

CONSUMER ADVOCATE
D. Maurice Kreis

ASSISTANT CONSUMER ADVOCATE
Pradip K. Chattopadhyay

STATE OF NEW HAMPSHIRE



OFFICE OF THE CONSUMER ADVOCATE

21 S. Fruit St., Suite 18
Concord, N.H. 03301-2429

TDD Access: Relay NH
1-800-735-2964

Tel. (603) 271-1172

Website:
www.oca.nh.gov

July 14, 2020

Ms. Debra A. Howland
Executive Director
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 18
Concord, New Hampshire 03301

Re: Docket No. DW 17-165
Abenaki Water Company, Rosebrook Water System
Request for Change in Rates
“Step II” Hearing of July 16, 2020

Dear Ms. Howland:

I am writing to advise the Commission, and by copy of this letter the other parties to this docket, that the Office of the Consumer Advocate (OCA) will not be participating in the July 16, 2020 hearing on the so-called “Step II” issues that remain to be heard at this stage of the proceeding. Having devoted countless hours over the past several months to addressing both the Step II issues and the questions relating to rate case expenses that were heard in April, I have concluded that the OCA simply lacks the bandwidth to participate on July 16 given the press of other business.

As the Commission is aware, “Step II” refers to a second step adjustment approved by the Commission well over a year and a half ago in its order approving the permanent rate increase this docket was opened to consider. *See* Order No. 26,205 (December 27, 2018) at 5-6. At that time, the Commission noted that the Step II increase was to be “based on the cost of engineering designs to fix a significant pressure problem within the Abenaki-Rosebrook water system.” *Id.* at 5. As the Commission further noted, the Settlement Agreement approved in Order No. 26,205 (to which the OCA was a signatory) limited the Company to “recovery of no more than \$100,000 of engineering design costs through Step II.” *Id.* at 6 (noting that the associated annual revenue was likely to be \$9,986). The Commission required the Company to file a “Step II request” by September 30, 2019, with the rate adjustment “contingent on Commission approval of the engineering designs.” *Id.* This deadline was extended to December 31, 2019 via Order No. 26,300 (October 23, 2019) (also clarifying that the Commission would not be specifically authorizing the Company to move forward with engineering designs because that “would imply a pre-determination of prudence”). *See* Order No. 26,300 at 6.

Order No. 26,205, as clarified by Order No. 26,300, remains in effect. The Company did not meet the December 31, 2019 deadline for filing its Step II request.¹

In these circumstances, it is not necessary for the OCA to present evidence on July 16. The Commission can and should simply inform the Company there will be no Step II rate adjustment because the utility has failed to comply with the conditions imposed by Order Nos. 26,205 and 26,300. Should the Commission make any other determination as the result of the July 16 hearing, the OCA reserves the right to seek rehearing pursuant to RSA 541:3.

Please convey to Chairwoman Martin and Commissioners Bailey and Giaimo my apology for the non-appearance of the OCA on July 16. As the Commission is aware, the OCA (1) is gearing up for an anticipated 20 days of evidentiary hearings beginning next month in a major rate case (Docket No. DE 19-057), (2) must file a detailed set of prefiled direct testimony in another significant proceeding on August 12 (Docket No. DE 19-197), and (3) must submit written comments by July 24 to the EERS (Energy Efficiency Resource Standard) Committee of the Energy Efficiency and Sustainable Energy Board on the proposed 2021-2023 plan for ratepayer-funded energy efficiency programs that will be formally submitted to the Commission on September 1. These tasks, made more difficult by the remote working conditions imposed by the pandemic, are consuming all available resources of our five-person agency. Therefore, we cannot devote any additional resources to a situation that reduces, in my respectful opinion, to a chronic inability of this utility to forge an effective working relationship with the very large commercial customer that accounts for well over half of this utility's revenue and demand. *See, e.g.*, December 30, 2019 Motion to Extend Filing Deadline (Tab 107) at ¶ 5 (referencing an inability to "commence discussions" with that customer about easements). The Commission and should communicate to the utility that this is an unacceptable situation.

Please do not hesitate to contact me if there are any questions or concerns about the foregoing. Pursuant to the Commission's standing emergency directive, we are submitting this letter in electronic form only.

Sincerely,



D. Maurice Kreis
Consumer Advocate

cc: Service List

¹ The utility filed a motion on December 30, 2019 (Tab 107) to extend the deadline to December 31, 2020. In its secretarial letter of February 4, 2020 (Tab 112), the Commission indicated it would take up the motion at hearing. For the reason stated in the penultimate sentence of the penultimate paragraph of this letter, the motion is devoid of merit.