

January 13, 2020

NHPUC 16 JAN 20 AM 10:40

Ms. Debra A. Howland

Executive Director

New Hampshire Public Utilities Commission

21 South Fruit Street, Suite 10

Concord, New Hampshire 03301

Re: Docket No. DW 19-131 –Omni Mount Washington Hotel LLC, Complaint against Abenaki Water Company.

Dear Ms. Howland:

Bretton Woods Property Owners (“BWPOA”) and Forest Cottages petition the New Hampshire Public Utilities Commission to be recognized as intervenors for Docket No. DW 19-131-Omni Mount Washington Hotel LLC , Complaint against Abenaki Water Company. We are concerned that as residential customers we could be affected by this proceeding. As such, we support the interpretation of the language in the tariff advocated by the complainant, Omni Mount Washington Hotel LLC (Omni). In our judgement, the new tariff language is ambiguous on the question of whether Abenaki or its customers are responsible for maintaining the service lines that run between the “customers property lines or common property” to their premises. In DW 19-131, paragraph 11, Omni points out that Abenaki could take a similar position as it did with Omni, and apply that to Fairway Village Association, which is part of the master BWPOA association. Abenaki may take the same position as it did with Omni, that it is not responsible for the service pipes that serve condominium associations and single family homes. See tariff changes made in Docket No. DW16-448 from Order No. 25,935 (August 9, 2016) approving Abenaki’s acquisition of the Rosebrook Water Company.

Revised Exhibit H (old page 59, new page 74) from that tariff amends the terms and conditions regarding **Condominiums and other multi family residences:**

Old tariff language

All service pipe up to and including the unit’s exterior shut off valve shall be owned and maintained by the Company. For condominiums, the space from the exterior shut off valve to the premises shall belong to the association.

New tariff language

All service pipes from the main to the property line or common area including the unit's exterior shut off valve shall be owned and maintained by the Company. From the property line or common area to the premise served by the service pipe shall be installed, owned, and maintained by the association or customer.

Revised Exhibit H (old page 59, new page 74) also amends the terms and conditions regarding **Single family residences:**

Old tariff language

Single Family Homes: All service pipe up to and including the premises' exterior shut-off valve shall be owned and maintained by the Company. From the exterior shut off valve to the premise served, the service pipe shall be installed, owned and maintained by the customer. Such installations shall be in a manner approved by the Company in writing prior to construction and shall be no less than 3/4 inch inside diameter. All new exterior shut-off valves shall be placed at the property line.

New tariff language

Single Family Homes: All service pipe from the main to the property line or common area including the premises' exterior shut-off valve shall be owned and maintained by the Company. From the property line or common area to the premises served, the service pipe shall be installed, owned and maintained by the customer(s). Such installations shall be in a manner approved by the Company in writing prior to construction and shall be no less than 3/4 inch inside diameter. All new exterior shut-off valves shall be placed at the property line.

We agree with Omni, as pointed out in paragraph 5 of Omni's complaint in DW 19-131, that tariffs are prospective documents and while they may affect future customers, do not magically change the physical location of shut off valves, do not supersede the deeds and easements evincing Abenaki's obligations, nor do they otherwise retroactively change the obligations of it's customers. Finally, past practice and the course of dealings since Abenaki's acquisition demonstrates that it understood its responsibility for the water system. In fact Abenaki stated this verbally during Commission proceedings on January 6, 2020 under DW 19-131.

We agree with the Office of Consumer Advocate (dated January 3, 2020) that the Commission can and should order Abenaki to resolve the tariff ambiguity, and in the meantime the Commission should resolve the complaint in favor of Omni.

An original and six copies will be mailed to the Commission today.

Sincerely,

Paul Mueller, BWPOA