

BEFORE THE NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

Abenaki Water Company, Inc.

Docket No. DW 15-199

RESPONSE TO PETITIONS TO INTERVENE

NOW COMES Abenaki Water Company, Inc. (“Abenaki”), by and through Upton & Hatfield, LLP, and responds to the petitions to intervene as follows:

1. *Assent to Home Owner Association Requests.* Abenaki does not object to intervention by the home owner associations that have sought to participate as parties to this proceeding. Specifically, Abenaki assents to the requests by: Laconia Housing Authority (Richard Weaver); Village Shore Estates Association (David Laflamme); and Briarcrest Estates (John Drouin). Abenaki does request that these entities become familiar with the Commission’s procedural rules and ensure that copies of their filings be provided electronically to all parties.

2. *Individual Customer Requests.* Abenaki has reviewed the identical intervention requests of the following nine (9) individual residential customers within the “Orchards” subdivision in Belmont: Paulette Palombo; Shellie Secula; Sean Timberlake; W. Hoey; Alexandra Lenfest; Jeff Johndro; Keith Groleau; Mark Lamoroureux; and James Zarta.

3. Abenaki is concerned that participation by multiple individual customers as parties would impair “orderly and prompt conduct of the proceedings” (RSA 541-A:33, I) and create the potential for as many as 13 parties in this proceeding, plus Staff and the Office of Consumer Advocate. This would create the potential for up to 15 sets of data requests, testimony, direct and cross-examinations, and appeals. Mindful that the reasonably incurred costs of the proceeding are ultimately borne by its customers, Abenaki requests that the

Commission direct these individual customers to designate a representative pursuant to RSA 541-A:33, III in order to “combine their presentation[] of evidence and argument, cross-examination, and other participation in the proceedings.”

4. *Objection to Request by Senator David Boutin.* Abenaki respectfully objects to Senator Boutin’s request to intervene as a party in this case. Senator Boutin is not a customer of Abenaki and he has no direct or indirect legal interest in this proceeding. The sole grounds for intervention appears to be that his “constituents include many Abenaki residential and business¹ rate payers.”

5. This proceeding asks the Commission to provide rates sufficient to provide Abenaki’s constitutionally protected investment in “rate base and a just and reasonable rate of return thereon”. RSA 378:28. In making its determination, the Commission is governed by “recourse to the laws” under Part I, Article 14. A Legislator’s “undifferentiated public interest in the proper administration of the laws” does not confer standing to challenge “the faithful execution of the laws” by the Executive Branch under N.H. Const. pt. II, art. 41. *Duncan v. State*, 166 N.H. 630, 644 (2014) (quotations omitted). “Simply stated, a party has standing [...] [only] where the party alleges an impairment of a present legal or equitable right arising out of the application of the rule or statute under which the action has occurred.” *Avery v. N.H. Dep’t of Educ.*, 162 N.H. 604, 608 (2011).

6. In this case, Senator Boutin has no “rights, duties, privileges, immunities or other substantial interests” affected by this proceeding under RSA 541-A:32, I and no “present legal or equitable right arising out of [Abenaki’s] application”. Abenaki does expect to work hard to address all concerns raised by Staff, the Office of Consumer Advocate and interested parties, including those customers who are also constituents of Senator Boutin. However, it would be

¹ Abenaki has no business or commercial customers or service connections in Bow.

unlawful and unreasonable to ask Abenaki to incur the costs to respond to the interests represented by Senator Boutin. In addition, the New Hampshire Supreme Court has made clear that political participation in utility proceedings risks “turning utility matters into a political football”. *Appeal of Public Serv. Co.*, 122 N.H. 1062, 1075 (1982).

7. RSA 541-A:32, II does allow discretionary intervention when “intervention would be in the interests of justice” and would not “impair the orderly and prompt conduct of the proceedings”. In this case the interests of justice are adequately represented by Staff, the Office of Consumer Advocate and the intervention requests by Homeowner Associations and customers. Allowing a state Senator to intervene as a party would duplicate interests already represented and increase the costs and time required for this proceeding.

8. *Conclusion.* Abenaki looks forward to working with Staff, the Office of Consumer Advocate, Homeowner Associations and other interested parties. Abenaki makes this limited objection in order to keep this proceeding focused on the issues and ensure that the costs of this proceeding borne by customers are minimized while allowing interested parties an opportunity to be heard.

Respectfully submitted,

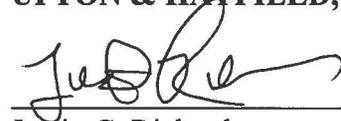
ABENAKI WATER COMPANY,

By Its Counsel,

UPTON & HATFIELD, LLP,

Date: September 25, 2105

By:



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CERTIFICATION

I hereby certify that a copy of the foregoing was this day forwarded to all persons on the Commission's official service list in this proceeding by electronic mail.

A handwritten signature in black ink, appearing to read "Justin C. Richardson", written over a horizontal line.

Justin C. Richardson