

1 **STATE OF NEW HAMPSHIRE**
2 **BEFORE THE**
3 **NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION**
4

5 **W 20-117**

6 **HAMPSTEAD AREA WATER COMPANY, INC.**

7 **Request for Change in Rates**

8 **December 16, 2021**

9 **Pre-filed Testimony of Atkinson Fire Chief Brian Murray**

10 **Q. Please state your name and business address.**

11 A. My name is Brian Murray. My business address is 1 Academy Ave, Atkinson,
12 New Hampshire 03811.

13 **Q. What is your position with the Town of Atkinson, New Hampshire?**

14 A. I am the Fire Chief and Emergency Management Director for the Town of
15 Atkinson (the "Town").

16 **Q. What are your responsibilities as Fire Chief?**

17 A. My responsibilities include Fire code enforcement, emergency management,
18 emergency response, administrative oversight of the Fire Department personnel and
19 equipment, responsibilities given to the Department by state law and local ordinances, the
20 issuance of permits, fire protection for the entire community, and other responsibilities
21 assigned by the Select Board and Town Administrator.

22 **Q. Please summarize your educational background and professional experience.**

23 A. I received an Associates Degree in Fire Science from the New Hampshire
24 Technical College in Laconia. I have also completed courses with the National Fire
25 Academy and the Fire Rescue Leadership Academy. In addition, I have received a
26 number of fire-related certifications including Fire Officer III Certification. My

1 professional experience includes positions with the Salem Fire Department, including
2 most recently Deputy Chief of Operations, and as a firefighter with the Durham &
3 Manchester Fire Departments, as well as being the head of Fire prevention and code
4 enforcement for the Durham Fire Department. A copy of my resume is included as
5 Attachment A to this testimony.

6 **Q. Have you previously testified before the New Hampshire Public Utilities**
7 **Commission?**

8 A. No, I have not.

9 **Q. What is the purpose of your testimony?**

10 A. The purpose of my testimony is to address concerns that the Town of Atkinson
11 has with regard to issues raised in the Hampstead Area Water Company ("HAWC" or the
12 "Company") rate case pending before the New Hampshire Public Utilities Commission
13 ("Commission").

14 **Q. Please summarize the concerns that the Town of Atkinson has with the issues**
15 **raised in this rate case.**

16 A. Those concerns include the following: HAWC's unwillingness to provide a copy
17 of its emergency response plan to Town officials; HAWC's unwillingness to share the
18 standards to which it constructs fire hydrants in the Town and the Company's apparent
19 failure to meet National Fire Protection Association ("NFPA") standards for the Testing,
20 Marking and Maintenance of fire hydrants for our public fire protection; the tariff
21 language that HAWC currently has in place for municipal fire protection and the change
22 in this tariff language it is proposing, how slanted that language is in the Company's
23 favor, and its failure to guarantee adequate fire protection for the Town; the huge

1 proposed increase in fire hydrant rates and the negative impact that it will have on the
2 Fire Department budget and tax rates in the Town; the overall reliability of the fire
3 hydrant system in the Town as constructed by HAWC; and the Company's apparent
4 neglect of existing fire hydrants. All of these issues create significant doubt about the
5 viability of the water system and a lack of confidence in that water system from an
6 emergency preparedness standpoint.

7 **Q. Please explain the concern with the failure to provide Town officials with a**
8 **copy of the Company's emergency response plan.**

9 A. It is my understanding that the Town requested a copy of the Company's
10 vulnerability assessment and emergency response plan and the Company refused to
11 provide them. It is also my understanding that the Town has pending before the
12 Commission a motion to compel the Company to produce that plan. It seems
13 fundamentally unfair and ill-advised for the Company to refuse to provide its emergency
14 response plan to Town officials. Coordination among utilities and safety personnel
15 during a time of emergency is critically important. Emergency response officials have a
16 responsibility to prepare for emergencies that may arise and those preparations help
17 significantly when it comes to dealing with emergencies in a calm, responsible and
18 effective manner. This failure to provide the Company's emergency response plan will
19 significantly hamper the Town's efforts to plan for and deal with emergencies in a
20 proactive manner. As stated above, this "leaves significant doubt and a lack of
21 confidence in the water system from an emergency preparedness standpoint". My
22 concerns are also based off the language in the original Walnut Ridge Water Company,
23 Inc. agreement with the Town that: "The system does not have standby generation and

1 will not be required to provide standby generation for fire protection, ” as well as the
2 current tariff language. Both of these lead me to question whether there will be water
3 available in the system during a long term weather event or other long term power outage
4 due to a lack of back up “standby generation”.

5 **Q. Please explain the Town’s concern with the Company’s failure to provide the**
6 **standards to which the hydrants are constructed and whether the hydrants and the**
7 **water system meet NFPA standards.**

8 A. It is my understanding that the Company has been unwilling to provide a copy of
9 the standards to which the hydrants are constructed. This makes it virtually impossible to
10 determine whether the hydrants are constructed to meet state Fire Code. The state has
11 adopted NFPA 1, which has basic standards in place for the flow requirements of
12 construction of hydrants and the minimum amount of residual water pressure necessary to
13 insure that a fire department can safely and adequately respond to local fire emergencies.
14 The Company claims that it meets the American Water Works Association (“AWWA”)
15 standards, but it will not provide them to the Town. From the Town’s perspective it is
16 very important to determine whether the Company is meeting NFPA standards. If the
17 Company were to provide the AWWA standards, we could compare those with the NFPA
18 standards and determine whether the Company is meeting those standards. The
19 unwillingness to share such critical information certainly does not provide any
20 reassurance to the Town that the Company is concerned about and willing to meet state
21 standards, which ultimately protect town residents and businesses. It is my opinion that
22 an independent, nonbiased evaluation of the water system should be completed, one that

1 looks into the compliance of the system with testing, marking and maintenance, based off
2 all applicable standards, before the system is considered a reliable and compliant system.

3 **Q. Please explain the Town's concern with the tariff language in place and**
4 **proposed concerning fire protection.**

5 A. I have included as attachments to this testimony a copy of the Company's current
6 fire protection tariff language (see Attachment B) and the language they are proposing
7 (see Attachment C). It is clear when you read either the current or the proposed language
8 that it is written in a manner that allows the Company to avoid responsibility and liability
9 for any failures on their part with regard to public fire protection. This approach leaves
10 the Town without any recourse should the Company fail to meet NFPA standards or fail
11 to provide sufficient water to respond to fire emergencies that arise. The Company has
12 more protection from liability than I do as the Fire Chief for the Town and than the Town
13 itself does. If this tariff language is allowed to go into effect or to remain in effect,
14 because we know that there is a problem with the dependability and available flows, but
15 we have no control over the system, our liability is likely to be greater than the
16 Company's, which does not seem fair or equitable. Moreover, according to this
17 language, there are no minimum flows or pressures that the Company has to meet. The
18 language leaves totally undefined what it refers to as "normal pressures." This language
19 also imposes all of the responsibility for notification of hydrant installation on the Town
20 and requires nothing of the Company. The way the tariff language, both proposed and
21 currently in effect, is written, if the Town were to use a hydrant for fire training purposes
22 or for testing the hydrants or fire-fighting apparatus, it would have to seek and obtain the

1 approval of the Company. From our perspective the tariff language, both existing and
2 proposed, is totally unacceptable.

3 **Q. Please explain the Town's concern with the proposed increase in fire hydrant**
4 **rates.**

5 A. The Company is proposing to increase the per hydrant charge from \$200 a year to
6 \$1,419 per year. This is shocking from the Town's perspective. It is my understanding
7 that the Commission typically tries to avoid rate shock for customers and that it also often
8 follows the principle of gradualism with regard to rate increases. In other words, if the
9 Commission believes a rate increase is justified, it should be implemented gradually over
10 time and not with one dramatic increase, like what the Company has proposed to do here
11 for fire hydrants. The Town should not be subject to such a dramatic, one-time rate
12 increase just because the Company has now determined that the amount it is charging
13 does not reflect the cost of service. If approved as proposed, this increase will require a
14 greater than 20% increase in the Department's current budget, as this is a budget line item
15 in the Fire Department budget. This is a significant impact on the Fire Department's
16 budget, especially given that the Town is always under pressure to maintain or reduce
17 current budget levels. Such an increase, if allowed to go into effect, will certainly impact
18 local taxes. This increase provides no benefit to the Fire Department, but rather
19 significantly hampers our operation as it will absolutely take away from our operational
20 needs. Many townspeople and members of the Town's Budget Committee will only look
21 at this as a huge increase, and will not understand or care that it is beyond our control.
22 Moreover, the Fire Department and the Town will receive no benefit from this increase
23 because there is no guarantee or improvement in service. It is also my understanding that

1 the annual rate the Company is seeking for fire hydrants would be significantly higher
2 than what many other water companies in the state charge for fire hydrants. Finally, I
3 want to point out that the proposed rates are the same for all hydrants even though some
4 are connected to larger mains than the others and some are therefore less capable of
5 providing necessary water when needed. See Attachment E.

6 **Q. Please explain the Town's concern with the reliability of the fire protection**
7 **system provided by the Company.**

8 A. I have serious concerns about whether the hydrants and the mains that serve them
9 meet NFPA code requirements. The Company's refusal to provide information in this
10 docket about AWWA standards certainly has not helped with trying to obtain accurate
11 information about this issue. If the hydrants and mains do not meet NFPA standards,
12 then I would have to question the reliability of the public fire protection system that the
13 Company has constructed and for which it is charging the Town. The language in the
14 tariff certainly seems to suggest that it is not a very reliable system if the Company is not
15 willing to stand behind it. It is very concerning to me that the language in this tariff
16 supports the Company not following any of the nationally recognized NFPA standards
17 and also relieves the Company from liability for not following the standards and leaves
18 open the question of who will bear the liability of it not meeting the standards and best
19 practices.

20 **Q. Please explain the Town's concern with the lack of coordination between the**
21 **Company and the Town.**

1 A. It is my understanding that the Company has added fire hydrants over the years
2 without even checking with or coordinating with the Town first, and without providing
3 information once the hydrants were installed. I have included as attachments to this
4 testimony a list of the hydrants in the Town (Attachment D) and a map showing the
5 location of those hydrants and the size of the mains that serve them (Attachment E). As
6 noted above, the tariff language is drafted in a way that imposes all responsibility for
7 communicating about new hydrants on the Town, while nothing is said about what
8 responsibility the Company has for notifying the Town or working with the Town with
9 regard to hydrant installations. For all of the reasons noted above, coordination between
10 a water utility providing public fire protection service and the local fire department is
11 critically important. If the Town bares all the responsibility and is financially responsible
12 to pay such a large annual fee for each hydrant, it should have all the say on whether and
13 when a hydrant is installed.

14 **Q. Please explain the Town's concern with the Company's lack of responsibility**
15 **for maintaining existing fire hydrants.**

16 A. The Company does not take responsibility for clearing out the fire hydrants during
17 the winter. That is something which Town employees have been doing in the past. This
18 should be the responsibility of the water company; there should also be criteria in place
19 detailing when and how the hydrants are cleared. We also have no information about
20 what steps the Company takes to maintain and periodically test the hydrants and whether
21 they are functioning properly as per the NFPA standards. Again, such information and
22 coordination is critical to making sure that public fire protection services are available
23 when an emergency occurs. The NFPA standard is that the hydrants all be flow tested

1 and marked accordingly so that the Fire Department knows what to expect for available
2 water for firefighting operations. As per NFPA hydrants are also required to periodically
3 be flow tested to insure that the inside of the pipes are not corroding and being obstructed
4 causing a reduction of flow.

5 **Q. Please explain the Town's concern with potential failures of the Company to**
6 **make available adequate fire protection when storms or long term power outages**
7 **occur.**

8 A. It is my concern that during a long-term weather event or other power outage that
9 the Fire protection system will not be available due to a lack of back up supply
10 generation. One of the major reasons for having a public fire protection system is that it
11 be available during times when it is needed the most, like during storms and long term
12 power outages. If the Company is not capable of making sure that the public fire
13 protection system is in place and functioning during such storms, then the Town has to
14 question what it is paying for such service, especially given the rate increase which the
15 Company is seeking in this rate case. I am not aware of any plan the Company has for
16 dealing with this kind of situation should it occur, nor am I aware of any changes the
17 Company has made to prepare for such storm or event in the future. I have not been
18 reassured that the system has an adequate backup or standby system in place through
19 planning or modifications that have been made to the water system. This is part of my
20 concern and belief that the system is not a reliable and adequate system. I again believe
21 that there needs to be an independent nonbiased evaluation done on the system so that all
22 parties involved know exactly what to expect and the Town knows what it is paying for.

23 **Q. Does this conclude your testimony?**

1 A. Yes, it does.

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