valve maintenance is not being routinely performed.”; #10. Inspection of the pump station facility “revealed wear-and-tear on all equipment within the facility”; and #11. “a general and persistent failure on the part of the Company to replace worn or deteriorated piping components resulting from corrosion, age, wear-and-tear, etc. within the pump station”. *Staff Report*, pp. 68-69.

5. Based on the totality of its comprehensive investigation, Staff concluded that “Abenaki Water Company has failed to furnish service **and facilities** that are reasonably safe and adequate as required by Commission rules.”¹ (Emphasis added.) *Staff Report*, p. 69. Staff also noted that “management’s decision to postpone the replacement or repair of critical system valves has perpetuated Abenaki Water Company’s general failure to provide reasonably safe and adequate service and to ensure safe and adequate operations.” *Id.*

¹In addition to its obligations under Commission rules, Abenaki is required by statute to provide “service and facilities as shall be reasonably safe and adequate and in all other respects just and reasonable.” RSA 374:1.

6. In support of its preliminary adverse effects determination in the instant docket, the Commission found that “Abenaki’s assets were not in an acceptable condition in the aggregate” and that, “the current state of the assets are below standard and in disrepair.” *Order*, p. 10. The Commission also found that the proposed acquisition of Abenaki by Aquarion “will have an adverse effect on rates because the proposed carry forward of existing Abenaki rate base for purposes of the transaction does not take into account the impaired state of the rate base assets”, and that “recovery of rates based upon the pre-acquisition book value of those assets would unfairly burden the rate payers.” *Id.*

7. Because the Staff Report is relevant to the issues in this docket, and provides additional support for the Commission’s findings in Order No. 26, 506 relative to the substandard condition of Abenaki’s assets, the Commission should take official notice of Staff’s Report as authorized by RSA 541-A:33, V(b). After doing so, the Commission should supplement its preliminary adverse effects determination with relevant information from the Staff Report, enter a final adverse effects determination under RSA 369:8, II (b)(5), and proceed with reviewing the transaction under RSA 374:33.

WHEREFORE, Omni Mount Washington, LLC respectfully requests that the Commission:

- A. Take official notice in this docket of the Department of Energy, Division of Enforcement’s August 31, 2021 Investigation Report filed in Docket No. IR 21-024;
- B. Supplement the information supporting the Commission’s adverse effects determination in Order No. 26, 506 with relevant information concerning the substandard conditions of the Rosebrook Water System as documented in the Staff Report;


- C. Make a final determination pursuant to RSA 369:8, II (b)(5) that the proposed acquisition will have an adverse effect on rates, terms, operation, or services;
- D. Proceed with reviewing the proposed transaction under RSA 374:33; and
- E. Grant such further relief as it deems just and reasonable.

Respectfully submitted,

OMNI MOUNT WASHINGTON, LLC

By its Attorneys,

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Dated: September 3, 2021

Certificate of Service

I hereby certify that on this 3rd day of September, 2021 a copy of this Supplemental Response has been sent by electronic mail to persons listed on the Service List in the above-captioned docket.



Susan S. Geiger