

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

DOCKET NO. DW 17-165

**ABENAKI WATER COMPANY, INC.
ROSEBROOK WATER SYSTEM**

Petition for Change in Rates

Objection to Partially Assented-To Motion to Extend Step II Filing Deadline

NOW COMES Omni Mount Washington Hotel, LLC (“Omni”), by and through its attorneys, McLane Middleton, Professional Association, and asks that the New Hampshire Public Utilities Commission (“PUC” or “Commission”) deny Abenaki Water Company, Inc.’s (“Abenaki” or “Company”) motion to extend the December 31, 2019 Step II adjustment filing deadline until December 31, 2020. In support of its objection, Omni states as follows:

1. On December 27, 2019, Abenaki filed a “Partially Assented-To Motion to Extend Step II Filing Deadline” (Motion) claiming, among other things, that “notwithstanding numerous contacts, Abenaki has been unable to commence discussions with Omni relative to easements and, consequently, it has been unable to finalize the engineering designs.” Abenaki also says that it “has been in conversation with Staff concerning the infeasibility of completing the engineering designs by December 31, 2019.” Motion, p.2. Abenaki does not identify any assent to its Motion, pointing out only that Staff took no position and that it had not received positions from the other parties.

2. Abenaki makes several general statements that merit specific backup or further explanation. First, Abenaki claims that “notwithstanding numerous contacts” it has been unable to commence discussions with Omni relative to easements. On December 17, 2019, Don Vaughan, Abenaki’s President, called Josh DeBottis, Omni’s General Manager, who was out of

the office. Mr. DeBottis' assistant inquired as to the subject of the call, but Mr. Vaughan did not explain the reason. There were no other contacts, which Mr. Vaughan subsequently confirmed. Clearly, Abenaki did not make numerous contacts and the single contact it made, the week before Christmas, was too late to have had any effect. After Abenaki filed its Motion, Nicholas LaChance, Vice President of Abenaki's affiliated Service Company, sent an email to Mr. DeBottis, on January 2, 2020, requesting a meeting to discuss the water pressure reduction project, which Omni is prepared to do.

3. In addition, Abenaki says that as a consequence of its inability to discuss easements with Omni, it was unable to "finalize the engineering designs." It would have been helpful to understanding whether and how long the deadline should be extended, if at all, if Abenaki had explained in detail the status of the engineering designs, how close they were to being finalized, what was needed to finalize them, and specifically how a discussion with Omni over easements was so consequential to finalizing the designs. As a matter of sound planning, if discussions with Omni were so consequential, Abenaki should have reached out well before December 17, 2019.

4. Abenaki also says that it "has been in conversation with Staff concerning the infeasibility of completing the engineering designs by December 31, 2019." Again, it would have been helpful to understanding whether and how long the deadline should be extended, if at all, to know when those conversations took place and what they involved.

5. It comes as no surprise to Omni that Abenaki did not meet its deadline, nor is it a surprise that Abenaki continues to assign blame for its failure to Omni. From Omni's perspective, the process for the Step II rate increase has been problematic from its inception and Omni made clear its concerns in its July 25, 2019 Response to Staff Recommendation (at which

time it also proposed settlement discussions) and its October 31, 2019 Motion for Rehearing, which was filed shortly after the Commission's Order Affirming and Clarifying Step II Adjustment. In summary, Omni believes that a step increase is ill-suited to the approval of engineering designs and the recovery of engineering costs, and it is unclear what the Commission would have done with anything Abenaki had filed and what standard it would have applied to cost recovery.

6. In Omni's view, a filing deadline for Abenaki made sense as a deadline by which Abenaki filed its detailed engineering designs or lost the opportunity for a Step II Increase. Staff had proposed a filing deadline of March 31, 2020, but Abenaki insisted that it be moved up to December 31, 2019. The Commission granted Abenaki's request, but Abenaki failed to meet the deadline it sought and now seeks an additional twelve months.

7. Consistent with what it stated in its July 25, 2019 Response to Staff Recommendation, Omni believes that it has been Abenaki's obligation from the beginning to produce engineering designs, which it has not yet done. Abenaki's failure to finalize engineering designs is not a consequence of anything Omni did or did not do, but is instead wholly a consequence of Abenaki's evident inaction. Accordingly, Omni opposes an extension of the Step II filing deadline.

WHEREFORE, Omni respectfully requests that the Commission:

- A. Deny Abenaki's Partially Assented-To Motion to Extend Step II Filing Deadline, and
- B. Grant such further relief as deemed appropriate.

Respectfully submitted,

Omni Mount Washington Hotel, LLC
By Its Attorneys,

McLANE MIDDLETON,
PROFESSIONAL ASSOCIATION

Dated: January 7, 2020

By: 

Thomas B. Getz, Bar No. 923
11 South Main Street, Suite 500
Concord, NH 03301
(603) 230-4403
thomas.getz@mclane.com

Certificate of Service

I hereby certify that on the 7th of January, 2020, an original and six copies of the foregoing Objection was hand-delivered to the New Hampshire Public Utilities Commission and an electronic copy was served upon the Distribution List.


Thomas B. Getz