

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 20-184

AQUARION WATER COMPANY OF NEW HAMPSHIRE, INC.

Town of Hampton's Preliminary Statement of Positions

Introduction

This preliminary Statement of Positions is filed in response to the Commission's Order No. 26,449 dated January 29, 2021. In this proceeding, Aquarion proposes an increase of 18% above its 2019 test year revenues based on a proposed 10.25% rate of return on equity. The Town of Hampton requests that the Commission take a hard look at this proposed increase as well as a number of important issues that arisen since the last general rate case in 2012. By way of summary:

1. Return on Equity

In the last general rate case in DW 12-085, Aquarion or "the Company" sought an increase in its allowed return on equity from 9.75% to 10.25%, the same return on equity it is now seeking in this 2020 rate case. After a full hearing on the merits in the 2012 rate case, including expert testimony for both sides, the Commission approved a rate of return on equity of 9.6%. In recent cases, the Commission has heard evidence that suggest even lower rates of return on equity may be appropriate. For example, in Abenaki Water Company, DW 17 – 165, Order No. 26,205 (December 27, 2018), the Commission accepted a baseline rate of return on equity of 9.45% based on the average of rates of return approved by regulatory commissions in other states as reported

by the Regulatory Research Associates *RRA Water Advisory: Major Rate Case Decisions*. The same approach was used in Hampstead Area Water Company, DW 17 – 118, Order No. 26,195(November 28, 2018) in which the Commission used a baseline rate of return on equity of 9.45%. This information suggests that the rate of return on equity for a larger water utility such as Aquarion should be even lower today than it was in 2013 when the Commission approved a rate of return on equity of 9.6%. The cost of equity is a critical component in the revenue requirement. It is a determination which may have implications beyond this rate case for utility customers in other cases. As a result, Hampton recommends that the Commission retain a cost of equity expert to consider whether Aquarion's proposed 10.25% rate of return on equity is just and reasonable or whether a much lower rate of return on equity should be used as suggested by the RRA reports and other relevant economic factors.

Hampton's experience since the last rate case also suggests that, despite the Commission's use of an allowed rate of return on equity of 9.6%, Aquarion used its WICA rate adjustments to realize actual returns on equity that greatly exceed those allowed by the Commission and which resulted in rates that were unjust and unreasonable. For example, in the in the Commission Staff's November 2018 Audit Report in DW 17-154 and DW 18-161, Staff concluded that Aquarion has been overearning based on the rate of return calculations since 2013. In some years, despite the Commission's approval of an allowed rate of return on equity of 9.6%, Aquarion charged customers rates that resulted in Aquarion earning rates of return as high as 18%. See attached pages from the Staff Audit Report dated November 6, 2018. A comparison of the Aquarion's actual and allowed rates of return on equity shows that in the years since Aquarion's last rate case, it earned returns on equity that exceed those authorized by the Commission by as much as

\$2,265,490.71. See attached Chart that also appears in North Hampton's Petition to Intervene, etc. Aquarion has charged customers rates that are unjust, unreasonable and unlawful within the meaning of RSA 378:7, RSA 374:2. Instead, the Commission should order the Company to pay reparations to its customers under N.H. RSA 365:29 as requested in North Hampton's Petition to Intervene, a request for relief that the Town of Hampton joins.

The Company in this rate case is proposing the creation of a "revenue adjustment mechanism." Testimony of Donald J. Morrissey at pages 32-33. The Company claims that a "symmetrical revenue decoupling mechanism will provide a measure of protection for customers in the event the proposed rate design... generates revenues above authorized levels." However, this mechanism would only apply going forward and will not redress the years of overearning that Aquarion customers have experienced since the last rate case 8 years ago.

2. Hampton's Prior Complaint Regarding Aquarion Overearnings Since 2013

The Town of Hampton filed with the Commission on March 26, 2019 a Complaint complaining about the consistent overearnings of Aquarion on its allowed return on equity in each year since 2013, but the Commission declined to investigate or hear the Complaint because it was perceived to invite "single-issue rate making". The issue is currently before the New Hampshire on appeal. However, now that a general rate case is pending before the Commission, the Commission's prior concern that examination of the "individual issue of ROE outside the context of setting appropriate rates leads to single-issue ratemaking" is no longer a concern. Of course, the outcome of Hampton's appeal is uncertain. However, the Town of Hampton reserved the ability to have this Complaint heard in the context of this rate case in a Settlement Agreement dated April 15, 2019

approved by the Commission in DW 18-161. See Order No. 26,245 dated May 2, 2019, on Page 14. Now that the rate case is before the Commission, it should take the opportunity to consider its Complaint in light of the two year look back from the date of the filing of the Complaint as provided by RSA 365:29.

3. Fire Hydrant Charges

Aquarion already charges some of the highest per hydrant charges in the Seacoast area, and now seeks to raise these further, from \$1,740.71 per hydrant to \$2,286.62 per hydrant. In this proceeding, its expert John Guastella advocates that hydrant charges be increased for Hampton by approximately 34.8% from \$475,132 to \$640,254¹. The Town of Hampton believes that Mr. Guastella's cost of service study, the first performed for Aquarion since 2005, should be closely evaluated as its resulting recommendations for this increase may not be warranted.

The charges for this fire protection are excessive for service that is not reasonably safe and adequate. Aquarion refuses to clear snow from its hydrants despite the fact that the Commission's rules and governing statutes provide that fire protection service is to be provided by the utility. RSA 374:30 and Rule Puc 606.03 authorize Aquarion to contract maintenance for its hydrants to Towns or to third parties subject to approval by the Commission. However, there appears to be no such agreement that would excuse Aquarion from its duty to provide service that is reasonably safe and adequate under RSA 374:1 and require the Town to provide this service at no cost. The

¹ In 2019, the actual amount for fire hydrant charges billed to Hampton by Aquarion was \$507,916.04; in 2020, the actual amount for fire hydrant charges billed by Aquarion to Hampton was \$515,664.59 although Hampton received from Aquarion a credit in the sum of \$9,453.14 at the end of the year 2020. See attached bills for hydrants for 2019 and 2020.

Town of Hampton's fire department and the Departments in its other Towns to remove snow from the utility's hydrants without compensation which creates an unlawful and unreasonable subsidy being paid by residents who are not customers of the utility. RSA 378:10. The preventative maintenance program for hydrants described in the Testimony of Vice President John Walsh on page 48 fails to mention this shortcoming.

4. Continuation of the pilot WICA program

The Town of Hampton has appeared in every WICA surcharge proceeding filed by Aquarion since the last general rate case, and objected to the WICA program. The WICA program has not achieved its goal of decreasing rate shock in between rate cases—Aquarion is now seeking a large increase of \$1,373,351, or 18 percent, to its previously authorized revenue requirement. The WICA period should be shortened so as to require more frequent rate cases that would prevent the problems that have allowed Aquarion to over-earn, as has happened since 2013. The result of having the WICA program in place is that it has allowed the Company to over-earn and thereby escape filing a rate case that would have reduced customer rates. The opportunity to re-examine the merits of the WICA program in this proceeding should not be missed.

The Commission should note that shorter a shorter depreciation period for mains is now being proposed by Aquarion's depreciation expert in attachment NWA-2 on pp. 381 to 384 than has been utilized before—61.5 years instead of 81 years. This change would presumably affect

WICA program charges going forward and needs to be closely evaluated.

5. Inclining block rates program

Aquarion is seeking to institute a two-tiered system of charges among its residential customers. In the past, Hampton has expressed support for such a system, but differently tiered—one that would charge a different rate to higher volume, commercial users than what is charged to lower volume residential customers, to encourage conservation. Inclining block rates strongly encouraged, if not required by the NHDES Water Conservation Rules. See Env-Wq 2101.11 Rate Structure and Billing Practices to Promote Water Conservation (“The unit price of water for residential connections shall: (1) Remain the same for any volume of water consumed; or (2) Increase with the volume of water consumed.”). The recent drought experienced in 2020 highlights the critical need for the implementation of water conservation measures.

6. Charges for Aquarion’s Public Relations Firm Expenses

Lobbying expenses on the part of a utility are not to be charged to the customers’ rates. Ever since Aquarion has been acquired by Eversource, a public relations firm has been engaged to interact with public officials in Aquarion’s behalf, incurring what is expected to have been significant charges. It is not clear whether the rate case here involved seeks to include those charges as part of the rates seeking to be charged. Are these costs embedded in the Schedules provided with the testimony of Debra A. Szabo, such as in “Miscellaneous” in the management Allocation in Schedule No. 10 on page 549? The Town of Hampton submits, as it did back in the pre-hearing conference on December 3, 2018 in DW 18-161 (transcript on p. 20) that these charges should not be paid for by Aquarion’s customers. This was one of the issues that was reserved to be brought up in later proceedings in the aforesaid Settlement Agreement dated April 15, 2019 in that case, which the Commission approved in Order No. 26,245 dated May 2, 2019 on page 14.

7. Recovery of merger costs with Eversource

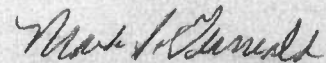
The testimony of Debra A. Szabo on page 182 notes that Aquarion is now seeking to recover \$24,967 annually of its "merger-related costs" incurred as a result of the 2017 merger between Eversource and Aquarion. In the Settlement Agreement reached by Aquarion with the Towns of Hampton and North Hampton reflected in the attached letter dated October 4, 2017, Aquarion agreed on page 4 that "Transaction costs would be recovered only from net savings." It is important to verify Aquarion's claim being made now that that net savings exceed this \$24, 967 figure, which reflects amortization over 10 years. The Commission should not lose sight of the fact that Aquarion has earned more than its allowed rate of return on equity. This means that savings resulting from the merger have primarily benefitted shareholders, not customers.

Dated: March 9, 2021

Respectfully submitted,

Town of Hampton

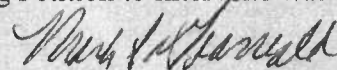
by its Town Attorney



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Certificate of Service

I hereby certify that on this 9th day of March 2021 the foregoing Petition to Intervene was e-mailed to the service list electronically.



Mark S. Gearreald, Esq.