

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DW 20-184**

**AQUARION WATER COMPANY OF NEW HAMPSHIRE, INC.**

**Request for Change in Rates**

**Order on Temporary Rates**

**ORDER NO. 26,488**

June 21, 2021

**APPEARANCES:** Jessica A. Chiavara, Esq. and Matthew J. Fossum, Esq., for Aquarion Water Company of New Hampshire, Inc.; Mark S. Gearreald, Esq., for the Town of Hampton; N.H. Water Law by Justin C. Richardson, Esq., for the Town of North Hampton; the Office of the Consumer Advocate by Donald M. Kreis, Esq., on behalf of residential ratepayers; and Eric Wind, Esq. and F. Anne Ross, Esq., for Commission Staff.

In this order, the Commission authorizes Aquarion Water Company of New Hampshire, Inc., to implement temporary rates set at the level of its current rates, for service rendered as of February 1, 2021. As a result, the average bill for a metered customer will remain unchanged until the conclusion of this general rate proceeding. The temporary rates will be subject to reconciliation for service rendered as of February 1, 2021, based on the outcome of the permanent rate case.

**I. PROCEDURAL HISTORY**

On November 18, 2020, Aquarion Water Company of New Hampshire, Inc. (Aquarion or the Company) filed a notice of intent to file rate schedules. On December 11, the Office of the Consumer Advocate filed a letter of participation, notifying the Commission that it would participate in the proceeding on behalf of residential ratepayers. On December 18, Aquarion filed its Petition for Temporary and Permanent Rates. Aquarion requested an increase of \$1,373,351, or 18 percent, to its previously authorized revenue requirement and its Water

Infrastructure and Conservation Adjustment (WICA) revenues, and approval of a 10.25 percent return on equity. Accompanying the Petition, Aquarion provided pre-filed testimony of Company witnesses Donald Morrissey, John Walsh, Daniel Lawrence, Carl McMorran, Debra Szabo, Dylan D'Ascendis, Ned Allis, and John Guastella.

As part of its petition for a permanent rate increase and pursuant to RSA 378:27, Aquarion requested temporary rates be set at current rate levels, with the current Water Infrastructure and Conservation Adjustment (WICA) revenues moved into Aquarion's base rates. Aquarion's temporary rate request included supporting prefiled testimony of Debra Szabo and proposed revised tariff pages with an effective date of February 1, 2021.

The Commission issued Order No. 26,449 on January 29, 2021, suspending Aquarion's proposed tariff for 18 months and scheduling a prehearing conference for March 10, 2021. On March 3, the Town of Hampton filed a petition for intervention. On March 5, the Town of North Hampton filed a petition for intervention. A prehearing conference was held on March 10, followed by a technical session between the parties. On March 15, Commission Staff participating in the docket (Staff) filed a report on the technical session including a proposed procedural schedule that included a hearing on temporary rates to be held on June 9. On March 24, the Commission issued a secretarial letter approving the proposed schedule and granting the requests for intervention.

On June 3, 2021, Staff filed a settlement agreement (Settlement Agreement) regarding temporary rates reached between Aquarion, the Town of Hampton, the Town of North Hampton, the Office of the Consumer Advocate, and Commission Staff participating in this matter (the Settling Parties). A hearing on Aquarion's petition for temporary rates and the Settlement Agreement was held on June 9.

Aquarion's request for permanent and temporary rates and related docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted at <https://www.puc.nh.gov/Regulatory/Docketbk/2020/20-184.html>.

## **II. POSITIONS OF THE PARTIES AND STAFF**

The Settling Parties agreed that the Commission should grant Aquarion temporary rates at current rates for the pendency of the rate proceeding, effective for service rendered as of February 1, 2021. Settlement Agreement at 2-3. As a basis for the agreement, the Settling Parties noted the Company's assertion of a revenue shortfall, Staff's agreement that Aquarion appeared to be under-earning based on its 2019 Annual Report, and the Towns of Hampton and North Hampton's agreement that Aquarion's 2019 Annual Report showed that the Company earned less than its last-approved rate of return. The Settling Parties expressly reserved all rights "as to whether the Company in fact under-earned during the test year when taking into account all appropriate factors with respect to just and reasonable permanent rates." *Id.*

Under the terms of the Settlement Agreement, Aquarion's current WICA charge would not be folded into the Company's base rate for the purposes of temporary rates, but remain a separate surcharge to be addressed in the permanent rates phase of the proceeding. *Id.* Additionally, the Settlement Agreement provided that the customers of the Wiggin Way development in Stratham, subject to a separate franchise expansion proceeding in Docket DW 21-093, would continue to pay the rates presently in effect, subject to adjustment and reconciliation as approved by the Commission. The Settling Parties agreed – as testified to by Staff and Aquarion – that the resulting temporary rates set at current rates are just and reasonable.

### III. COMMISSION ANALYSIS

Unless precluded by law, disposition may be made of any contested case at any time prior to the entry of a final decision or order. RSA 541-A:31, V(a). Pursuant to N.H. Admin. R., Puc 203.20(b), the Commission shall approve the disposition of any contested case by stipulation if it determines that the result is just and reasonable and serves the public interest. The Commission encourages parties to settle disagreements through negotiation and compromise because it is an opportunity for creative problem solving, allows parties to reach a result in line with their expectations, and is often a better alternative to litigation. *Hampstead Area Water Company, Inc.*, Order No. 26,131 at 3 (May 3, 2018). Nonetheless, the Commission cannot approve a settlement, even when all parties agree, without independently determining that the result comports with applicable standards. *Id.*

Pursuant to RSA 378:27, the Commission may approve temporary rates for the duration of a rate proceeding if the Commission finds that the public interest so requires and the reports of the public utility filed with the Commission indicate that the proposed temporary rates are reasonable. The standard for approval of temporary rates, which are reconcilable, is less stringent than that for permanent rates, “in that temporary rates shall be determined expeditiously, without such investigation as might be deemed necessary to a determination of permanent rates.” *Appeal of Office of Consumer Advocate*, 134 N.H. 651, 660 (1991) (quoting *New Eng. Tel. & Tel. Co. v. State*, 95 N.H. 515, 518 (1949) (internal quotations omitted).

The Settlement Agreement requests that the Commission approve temporary rates at the level of current rates. We find, based on the Company’s annual reports filed with the Commission, that such temporary rates are sufficient. RSA 378:27. Taking into consideration that temporary rates will be set at current rates, so that customers will not experience a bill

increase at this time, and that the Company and customers are protected by the reconciliation mechanism pursuant to RSA 378:29, we also find that temporary rates set at current rates are just and reasonable under the circumstances. Accordingly, we find the Settlement Agreement just and reasonable and in the public interest.

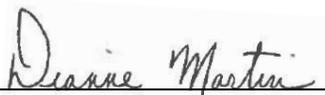
**Based upon the foregoing, it is hereby**

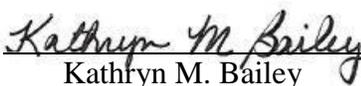
**ORDERED**, that the Settlement Agreement on temporary rates is APPROVED; and it is

**FURTHER ORDERED**, that the temporary rates will be effective for service-rendered as of February 1, 2021, subject to reconciliation pursuant to RSA 378:29 at the conclusion of Aquarion Water Company of New Hampshire, Inc.'s permanent rate proceeding; and it is

**FURTHER ORDERED**, that Aquarion shall submit to the Commission properly annotated tariff pages consistent with this order within 15 days of the date of this order, as required by N.H. Admin. R., Part Puc 1603.

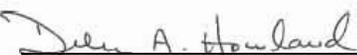
By order of the Public Utilities Commission of New Hampshire this twenty-first day of June, 2021

  
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 Dianne Martin  
 Chairwoman

  
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 Kathryn M. Bailey  
 Commissioner

  
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 Daniel C. Goldner  
 Commissioner

Attested by:

  
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 Debra A. Howland  
 Executive Director

## Service List - Docket Related

Docket#: 20-184

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