

THE STATE OF NEW HAMPSHIRE

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Clifton C. Below

EXECUTIVE DIRECTOR
AND SECRETARY
Debra A. Howland



PUBLIC UTILITIES COMMISSION
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September 14, 2006

Debra A. Howland
Executive Director & Secretary
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, New Hampshire 03301

RE: DW 06-094 Aquarion Water Company of New Hampshire
Acquisition of Aquarion Water Company by Macquarie Utilities, Inc.

Dear Ms. Howland:

Attached please find the Original and 6 copies of the Settlement Agreement signed by the Companies, by their Attorney, and the Staff of the Public Utilities Commission.

If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Marcia A.B. Thunberg".

Marcia A.B. Thunberg
Staff Attorney

CC: Service List

**STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION**

**Re: Aquarion Water Company of New Hampshire
DW 06-094**

SETTLEMENT AGREEMENT

Background

On June 22, 2006, Aquarion Water Company of New Hampshire, Inc. (Aquarion-NH) and Macquarie Utilities, Inc. (MUI) (Aquarion-NH and MUI are referred to collectively as the Joint Petitioners) filed a Verified Petition for Approval of the Acquisition of Aquarion Company by Macquarie Utilities, Inc. (Verified Petition) with the New Hampshire Public Utilities Commission (Commission), seeking approval of the indirect acquisition of Aquarion-NH by MUI. As set forth in detail in the Verified Petition, the proposed acquisition will be accomplished through the sale by Kelda Group, Inc. of all of the outstanding shares of the common stock of Aquarion Company, the parent of Aquarion Water Company which in turn is the parent of Aquarion-NH, to MUI.

The Commission issued an Order of Notice regarding the Verified Petition on July 3, and on July 7 the Order of Notice was published in *The Union Leader*, *The Portsmouth Herald* and *The Hampton Union*. The Commission held a procedural hearing on July 14, following which the Commission staff (Staff), the Joint Petitioners, the Office of Consumer Advocate (OCA), the Town of Hampton and the Town of North Hampton participated in a technical session regarding the Verified Petition. In addition to conducting discovery during the technical session, the Joint Petitioners, Staff and OCA agreed to a procedural schedule, which was submitted to the Commission for its approval

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and to which no other party objected. The Commission approved the procedural schedule in its Order No. 24,651.

During the course of this proceeding, the Joint Petitioners responded to three rounds of data requests from the Staff and one each from the OCA and the Town of North Hampton. In addition, the parties participated in a second technical session on August 21, 2006, at which the Joint Petitioners responded to additional questions from the Staff and parties.

Based on the foregoing, the Staff and the Joint Petitioners ("Settling Parties") reached this Settlement Agreement.

Agreement

The Settling Parties agree, and therefore recommend to the Commission that it issue an order finding, as follows:

1. The indirect acquisition of Aquarion-NH by MUI, as set forth in the Verified Petition, will not result in an adverse impact on the rates, terms, conditions or operations of Aquarion-NH and is consistent with the public interest and therefore should be approved as filed. Based on the foregoing, the transaction meets the applicable standards set forth in RSA 374:33 and RSA 369:8,II.
2. The Joint Petitioners reaffirm that it is their plan that Aquarion-NH shall continue to maintain an office for bill payments and customer inquiries subsequent to the acquisition of Aquarion-NH by MUI. The Joint Petitioners agree that Aquarion-NH shall not eliminate such office without giving at least six (6) months' prior written

notice to the Commission, OCA and the municipalities within Aquarion-NH's service territory.

3. The Joint Petitioners intend to maintain the current management structure of Aquarion-NH in place and they hereby reaffirm that they intend to remain aware of and responsive to local issues relating to the service provided by Aquarion-NH. The Joint Petitioners further reaffirm that they have no plans to change the terms or conditions on which service is provided by Aquarion-NH for any reason relating to the acquisition of Aquarion-NH by MUI.
4. The Joint Petitioners reaffirm that it is their plan for Aquarion-NH to continue to maintain a customer advisory council (CAC) to obtain direct information from customers and otherwise have direct access to customers who can act as a sounding board. The CAC shall not be eliminated without at least ninety (90) days' prior written notice to the Commission, OCA and the municipalities within Aquarion-NH's service territory.
5. Aquarion-NH shall not seek to recover through rates any acquisition premium on its books or those of any affiliated entity resulting from Aquarion-NH's acquisition by MUI. To the extent that any portion of the acquisition premium is required for financial accounting purposes to be reflected on the books of Aquarion-NH, it shall be reflected "below the line" for ratemaking purposes.

6. Aquarion-NH should be authorized to record a corresponding regulatory asset or liability, as the case may be, equal to the amount necessary to adjust its financial statements to reflect the fair value of its pension and post-retirement benefits as required by generally accepted accounting principles and pursuant to SFAS (Statement of Financial Accounting Standards) No. 141, *Business Combinations*. The exact amount of such pension and OPEB asset or liability and the offsetting regulatory asset or liability shall be determined as of the closing date of acquisition of Aquarion Company by MUI.

Conditions

This Agreement is expressly conditioned upon the Commission's acceptance of all its provisions, without change or condition. If the Commission does not accept all of the provisions of this Agreement in their entirety and without change or condition, the Agreement shall, at the Company's or Staff's option exercised within thirty (30) days of such Commission order, be deemed to be null and void and without effect and shall not constitute any part of the record in this proceeding nor be used for any other purpose. The Commission's acceptance of this Agreement does not constitute continuing approval of, or precedent regarding, any particular principle or issue, but such acceptance does constitute a determination that (as the parties believe) the provisions set forth herein in their totality are just and reasonable under the circumstances. The discussions which have produced this Agreement have been conducted on the

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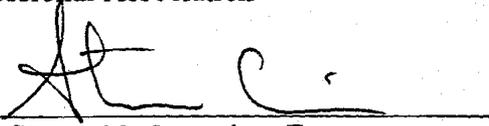
explicit understanding that all offers of settlement relating thereto are and shall be confidential, shall be without prejudice to the position of any party or participant representing any such offer or participating in any such discussion, and are not to be used in connection with any future proceeding or otherwise.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed in their respective names by their fully authorized agents.

AQUARION WATER COMPANY OF NEW
HAMPSHIRE, INC.
MACQUARIE UTILITIES, INC.

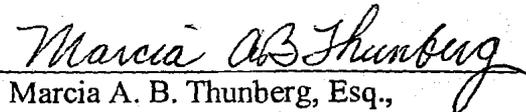
By McLane, Graf, Raulerson & Middleton,
Professional Association

Dated: September 14, 2006

By: 
Steven V. Camerino, Esq.

STAFF OF NEW HAMPSHIRE PUBLIC
UTILITIES COMMISSION

Dated: September 14, 2006

By: 
Marcia A. B. Thunberg, Esq.,
Staff Attorney