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## Technical Statement of Stephen P. St. Cyr

**STATE OF NEW HAMPHIRE  
BEFORE THE  
PUBLIC UTILITIES COMMISSION**

**DOCKET NO. DW 19\_\_\_\_\_**

**Hampstead Area Water Company, Inc.**

**Technical Statement of Stephen P. St. Cyr**

**August 9, 2019**

**A. Purpose of this Technical Statement**

This technical statement is being provided on behalf of Hampstead Area Water Company, Inc. (HAWC) pursuant to New Hampshire Code of Administrative Rules, Chapter Puc 1605.02. This statement describes revised tariff language that HAWC seeks to implement to account for changes in federal tax law regarding the tax applied to regulated utilities who receive contributions in aid of construction (“CIAC”) —either in the form of cash payments given to HAWC or property constructed and transferred by the developer to HAWC.

**B. Background**

Prior to the 2017 changes to the Federal Tax Act, 26U.S.C. §118 (“Section 118”), CIAC payments or plant provided to regulated water utilities were excluded from taxable income if they were not incorporated into the regulated utility’s rate base. In late 2017, as part of the recently enacted Tax Cuts and Jobs Act, Congress amended Section 118 to remove the exclusion from taxation for CIAC payments to regulated water utilities. As a result, HAWC is now subject to taxes on CIAC. HAWC is seeking to revise its tariff similarly to docket DW 18-189.

HAWC’s tariff currently does not allow it to recover certain fees or property associated with the Company’s acceptance of CIAC. If the CIAC is in the form of contributed property assets, the property being installed by the developer and contributed to HAWC includes water mains, water services (main to stop portion), pumping stations, storage tanks, treatment facilities and other assets necessary for HAWC to provide public water service to the developer’s customers. When HAWC accepts the property assets from the Developer it books the value of the accepted property as Plant in Service and CIAC. The value of the CIAC is determined by HAWC based on the actual construction costs provided to HAWC by the entity contributing the asset, or if actual construction costs are not provided by using accepted engineering indices values for the New England Region.

HAWC’s investment in any developer installed property is limited, by tariff [HAWC tariff page 32, Section 35(A)(3)] to the terms of a special contract HAWC negotiates with the developer, the terms of which “shall be submitted to the Commission for approval.”

As a result of the 2017 amendments to Section 118, CIAC payments or property to HAWC no longer fully cover the true cost to HAWC. As a result, HAWC is seeking permission to amend its tariff to allow it to recover the resulting tax costs when CIAC property or payments are received by HAWC. The formula for calculating the tax costs associated with CIAC is as follows:

$$\text{Tax Cost} = ((\text{CIAC}) / (1 - \text{Current Effective Tax Rate})) - \text{CIAC}$$

$$\text{Current Effective Tax Rate} = \text{Current BPT Rate} + (\text{Current Federal Tax Rate} * (1 - \text{Current BPT Rate}))$$

Using current law, the formula would include the following inputs (however, this tariff changed is designed to accommodate any effective rates in place during any given tax year):

$$\text{BPT Rate} = 7.99\%$$

$$\text{Federal Tax Rate} = 21\%$$

$$\text{Effective Tax Rate} = 27.24\%$$

### **C. Impact of the Tariff Revision on HAWC's Revenues**

If HAWC does not amend its tariffs to allow the collection of the tax costs resulting from CIAC property or payments, the impact on HAWC would be to increase its costs that must be recovered from ratepayers. Because the policy of the State of New Hampshire has been to require developers to fund the capital costs of expanding a utility's service into new areas, HAWC believes it is appropriate and consistent with this policy to require these same developers to pay for the tax costs that are incurred by HAWC when it receives CIAC property or payments. If these tax costs are not funded by the developers, these costs will eventually be passed on to all of HAWC's ratepayers.

If the tariffs are amended, the changes will have a neutral impact on HAWC's revenues as compared to the taxation of CIAC payments or property prior to the 2017 amendments to the Tax Act.

### **D. CIAC Tax Resulting from Receipt of State of NH Grant Money**

It is important to highlight that HAWC is seeking to revise its tariff in part to allow it to accept grant money from the State of New Hampshire Department of Environmental Services to assist in the Southern New Hampshire Interconnection Project that will provide water to HAWC's current customers and ultimately provide safe drinking water to the Town of Plaistow from Manchester. HAWC responsibilities under this Project include the construction of a water storage tank (see Docket No. DW 18-138) and infrastructure and other improvements to its core system to connect to Salem in order to receive Project water. HAWC will both utilize some water from the Project and wheel water to Plaistow for its use and consumption. The CIAC tax HAWC will incur for accepting grant money from the State of New Hampshire for these parts of the Project will exceed \$1,500,000.00. Since this Project is benefiting HAWC's customers,

HAWC believes it is prudent to accept NH Grant Money and it is in the best interest of its customers to allow recovery of these CIAC taxes from ratepayers.

**E. Revised Tariff**

HAWC has enclosed revised tariff pages, in both clean and “red-lined” versions, incorporating the revised applicability described above. The changes are reflected on HAWC’s tariff pages as follows:

Tariff pages: 4, 24, 24-A, 30, 30-A, 32, 32-A, 33, 35, and 36.

HAWC requests that the Commission allow the tariff page to become effective in 30 days, or as may be otherwise ordered by the Commission.