

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

HAMPSTEAD AREA WATER COMPANY

Request for Change in Rates – Step I Order Approving Settlement on Step I Adjustment

Docket No. DW 20-117

Motion for Rehearing of Order No. 26,809

NOW COMES Karen Steele, a party to this proceeding, and moves pursuant to RSA 541:3 and N.H. Code Admin. Rules for rehearing of Order No. 26,809 issued by the Commission in this docket on April 28, 2023. In support of the motion, the Karen Steele states as follows:

I. BACKGROUND

A significant amount of the spend to justify the Step 1 Rate Increase is from the one-time fee to Manchester Water Works (MWW) for the Merrimack Source Development Charge (MSDC). Exhibit 20, Bates 0013 shows the \$4,096,039 spend of which 21.8% comes from the \$892,500 MSDC. In 2019, this MSDC charge was \$3.57/gallon of water that MWW would commit to provide daily per the term of the pipeline agreement (Exhibit 22, Bates 0018) for 39 years, through December 31, 2058. In 2019, HAWC purchased the rights to 250,000 gallons per day from MWW though this spend was not approved by the PUC until September 28, 2020 via Order #26,407 (Exhibit 20, Bates 0020).

$$\$3.57/\text{gallon} \times 250,000 \text{ gallons/day} = \$892,500$$

Also in the pipeline agreement is a section that not only does HAWC have the right to 250,000 gallons/day made available by MWW, but that they are required to actually purchase that 250,000

gallons per day and they must sell that water first before they could sell groundwater from their wells. (Exhibit 22, Bates 0013).

If HAWC does not purchase and sell 250,000 gallons per day, then the \$892,500 spend is not used and useful. In the April 12, 2023 hearing, both HAWC and the Department of Energy (DOE) emphasized that in 2020, it was used and useful, but that is not the valid criteria. For a spend of \$892,500 to be amortized over 39 years, it should be continually used and useful, and it is unjust and unreasonable to pass along this spend to the ratepayers in the form of a permanent rate increase. In their initial filing, HAWC projected that this \$892,500 would be used and useful, but this rate increase request process has extended long enough where we have actual data that proves it is not used and useful (Exhibit 21, Bates 0004).

There are 2 grievances that the Public Utilities Commission failed to address in Order No. 26,809 “Approving Settlement on Step I Adjustment.”

- 1) Based on HAWC’s own reported data to NH DES, the MSDC spend of \$892,500 is not used and useful and thus HAWC should not be allowed to use that full spend amount as justification to increase ratepayers’ permanent rates as requested.
- 2) HAWC is not honoring their agreement to purchase and sell 250,000 gallons of water per day from MWW before selling Atkinson’s groundwater.

If HAWC were to purchase and sell 250,000 gallons of water per day, the \$892,500 would indeed be used and useful.

As has been documented in my previous testimony, by NH DES and the Rockingham Superior Court, HAWC over pumped their wells at the Kent Farm wellfield in Hampstead, NH and this was the direct cause of private wells running dry. For those of us who have private wells, it is critical that our groundwater be conserved. This was a tenet of the pipeline agreement, that HAWC would purchase and

sell 250,000 gallons per day from MWW before they could sell Atkinson's groundwater. This agreement must be honored. Also documented in the pipeline agreement (Exhibit 22), the Town of Atkinson was not a signer of the pipeline agreement and thus has no authority to enforce that HAWC honor their agreement. In discussions with DES and the Drinking Water Trust, they too did not sign the agreement and have indicated they do not have authority to enforce that HAWC honor their agreement. In conversations with my former State Senator Chuck Morse, who was also the chair of the Drinking Water Trust Fund and sponsor of the pipeline, my current State Senator Daryl Abbas and the current chair of the Drinking Water Trust Fund, Representative Bill Boyd, it is the authority, duty and responsibility of the Public Utilities Commission to enforce that HAWC honor their agreement. In Order #26,809 "Approving Settlement on Step I Adjustment", the Commission failed to address this important duty.

In the April 12, 2023 hearing, it was established through cross-examination of Mr. Charlie Lanza, that he is not only the General Manager of HAWC but he is also the General Manager of HAWSCO (Hampstead Area Water Services Company) – Hearing Transcript, page 105, lines 4-8. It was also established that HAWSCO is the water operator for the Town of Plaistow - Hearing Transcript, page 105, lines 9-11. It is then the responsibility of Mr. Lanza to ensure that monthly water volume data be submitted to NH DES for both HAWC and for Plaistow (via HAWSCO) - Hearing Transcript, page 105, lines 12-23. HAWC's water consumption (produced from groundwater and purchased from Salem) must be provided quarterly and they have 45 days after the quarter end to submit this data. The water HAWC purchases from Salem less that water that HAWC sells to Plaistow, is the water consumed by HAWC, and this should be roughly 250,000 gallons per day, on the six-month average, per the pipeline agreement.

HAWC started receiving pipeline water from Salem on August 25, 2020. HAWC started sending water to Plaistow sometime in August 2022. By subtracting the water volume sent to Plaistow from that which the HAWC system receives from Salem, this is the amount of pipeline water that HAWC is

consuming and selling to its Atkinson-Hampstead Core. To restate the agreement found in Exhibit 22 on Bates 0013:

“HAWC shall ensure a 250,000 gallons per day minimum use of Project water calculated as the six (6) month average within the period of January 1 to June 30, and within the six (6) month period of July 1 and December 31, throughout Phase 1 and continuing for the term of the Agreement.”

During the hearing, HAWC argued it's difficult to get exactly 250,000 gallons per day, though the agreement is very clear that it only be an average of 250,000 gallons per day in a six-month timeframe. Given their decades of running a water company, honoring this agreement should not be a technical hardship.

Unless the PUC enforces that HAWC honor their pipeline agreement of purchasing and selling first the 250,000 gallons per day, there is nothing stopping HAWC from consuming a minimal amount of pipeline water and selling Atkinson's groundwater to Plaistow, thereby causing injury to Atkinson's aquifers, groundwater supply, and the private well owners who make up a majority of the residents of Atkinson.

Actual water volume consumption through December 2022 is found on Bates 0004 of Exhibit 21. In the first twelve months, in six-month increments, HAWC consumed an average of 90.23% and then 119.60% of the 7.5 million gallons/month (250,000 gallons/day x 30 days = 7.5 million gallons per month.) The second twelve months, again in six-month increments, HAWC consumed an average of only 73.81% and 81.15% of the agreed upon 7.5 million gallons/month. In the fifth six-month increment, we cannot calculate the overall percentage as we do not know how much water was sold to Plaistow in August and September of 2022. Where we do have Plaistow volume numbers for October, November

and December of 2022, we see that HAWC's monthly consumption dropped to 53.09%, 72.80% and 74.29% of their agreed amount, respectively.

Also, there is new evidence, data that was not available at the time of the hearing, and that is the water volumes for January, February, and March of 2023. Those HAWC data were only submitted to and approved by NH DES today. As can be seen below, HAWC's consumption % of their commitment, is only 71.08% for the last six months of available data.

	From Salem to HAWC	From HAWC to Plaistow	Pipeline Water Consumed by HAWC	% of 7.5 million gallons/month Consumed by HAWC	6 Month Average	6 Month Average % of 7.5 million gallons
Mo/Yr	Gal (x1000)	Gal (x1000)	Gal (x1000)		Gal (x1000)	
Oct-22	4,938.497	956.737	3,981.760	53.09%	5,331.311	71.08%
Nov-22	6,669.182	1,209.090	5,460.092	72.80%		
Dec-22	6,841.342	1,269.688	5,571.654	74.29%		
Jan-23	6,863.513	1,102.826	5,760.687	76.81%		
Feb-23	6,257.379	1,049.916	5,207.463	69.43%		
Mar-23	8,505.530	2,499.318	6,006.212	80.08%		

II. STANDARD FOR REHEARING

As the New Hampshire Supreme Court explained in *Dumais v. State Personnel Comm'n*, 118 N.H. 309 (1978), "[t]he purpose of a rehearing is to direct attention to matters said to have been overlooked or mistakenly conceived in this original decision, and thus invites reconsideration upon the record upon which that decision rested." *Id.* at 311 (citing *Lambert v. State*, 115 N.H. 516 (1975) (quotations omitted)). Rehearing is also appropriate where new evidence becomes available which could not have been presented at the hearing. *Appeal of Gas Serv., Inc.*, 121 N.H. 797, 801 (1981); *Dumazs*, 118 N.H. at 312.

III. CONCLUSION

For the reasons stated herein, Intervenor Karen Steele respectfully requests the Commission grant a rehearing or reconsideration of Order No. 26,809 pursuant to RSA 541, suspend Order No.

26,809 pending consideration of this motion pursuant to RSA 365:21, and grant such other relief as justice may require.

Sincerely,

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May 15, 2023