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May 21, 2019

Ms. Debra A. Howland
Executive Director and Secretary
New Hampshire Public Utilities Commission
21 S. Fruit Street, Suite 10
Concord, New Hampshire 03301

NHPUC 21MAY19PM1:23

Re: Docket No. DW 19-065
Complaint of the Town of Hampton against Aquarion Water Co. of New Hampshire

Dear Director Howland:

On March 27, 2019, the Commission received a Complaint from the Town of Hampton (the "Town") against Aquarion Water Company of New Hampshire, Inc. ("Aquarion") concerning Aquarion's return on equity and snow removal from fire hydrants. That Complaint was docketed as Docket No. DW 19-065. Aquarion responded to that Complaint on April 16, 2019. On May 16, 2019, the Town of Hampton made a filing noting that it was dissatisfied with Aquarion's response. Also on May 16, the Office of Consumer Advocate ("OCA") made a filing expressing its opinion regarding the Complaint, Aquarion's response thereto, and the Town's dissatisfaction with Aquarion's response.

Aquarion agrees with OCA's letter regarding the substantive legal issues set forth in the Town's Complaint. That is, "Hampton's complaint is devoid of merit and should be dismissed rather than committed to further proceedings pursuant to RSA 365:4."

However, Aquarion disagrees with the OCA's recommendation that the Commission "commence a general rate proceeding immediately..." As the OCA correctly notes, "The settlement agreement recently approved on a *nisi* basis via Order No. 26,245 (May 2, 2019) in Docket No. DW 18-161 (the Aquarion WICA proceeding) requires Aquarion to file a full rate case 'no later than 2020.'" Where OCA errs is in its next sentence, "Nothing in the settlement agreement precludes the Commission from ordering Aquarion to file a full rate case sooner than 2020 – and that is exactly what the Commission should do..."

The settlement agreement referenced by OCA was entered into voluntarily by the Town, OCA, Commission Staff, and Aquarion. As OCA indicated, the Commission approved that settlement agreement by an Order *Nisi*. OCA's recommendation that the Commission order Aquarion to file a general rate proceeding immediately is inconsistent with the settlement and the Commission's approval thereof.

In the approved settlement, the Parties agreed, and the Commission approved, a provision that reads, “The Settling Parties agree that, as part of Aquarion’s next rate proceeding, the Company shall provide a reconciliation between the WICA revenues it actually billed during 2019 and the WICA surcharges that would have been billed during 2019 by applying the 6.86% 12-month percentage to its full year base revenues.” Clearly, it would be impossible for Aquarion to provide such a reconciliation of “WICA revenues *it actually billed during 2019*” until all 2019 bills have actually been rendered. Initiation of a general rate proceeding prior to 2020 would be inconsistent with this express term of the settlement and of Order No. 26,245 which orders:

FURTHER ORDERED, that, as part of its next full rate proceeding, Aquarion shall provide a reconciliation between *the 2019 Water Infrastructure and Conservation Adjustment revenues it actually bills* and the WICA revenues that it would have billed using the 6.86 percent WICA surcharge for the full 12-month period of 2019, *with the difference in revenues revealed by that reconciliation to be an adjusting item considered in determination of Aquarion’s next authorized revenue requirement in the Company’s next full rate proceeding;*

(Emphases added.)

This settlement provision is consistent with the expectations set forth in both the settlement and the Order *Nisi* regarding the timing of Aquarion’s next general rate proceeding. With regard to the timing of Aquarion’s next general rate case, both the settlement and the Order have captions stating, “Aquarion Rate Case Filing in 2020.” (settlement at page 7, paragraph K and Order at page 8, paragraph G.) OCA is correct that the text regarding the rate case timing requires a rate proceeding filing “no later than 2020.” That rate case schedule giving Aquarion the flexibility to file a rate proceeding “no later than 2020” was part of the *quid pro quo* that enticed Aquarion to enter into the settlement.

OCA’s suggestion that Aquarion’s agreement to file a general rate proceeding “no later than 2020” should be interpreted as “immediately” is not consistent with the settlement or with Commission Order No. 26,245. The settlement and approving Order clearly contemplated an Aquarion general rate proceeding in 2020 using a 2019 test year based upon the precise words of the captions in each document quoted above, as well as the requirement to include as part of such a filing a reconciliation of “actually billed” 2019 WICA revenues as part of the “determination of Aquarion’s next authorized revenue requirement in the Company’s next full rate proceeding.”

Moreover, there is no change in circumstances that would warrant upending the recent settlement and the approving Order. The Complaint was filed by the Town on March 27; OCA entered into the settlement on April 15. (See OCA Letter of Concurrence with Settlement.) Knowing the issues contained in the Complaint, had OCA deemed an “immediate” Aquarion general rate case filing to be necessary, it should have so stated as part of the settlement - - it did not.

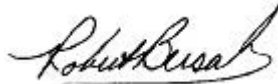
Thank you for consideration of this response. As OCA and Aquarion agree, "Hampton's complaint is devoid of merit and should be dismissed rather than committed to further proceedings pursuant to RSA 365:4." However, per the terms of the settlement and the approving Order, the Commission should not order Aquarion to file a general rate proceeding on a schedule inconsistent with the terms of that settlement and the approving Order.

Please let me know if you have any questions.

Sincerely,

**AQAURION WATER COMPANY OF
NEW HAMPSHIRE, INC.**

By its attorney:

A handwritten signature in black ink, appearing to read "Robert A. Bersak", with a stylized flourish at the end.

Robert A. Bersak
Chief Regulatory Counsel
Eversource Energy Service Company

cc: Town of Hampton – Frederick W. Welch, Town Manager (via U.S. Mail)
Service List (via email)

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