

DW 05-119

AQUARION WATER COMPANY OF NEW HAMPSHIRE

Petition for Permanent and Temporary Rate Increases

Order Approving Stipulation Agreement Regarding Temporary Rates

ORDER NO. 24,546

November 18, 2005

APPEARANCES: McLane, Graf, Raulerson & Middleton, P.A. by Steven V. Camerino, Esq. for Aquarion Water Company of New Hampshire; Mark S. Gearreald, Esq. for the Town of Hampton; Henry Fuller, Commissioner, on behalf of the North Hampton Water Commission; Office of the Consumer Advocate by F. Anne Ross, Esq. on behalf of residential ratepayers; and Marcia A. B. Thunberg, Esq. for the Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

Aquarion Water Company of New Hampshire (Aquarion) provides water service to approximately 8,700 customers in the towns of Hampton, North Hampton, and Rye, New Hampshire. On July 5, 2005, Aquarion filed with the New Hampshire Public Utilities Commission (Commission), a Notice of Intent to file rate schedules. On August 5, 2005, Aquarion filed proposed rate schedules increasing its permanent rates. Aquarion filed a petition for temporary rates requesting a 10.99% temporary rate increase, effective September 15, 2005, on a bills rendered basis.

On July 12, 2005, the Office of Consumer Advocate (OCA) filed a letter notifying the Commission of its intent to participate in this docket. On August 26, 2005, the Commission issued Order No. 24,507, suspending Aquarion's proposed tariffs and scheduling a prehearing conference for September 27, 2005. As is customary, Staff and the parties participated in a technical session following the prehearing conference and developed a proposed procedural schedule. Staff filed this proposed schedule with the Commission on September 29, 2005, and

amended it on October 5, 2005, which the Commission approved. The procedural schedule included, among other things, one round of discovery as well as a technical session and settlement conference on the issue of temporary rates.

On October 5, 2005, the Town of Hampton (Hampton) filed with the Commission a Fully Assented to Motion to Allow Late Intervention. On October 7, 2005, the Town of North Hampton Water Commission (Water Commission) filed with the Commission a Request for Intervention. On October 13, 2005, Staff filed a letter with the Commission indicating it did not object to the interventions by the Town of Hampton and the North Hampton Water Commission.

On October 20, 2005, Staff filed a Stipulation Agreement (Agreement) on temporary rates with the Commission for presentation at hearing. The Commission held a duly noticed hearing on October 25, 2005, regarding Aquarion's Temporary Rate Filing.

II. POSITIONS OF THE PARTIES AND STAFF

A. Aquarion Water Company of New Hampshire

Aquarion testified at hearing that its last authorized rate of return was 8.81% and that for the 12 months ending March 31, 2005, Aquarion's rate of return was 4.29%. Hearing Transcript of October 25, 2005 (10/25/05 Tr.) at 10 lines 14-18. Aquarion testified that it had invested \$6.9 million of property, plant, and equipment since Aquarion's last rate case and that its rate base had increased \$2.6 million. 10/25/05 Tr. at 11 lines 8-13. Aquarion, along with Staff and the OCA, presented a settlement on temporary rates that included a 10% overall increase in revenues, applied to customer classes according to the most recent Cost of Service study. The Report of Proposed Rate Changes, entered in to the record as Exhibit 3, showed the

percent rate increase ranging from 9.09% to 15.30%, depending on the customer class.¹

Aquarion testified that a typical residential customer consuming 63,200 gallons per year would see their annual water bill increase from \$325.04 per year to \$356.04, a \$2.57 increase per month. 10/25/05 Tr. at 13 lines 16-24. Aquarion requested the Commission approve the Agreement entered into by Aquarion, Staff, and the OCA.

B. Town of Hampton

Hampton stated that approximately 80 percent of the Aquarion ratepayers live in Hampton, a number of them on a seasonal basis. Hampton stated Aquarion is involved in a \$12 million major infrastructure project at Hampton Beach. This project, which is partially funded by the State Revolving Fund, involves Hampton upgrading its sewer at Hampton Beach, widening roads, and putting in new sidewalks. Hampton noted that Aquarion had not included in the temporary rate increase any portion of the Hampton Beach project and expressed concern that the true rate increases in time will be more substantial.

Hampton stated its taxpayers feel they have suffered financially and that for the past two years voters have awarded default budgets, rather than the higher proposed budgets. This has meant Hampton has had to accommodate \$2.8 million in budget decreases while implementing a \$12.1 million project and, given the tight financial situation, it will be hard for Hampton to absorb a double digit rate increase. Hampton also expressed concern that the rate increase might dampen seasonal tourism. Hampton hopes to extend tourism to year-round and a rate increase of a large magnitude could impair the growth of its tourism industry.

¹ Rate increases, by class, are as follows: Residential 9.40%; Commercial 10.59%; Industrial 11.65%; Public Authority 9.16%; Seasonal 15.30%; Private Fire Protection 12.25%; Public Fire Protection 9.09%; and Miscellaneous: no change.

C. North Hampton Water Commission

The Water Commission expressed concern that Aquarion had reported that 23% of the new infrastructure investment has been in the Town of North Hampton but the Town knew of no infrastructure improvements to service North Hampton or to maintain service on behalf of the Town. The Water Commission also expressed a concern over the amount of construction that is occurring in Hampton. The Water Commission indicated it expects to ask questions during the discovery process regarding the Hampton Beach improvements and price of the fire hydrants.

D. Staff

Staff requested the Commission approve the Agreement on temporary rates. Staff testified at hearing that, after reviewing Aquarion's test year results and Aquarion's reports on file with the Commission, it concluded Aquarion is in an earnings deficiency. 10/25/05 Tr. at 17 lines 7-15. Staff testified that, in its view, the recommended 10% temporary rate increase should be allocated according to the most recent Cost of Service study filed with the Commission. 10/25/05 Tr. at 19 lines 1-4. Staff testified that a temporary rate increase was reasonable since Aquarion had requested an approximately 20% permanent rate increase and increasing the rates gradually, such as through a temporary rate increase, minimizes rate shock to customers. A temporary rate increase also minimizes the size of the recoupment surcharge that customers pay when temporary rates are reconciled with permanent rates at the conclusion of the rate case. 10/25/05 Tr. at 20 lines 10-13. Finally, Staff testified that, in the event the Commission's final ruling on allocation of the permanent rate increase differs from the allocation contained in the

Cost of Service study, the reconciliation mechanism will be able to accommodate that difference.
10/25/05 Tr. at 21 lines 1-5.

E. Office of the Consumer Advocate

The OCA supported the Agreement and the proposed 10% temporary rate increase. OCA believed that Aquarion was entitled to an increase under New Hampshire law.

III. TERMS OF STIPULATION AGREEMENT

Aquarion, OCA, and Staff agreed to the following terms for temporary rates: a 10% overall increase in revenues, to be applied using the methodology as contained in the most recent cost of service study filed with the instant petition and as shown on the Report of Proposed Rate Changes attached to this Stipulation. The temporary rate, fully reconcilable, shall be effective for service rendered as of November 1, 2005.

IV. COMMISSION ANALYSIS

Pursuant to RSA 378:27, the Commission may grant temporary rates for the duration of the proceeding if, in its opinion, the public interest so requires and the records of the public utility on file with the Commission indicate it is not earning a reasonable return on its property used and useful in the public service. The standard for approval of temporary rates, which are fully reconcilable, is “less stringent” than that for permanent rates, “in that temporary rates shall be determined expeditiously” without the level of investigation undertaken when determining permanent rates. *Appeal of Office of Consumer Advocate*, 134 N.H. 651, 660 (1991).

Aquarion, Staff, and the OCA propose a temporary increase in revenues of \$416,470, or 10% overall, on an annual basis. Exh. 3 at 1. Aquarion testified that it is not presently earning its last authorized rate of return. Staff concurred that, based on the books and records on file with the Commission, Aquarion was under-earning.

An earnings deficiency disadvantages both Aquarion and its ratepayers; RSA 378:27 allows the Commission to alleviate an earnings deficiency during the course of a rate case through the use of a temporary rate increase. We agree with Staff that temporary rate increases can mitigate rate shock to customers and reduce recoupment surcharges that arise when temporary rates are reconciled with permanent rates at the conclusion of the rate case. For these reasons, and based upon the record before us, we find it reasonable to approve the proposed 10% increase in Aquarion's rates, on a temporary basis. We find the proposed 10% temporary rate increase is just and reasonable and note that the reconciliation mechanism contained in RSA 378:29 protects customers from any over-collections.

With respect to the effective date of the temporary rate increase, we note that Aquarion originally requested that its temporary rate be effective on a service rendered basis as of September 15, 2005. According to the Agreement, Aquarion, Staff, and the OCA request that Aquarion be authorized to implement temporary rates effective November 1, 2005, on a service rendered basis. We note that Aquarion filed its Notice of Intent to file rate schedules on July 5, 2005, and filed its rate schedules increasing its permanent rates on August 5, 2005. We issued Order No. 24,507, on August 26, 2005, notifying the public of Aquarion's rate case filing, suspending Aquarion's proposed tariffs, and establishing a prehearing conference and temporary rate hearing. In that Order, we specifically noticed the temporary rates sought and the proposed effective date. In light of the notice contained in Order No. 24,507, we find implementing the temporary rate on a service rendered basis, effective November 1, 2005, is just and reasonable. Accordingly, we approve the Stipulation Agreement presented by Aquarion, Staff, and the OCA, effective November 1, 2005.

Based upon the foregoing, it is hereby

ORDERED, that Aquarion Water Company of New Hampshire's Petition for a temporary rate increase of 10% is **APPROVED**, on a service rendered basis effective November 1, 2005, as detailed above; and it is

FURTHER ORDERED, that Aquarion Water Company of New Hampshire shall submit tariff pages in compliance with this order within 15 days of the date of this order.

By Order of the Public Utilities Commission of New Hampshire this eighteenth day of November, 2005.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Michael D. Harrington
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary