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Environmental Law ■ *Utility Law*

September 28, 2020

VIA ELECTRONIC DELIVERY

Debra A. Howland, Executive Director
N.H. Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301

Re: DW 17-165 Abenaki Water Company, Inc.
Permanent Rate Proceeding
Reply to Omni Objection to Rate Case Expenses

Dear Director Howland:

On September 17, 2020, Omni Mount Washington, LLC (Omni) filed yet another objection to Abenaki Water Company, Inc.'s (Abenaki) recovery of rate case expenses for its Rosebrook rate case. Please accept this limited reply.

Unbelievably, Omni argues that Abenaki should not be allowed to recover the stenographer's hearing transcript expenses associated with the hearing that Omni itself requested. It also objects to Abenaki's recovery of legal fees Abenaki incurred in defending itself at the April 23, 2020 hearing. Omni raises a new argument which the Commission should dismiss. Omni argues that Commission rule Puc 1903.05 limits rate case expenses to those incurred in the preparation of full rate case proceedings.

Omni's argument is inconsistent with precedent. In Central Water Company, Inc., Order No. 23,567 dated October 9, 2000 in Docket DR 98-128, the Commission allowed additional rate case expenses and authorized recovery by extending the original rate case expense recovery term. Although that case is distinguishable in that Central also incurred expenses while failing to comply with Commission rules of practice and the Commission indeed denied recovery of those ill-incurred expenses; here, Abenaki has complied with Commission rules, Abenaki has legitimately incurred additional expenses directly related to defending its right to recover rate case expenses in its rate case. Accordingly, the reasons for denying Central recovery do not exist with respect to Abenaki's expenses and Abenaki's additional rate case expenses should be considered for recovery.

Among the additional expenses are costs related to the stenographer transcribing the hearing. This expense was necessary and legitimate. Also, Abenaki retained legal counsel for the hearing to defend itself. Again, this expense was necessary and legitimate. Abenaki does not have employees and it secured cost-effective staffing from New England Service Company to prepare for the hearing and be present as witnesses. Abenaki has controlled its expenses but it has no control over the amount of rate case expenses driven up by continued litigation by customers.

Lastly, before these expenses are allowed to be collected, they will be scrutinized and audited by Staff for just and reasonableness. If Staff has questions about the expenses, the usual course is for Staff to issue data requests. Abenaki stands ready to respond if it receives such requests.

For these reasons, Abenaki respectfully requests the Commission deny Omni's request that the Commission deny recovery of the expenses as not related to the rate case. Abenaki requests these expenses be considered in usual course as rate case expenses for recovery.

Very Truly Yours,



Marcia A. Brown

cc: Docket Related Service List