

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

**DW 20-117
HAMPSTEAD AREA WATER COMPANY, INC.**

Request for Change in Rates

MOTION TO COMPEL

NOW COMES the Town of Atkinson and Karen Steele (“the Town”), intervenors in this docket, and move this Honorable Commission, pursuant to Admin. Rule Puc 203.09(i), to compel Hampstead Area Water Company, Inc. (“HAWC” or the “Company”) to respond to two data requests the Town made of HAWC, the objections to which were provided on October 7, 2021 and October 22, 2012, copies of which are attached, and as described in more detail below. In support of this Motion the Town states as follows:

1. Pursuant to the discovery schedule in this docket, the Town asked HAWC data requests as a follow-up to the technical session held on September 23, 2021. One of those requests, labeled by the Company as Atkinson TS 4-5, asked for a copy of the Company’s vulnerability assessment and emergency response plan. The Company objected to the request on October 7, 2021 on the basis of RSA 91-A:5 and PUC and DES rules. When the Town made a good faith effort to resolve the issue as required by Admin. Rule 20203.09(i), the Company provided a supplemental response objecting to providing the information. See Attachment A to this Motion. The Town also requested a copy of the American Water Works Association standards used by the Company for designing and installing the fire hydrants in Atkinson. The Company first objected on the

basis of publishing laws and then subsequently based on copyright laws. See Attachment B, the response to Atkinson TS 4-6.

2. This docket concerns the Company's request for a significant increase in the rates it charges for service to its customers, which include the Town and a number of residents in the Town. Part of the rate request is for an increase in the per hydrant rate charged to the Town from \$200 a year to \$1,419 a year.

3. The standard for discovery in Commission proceedings is broad and extends to information that is relevant to the proceeding or reasonably calculated to lead to the discovery of admissible evidence. The Commission also weighs the effort needed to gather the requested information, availability from other sources and other criteria. The Commission has broad discretion regarding the management of discovery. Order No. 26,534 in DE 21-020 (October 22, 2021), p. 10. The Commission has also noted that "New Hampshire law favors liberal discovery." Order No. 25,398 in DE 11-250 (August 7, 2012), p. 2. The Commission will typically allow "wide-ranging discovery" and will deny discovery requests only when it "can perceive of no circumstance in which the requested data would be relevant." *Re Lower Bartlett Water Precinct*, 85 NH PUC 371, 372 (2000). A party in a legal proceeding in New Hampshire is entitled to "be fully informed and have access to all evidence favorable to his side of the issue. This is true whether the issue is one which has been raised by him or by his opponent, and whether the evidence is in the possession of his opponent or someone else." *Scotsas v. Citizens Insurance Co.*, 109 N.H. 386, 388 (1969).

4. The information requested by the Town may be relevant or lead to the production of relevant data regarding the Company's request in this docket to increase

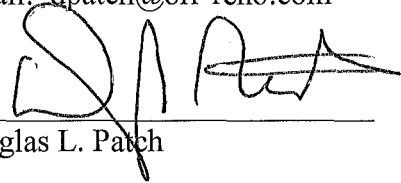
fire hydrant costs by over 600% from the current rates. Town officials, including the Fire Chief and the Police Chief and other town officials, should have access to the standards to which fire hydrants have been built and to the vulnerability assessment and the emergency response plan which the Company has in place. This seems fundamental to these officials being able to conduct their jobs of ensuring that adequate public safety plans and equipment are in place in the town. In addition, providing the Town with a copy of the standard the Company relied on in building the hydrants as part of discovery is not "reproduction and commercial use" as that phrase is used in the reservation of rights box copied into the Company's response. These standards and the emergency response plan are potentially relevant to this case in that they both pertain to the fire hydrants that are the subject of a dramatic rate increase that the Company is seeking in this docket and they will help the Town to assess whether to continue obtaining this service from the Company in the event that the proposed rates are approved. The Town would be willing to abide by a non-disclosure agreement or confidentiality order to limit the disclosure of these documents should the Company seek such treatment of these documents and the Commission order such treatment.

WHEREFORE, the Town of Atkinson and Karen Steele respectfully request that this honorable Commission:

- A. Compel the Company to respond to data requests Atkinson TS 4-5 and 4-6 and provide the requested documents; and
- B. Grant such further relief as it deems appropriate.

Respectfully submitted,

The Town of Atkinson
By Their Attorneys
ORR & RENO, P.A.
45 South Main St.
Concord, NH 03302-3550
Telephone: (603) 223-9161
e-mail: dpatch@orr-reno.com

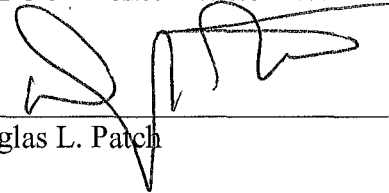


Douglas L. Patch

October 28, 2021

Certificate of Service

I hereby certify that on this 28th day of October, 2021 a copy of the foregoing motion was sent by electronic mail to the Service List in PUC Docket DW 20-117.



Douglas L. Patch

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