

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Docket No. DW 17-165

Abenaki Water Company, Inc. – Rosebrook Division
Permanent Rate Proceeding

**OBJECTION TO OMNI MOUNT WASHINGTON HOTEL, LLC'S
REQUEST TO RESPOND TO STAFF LETTER DATED DECEMBER 11th**

NOW COMES, Abenaki Water Company, Inc.'s ("Abenaki") pursuant to Puc 203.07(e), and hereby objects to Omni Mount Washington Hotel, LLC's ("Omni") request to file a third objection to certain rate case expenses incurred by Abenaki for this proceeding. In support of this objection, Abenaki states as follows:

1. In February 2019, Abenaki filed its report of rate case expenses for recovery. Given the passage of time, it updated those expenses in May and July.
2. On September 9, 2019, Omni filed comments on these rate case expenses. In those comments, Omni argued that the rate case expenses should be reduced to \$79,657, a reduction of \$26,369. Omni contended that charges for services provided by Abenaki's affiliate, New England Service Company, are not eligible for recovery because those activities are typically performed by utility management and staff of the utility, under Puc 1907.01(a). See, Order No. 26,295, dated October 1, 2019, at 3. The record not having Abenaki's response to Omni's objection, the Commission ordered Abenaki to file a specific response to Omni's arguments.
3. By letter dated October 11, 2019, Abenaki responded to Omni's objection. Abenaki stated that the \$26,369 in disputed expenses were related to actual hours incurred in the

prosecution of the rate case. Abenaki argued that they were prudently incurred. Abenaki stated that because it has no employees, it relies on New England Service Company to provide personnel time and as such, the \$26,369 represented expenses for New England Service Company's work for this proceeding. Abenaki noted that these expenses were scrupulously audited by the Commission's Staff and that Staff concurred that they were rate case-related and should be recovered. Abenaki asked that the Commission finalize its determination on rate case expenses so that Abenaki can, *post haste*, bill its customers.

4. On October 31, 2019, Omni filed a motion for rehearing of Commission Order No. 26,295. It appended to that motion, comments responsive to Abenaki's reply. Motion at pages 9 and 10. Without providing specific evidence, Omni again disputed that the charges were rate case-related and averred that the charges were instead covered under Abenaki's affiliate agreement with New England Service Company and its revenue requirement. Omni argued that the charges related to expenses that were "typically performed by utility management and staff of the utility". Motion at 9. It argued that because these charges "were in fact for matters handled by management and staff of Rosebrook through an affiliate agreement and the services of those employees are reflected in the test year and resulting revenue requirement." Motion at 9-10.

5. The facts do not support Omni's argument. As Staff noted in its December 11, 2019 letter, "the \$26,369 in rate case expenses related to New England Service Company as those expenses are not included in Abenaki's approved revenue requirement." Staff Letter of 12/11/19 at 5. The purpose of Staff's letter was to reiterate its prior position.

6. By letter dated December 19, 2019, Omni seeks to respond to Staff's December 11th letter. If granted, this would be its third opportunity to make its case that the disputed rate case expenses ought not to be recovered. Omni's argument that the Commission has not adopted a procedure for resolving the disputed rate case expenses is not accurate. The Commission received Omni's multiple comments and it ordered Abenaki to respond.

7. Omni's argument that Staff offered "new arguments" in its December 11th letter appears hollow because Omni fails to identify what is new. From Abenaki's read of Staff's December 11th letter, all it does is pull into one place existing relevant information from Audit Staff's Audit Report, Abenaki's Annual Report, and Abenaki's rate case expenses. Omni had access to all of this information when it made its prior arguments. None of the information is new. Also, as Staff expressly stated, it merely sought to reiterate its prior recommendation. Staff's letter offers no new position and no new evidence. These reasons hardly warrant giving Omni a third bite at the apple.

8. With respect to Omni's request for the Commission to waive its rules, on the rationale that its request to file a response in the middle of January will not disrupt the orderly and efficient resolution of this matter, having three opportunities to present its arguments on the same rate case expenses is not efficient. It is unheard of. The Commission has afforded the normal volley of party submissions. Extending the debate on rate case expenses for close to a year when there have been prior opportunities to raise issues is disruptive to this proceeding. Omni's robust litigation in this proceeding has resulted in a higher level of rate case expenses than is normal. Abenaki has had to absorb these expenses while it awaits recovery. Abenaki *continues* to accrue rate case expenses with each Omni filing. This is financially and procedurally disruptive.

9. In conclusion, the Commission has sufficient information before it to render its decision on the disputed rate case expenses. Omni has already had prior opportunities to provide more specific facts to bolster its arguments. Omni's request is contrary to the orderly and efficient resolution of this proceeding. For these reasons, Abenaki objects to Omni's latest request to prolong this rate case.

WHEREFORE, Abenaki respectfully requests the Commission:

- A. Deny Omni's request for another opportunity to object to Abenaki's rate case expenses; and
- B. Grant such other relief as is just and equitable.

Respectfully submitted,

Abenaki Water Company, Inc.

By its Attorney,
NH BROWN LAW, PLLC

Dated: December 23, 2019

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Certificate of Service

I hereby certify that a copy of the foregoing objection has been emailed this day to the docket-related service list.

Marcia A. Brown
Marcia A. Brown, Esq.