

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

DW 13-_____

**Re: White Rock Water Company, Inc.
Lakeland Management Company, Inc.,
and Abenaki Water Co., Inc.**

**Joint Petition for Approvals Related to the Sale of the Utility Assets
of White Rock Water Company, Inc. and
Lakeland Management Company, Inc. to Abenaki Water Co., Inc.**

INTRODUCTION

This Joint Petition relates to the proposed sale of substantially all of the assets of White Rock Water Company, Inc. (“White Rock”) and Lakeland Management Company, Inc. (“Lakeland”), both public utilities as defined in RSA 362:2, to Abenaki Water Co., Inc. (“Abenaki Water”), a New Hampshire corporation and wholly-owned subsidiary of New England Service Company, Inc. (“NE Service”). By this Joint Petition, White Rock, Lakeland and Abenaki Water (collectively, the “Joint Petitioners”) seek the following approvals of the New Hampshire Public Utilities Commission (“Commission”):

- A. Pursuant to RSA 374:30, White Rock seeks authority to sell its utility assets to Abenaki Water;
- B. Pursuant to RSA 374:30, Lakeland seeks authority to sell its utility assets to Abenaki Water;
- C. Pursuant to RSA 374:22, Abenaki Water seeks authority to engage in business as a public utility providing water service in the service territory currently served by White Rock and water and sewer service in the service territory currently served by Lakeland;

D. Pursuant to RSA 374:28, White Rock and Lakeland each seek Commission authority to discontinue permanently their respective operations as public utilities in New Hampshire; and

E. Pursuant to RSA 369:1, Abenaki Water seeks authority to issue long term debt in an amount up to \$300,000 and to grant a security interest in and/or mortgage on the assets it proposes to acquire from White Rock and Lakeland.

THE JOINT PETITIONERS AND RELATED PARTIES

1. White Rock Water Company, Inc. is a New Hampshire corporation and a public utility as defined in RSA 362:2 and RSA 362:4,I, with a principal place of business in Gilford, New Hampshire. White Rock's sole shareholder is Theresa Crawshaw. White Rock provides water service to approximately 98 customers in Bow, New Hampshire. It has been providing water service since June 1, 1966.

2. Lakeland Management Company, Inc. is a New Hampshire corporation and a public utility as defined in RSA 362:2 and RSA 362:4,I, with a principal place of business in Belmont, New Hampshire. Theresa Crawshaw is also the sole shareholder of Lakeland. Lakeland provides water and sewer service to approximately 150 customers located in Belmont, New Hampshire. It has been providing water and sewer service since November 19, 1987.

3. Abenaki Water Co., Inc. is a New Hampshire corporation. It is a wholly-owned subsidiary of New England Service Company, Inc., and was formed for the purpose of acquiring the assets of White Rock and Lakeland and providing water service to the customers currently served by White Rock and water and sewer service to the customers currently served by Lakeland.

4. NE Service is a publicly traded Connecticut corporation, with a principal place of business at 37 Northwest Drive, Plainville, Connecticut 06062. NE Service's stock is traded on the Over the Counter Bulletin Board "pink sheets" under the symbol "NESW." NE Service was

organized in 1996 and, through its wholly-owned subsidiaries in Massachusetts and Connecticut, provides water service to approximately 7,300 customers.

5. C&C Water Services, Inc. (“C&C”) is a water service company that is the certified operator for both White Rock and Lakeland through affiliate contracts on file with the Commission. C&C is not a public utility under New Hampshire law. C&C has two shareholders, Theresa Crawshaw and her son, Alex Crawshaw. NE Service intends to acquire the assets of C&C in conjunction with its proposed acquisition through Abenaki Water of the assets of White Rock and Lakeland.

**STANDARD OF REVIEW AND BASIS FOR APPROVAL OF SALE OF UTILITY ASSETS,
AUTHORITY TO OPERATE AND FOR DEBT FINANCING**

6. The Commission has jurisdiction to approve the sale of the assets of White Rock and Lakeland under RSA 374:30 to Abenaki Water, which conditions Commission approval upon a finding that the proposed transaction is “for the public good.”

Specifically, RSA 374:30 provides:

Any public utility may transfer or lease its franchise, works or system, or any part of such franchise, works or system, exercised or located in this state, or contract for the operation of its works and system located in this state, when the commission shall find that it will be for the public good and shall make an order assenting thereto, but not otherwise.

The public good standard under RSA 374:30 “requires a finding that a transaction is one not forbidden by law and is reasonably permitted under all the circumstances of the case and ‘a finding that, based upon the totality of the circumstances there is *no net harm* to the public as the result of the transaction.’” *Consumers New Hampshire Water Company*, DE 96-227, Order No. 22,792 (November 21, 1997) (emphasis added). In *Pennichuck Corp.*, DE 96-227, Order No. 22,893 (April 6, 1998), the Commission stated: “Under the public interest or public good standard to be applied by the Commission where an individual or entity seeks to acquire a jurisdictional utility, the

Commission must determine that the proposed transaction will not harm ratepayers.” The Commission has determined that, “[i]n essence, the ‘no net harm’ test requires approval...if the public interest is not adversely affected[,]” see *Kearsarge Telephone Company*, DE 98-147, Order No. 23, 147 (February 18, 1999) at 132, and that the “no net harm” test is “indistinguishable” from the “public good” test. *Hampton Water Works Company, Inc.*, DF 94-215, Order No. 21,753 (July 18, 1995).

7. With respect to authorization to operate as a public utility, RSA 374:22, I, provides that “[n]o person or business entity shall commence business as a public utility within this state ... without first having obtained the permission and approval of the commission.” The Commission shall grant requests for franchise authority and allow an entity to engage in the business of a public utility when it finds, after due hearing, that the exercise of the right, privilege, or franchise is for the public good. See RSA 374:26. In determining whether a franchise is for the public good, the Commission assesses the managerial, technical, and financial expertise of the petitioner. *Hall Farm Realty Trust*, DW 03-103 Order No. 24,244 (December 5, 2003).

8. As provided by RSA 374:28, the Commission may authorize a public utility to discontinue its service “...whenever it shall appear that the public good does not require the further continuance of such service.” In the context of a sale of utility assets, where the Commission contemporaneously finds that the acquiring entity is financially, managerially and technically qualified to provide service, the public good does not require a continuation of service by the previous provider. See *Deer Run Water System*, DF 91-147, Order No. 20,334 (December 12, 1991).

9. The Commission applies a similar standard for financing approvals. As provided by RSA 369:1, public utilities engaged in business in New Hampshire may issue evidence of

indebtedness payable more than 12 months after the date thereof only if the Commission finds the proposed issuance to be “consistent with the public good.” See RSA 369:1. Analysis of the public good consideration involves looking beyond the actual terms of the proposed financing to the use of the proceeds of those funds and the effect on rates to ensure the public good is protected. See *Appeal of Easton, 125 N.H. 205, 211(1984)*.

SALE OF WHITE ROCK AND LAKELAND TO ABENAKI WATER

Terms of Proposed Sale of Assets

10. On August 9, 2013, Abenaki Water entered into separate Purchase and Sales Agreements (“Purchase Agreements”) with White Rock and Lakeland for the purchase of substantially all the assets of those companies. Copies of the Purchase Agreements, including all attachments thereto, are included with the written direct testimony of Mr. Donald J.E. Vaughan, which is being filed with the Commission contemporaneously with the filing of this Joint Petition. Pursuant to the Purchase Agreements, White Rock and Lakeland will each sell substantially all of their assets to Abenaki Water for the aggregate purchase price equal to the closing rate base for each entity, which is defined in the Purchase Agreements as the gross plant less accumulated depreciation, contributed capital, accumulated deferred income taxes, and such other deductions to gross plant that are considered for ratemaking purposes in New Hampshire, all determined as of the closing date or, if the closing date is not the last day of a month, as of the last day of the month preceding the closing date. In addition, the Purchase Agreements are each subject to several customary closing conditions, including the regulatory approvals that are the subject of this proceeding. The Lakeland transaction differs slightly from the White Rock transaction in that it includes both the water and waste collection systems owned by Lakeland in Belmont, New Hampshire. It also makes certain other adjustments to the purchase price to account for Lakeland’s

intended payoff of a State Revolving Fund (“SRF”) loan and the recovery rate case expenses by way of a surcharge as authorized by the Commission in Order No. 25,357 (May 1, 2012).

11. Upon consummation of the Purchase Agreements, the combined utility assets of White Rock and Lakeland will all be held by Abenaki Water, but they will be maintained and operated separately for accounting purposes. Abenaki Water will be managed and operated by employees of Abenaki Water’s parent, NE Service. Abenaki Water itself will have no employees.

12. The necessary board approvals authorizing the acquisition by Abenaki Water Co., Inc. have been obtained. Any additional approvals will be provided to the Commission at a later date.

Abenaki Water’s Proposal for Ongoing Operations

13. NE Service’s core business is the ownership, operation, management, and maintenance of water systems. Through its subsidiaries in Massachusetts and Connecticut, NE Services owns and operates approximately \$21.5 million worth of utility-related assets, with revenues of \$4.7 million and approximately 7,300 customers.

14. Because of its greater size and scope and the publicly traded nature of its ownership, NE Service has greater financial capacity and access to capital markets than is currently available to either White Rock or Lakeland.

15. NE Service’s experience operating small to medium size water companies in New England and its commitment to customer service and maintaining strong regulatory relations in the two other jurisdictions where they currently operate regulated utilities will also benefit the customers of White Rock and Lakeland and the State. In particular, because of NE Service’s experience operating small water companies, its operational and management approach, including

information technology and customer service processes, is geared toward smaller systems and is able to deliver excellent customer service at a reasonable cost.

16. In order to ensure a smooth transition and take advantage of the historical knowledge and relationships of the personnel who currently operate White Rock and Lakeland, NE Service intends to employ, on a part-time basis, two of the current part-time employees of C&C to carry out the two utilities' daily operations. In addition, Alex Crawshaw, currently a principal of C&C, will become an officer of NE Service as of the closing and will have full time responsibility for the day-to-day operations of the former White Rock and Lakeland systems. Abenaki Water also intends to maintain a maintenance office at 24 Tate Road, Gilford, New Hampshire. All customer service matters such as bill payments, customer inquiries and calls will be handled from NE Service's offices in Plainville, Connecticut. Customers will be provided a toll-free number for communicating with the Connecticut office.

17. Operation of the two systems under a single corporate structure is also expected to create certain economies of scale, including with regard to the costs associated with tax returns and corporate filings, which should enable Abenaki Water to dedicate additional funds to much needed infrastructure improvements.

18. NE Service's financial and managerial expertise to provide water service is equally applicable to its ability to provide sewer service to Lakeland's customers. Among its various operations, NE Service provides a sewer service maintenance program to more than 250 residents in its Connecticut sphere of business. Accordingly, NE Service has the requisite experience to support Lakeland's sewer customers, especially since that service is limited to waste collection operations only and has no treatment requirements associated with it. Moreover, as discussed in paragraph 16 above, the personnel currently serving as the certified operators of Lakeland, and those responsible

for providing technical operating assistance to Lakeland will continue in those roles following consummation of the sale. In addition to the existing C&C personnel, Travis Helming, a NE Service employee, holds water treatment, distribution, backflow preventer and cross connection testing licenses, and will provide technical and operational support with respect to Lakeland's sewer collection system.

19. NE Service plans to operate the White Rock and Lakeland systems in a manner that is consistent with their operation today and to utilize largely the same personnel, while making greater financial and technical resources available. In addition, as discussed in the written testimony accompanying this Joint Petition prepared by Mr. Vaughan and Ms. Deborah O. Carson, Treasurer and Office Manager of NE Service, the company has the requisite managerial, financial, and technical ability to operate public water and sewer utilities. Accordingly, the sale of assets from White Rock and Lakeland to Abenaki Water will result in no net harm to customers.

20. In conjunction with the proposed purchase of the assets of White Rock and Lakeland, Abenaki Water proposes to borrow an amount up to \$300,000. That indebtedness will be in the form of a note issued by CoBank with an interest rate of 3.45% for a term of 10 years. The details of the proposed financing are discussed in the testimony of Ms. Carson. NE Service respectfully requests that the Commission issue an Order at its earliest convenience so that any applicable rehearing and appeal periods can run, since final approval for the financing cannot be obtained until the Commission's Order becomes final. As discussed more fully in the testimony of Ms. Carson, as part of the transaction Lakeland intends to pay off the balance of its existing SRF loan for the remaining amount determined by DES as of the closing date.

21. The proposed issuance of a promissory note by Abenaki to CoBank is consistent with the public good because it will both facilitate and support the sale of assets and provide

additional operating capital following the sale. The financing is also consistent with the public good because the loan terms are favorable and will benefit the customers. The combined debt will result in a capital structure of approximately 50 % debt and 50 % equity.

22. Accordingly, the approvals sought in this Joint Petition satisfy the public good and should be approved because:

1. There is no net harm to customers as a result of the proposed asset transfers;
2. NE Service has the requisite managerial, technical and financial expertise to provide water service to White Rock's customers, and water and sewer service to Lakeland's customers;
3. Upon transfer of their assets, White Rock and Lakeland will no longer operate any public utility systems; and
4. The proposed loan from CoBank supports the asset purchase transactions and is on reasonable terms.

WHEREFORE, the Joint Petitioners respectfully request that the Commission:

- A. Find that the proposed sales of the assets of White Rock and Lakeland to Abenaki Water will result in no net harm to customers and authorize the transfer of such assets as set forth above and in the prefiled testimony accompanying this Joint Petition;
- B. Find that Abenaki Water has the technical, managerial and financial expertise to operate as a public utility and authorize Abenaki Water to operate as a public utility for the purposes of providing water service in Bow, New Hampshire and water and sewer service in Belmont, New Hampshire;
- C. Authorize White Rock and Lakeland each to cease operating as a public utility;

D. Authorize Abenaki Water to borrow up to \$300,000 from CoBank and grant a security interest in its assets to secure such loan; and

E. Grant such other relief as is just and equitable.


Respectfully submitted,

White Rock Water Company, Inc. and
Lakeland Management Company, Inc.

By Their Attorney,

Dated: 8/9, 2013

By:


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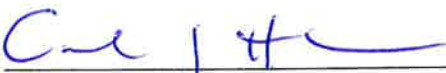
Abenaki Water Co., Inc.

By Its Attorneys,

MCLANE, GRAF, RAULERSON &
MIDDLETON, PROFESSIONAL ASSOCIATION

Dated: Aug. 9, 2013

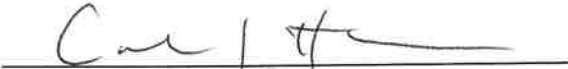
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Certificate of Service

I hereby certify that a copy of this Joint Petition has this day been sent electronically or by First Class Mail to the Office of Consumer Advocate.

Dated: Aug. 9, 2013



Carol J. Holahan