

1 **STATE OF NEW HAMPSHIRE**
2 **PUBLIC UTILITIES COMMISSION**

3
4 **March 10, 2021 - 10:11 a.m.**

5 *[Remote Hearing conducted via Webex]*

6
7 **RE: DW 20-184**
8 **AQUARION WATER COMPANY OF NEW**
9 **HAMPSHIRE, INC.: Request for Change**
10 **in rates. (Prehearing conference)**

11
12 **PRESENT:** Chairwoman Dianne H. Martin, Presiding
13 Cmsr. Kathryn M. Bailey

14 Jody Carmody, Clerk
15 Eric Wind, PUC Remote Hearing Host

16 **APPEARANCES:** **Reptg. Aquarion Water Company of**
17 **New Hampshire, Inc.:**
18 Matthew J. Fossum, Esq.

19 **Reptg. the Town of North Hampton:**
20 Justin C. Richardson, Esq.

21 **Reptg. the Town of Hampton:**
22 Mark S. Gearreald, Esq.

23 **Reptg. Residential Ratepayers:**
24 D. Maurice Kreis, Esq., Consumer Adv.
 Office of Consumer Advocate

Reptg. PUC Staff:
 F. Anne Ross, Esq.
 Eric Wind, Esq.

 Court Reporter: Steven E. Patnaude, LCR No. 52

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P R O C E E D I N G

CHAIRWOMAN MARTIN: We're here this morning in Docket DW 20-184 for a prehearing conference regarding the Aquarion Water Company of New Hampshire, Incorporated, request for change in rates.

I have to make the findings required for this remote hearing.

As Chairwoman of the Public Utilities Commission, I find that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic, and in accordance with the Governor's Emergency Order Number 12, pursuant to Executive Order 2020-04, this public body is authorized to meet electronically. Please note that there is no physical location to observe and listen contemporaneously to this hearing, which was authorized pursuant to the Governor's Emergency Order.

However, in accordance with the Emergency Order, I am confirming that we are utilizing Webex for this electronic hearing. All members of the Commission have the ability to communicate contemporaneously during this

1 hearing, and the public has access to
2 contemporaneously listen and, if necessary,
3 participate. We previously gave notice to the
4 public of the necessary information for accessing
5 this hearing in the Order of Notice. And, if
6 anybody has a problem during the hearing, please
7 call (603) 271-2431. In the event the public is
8 unable to access the hearing, the hearing will be
9 adjourned and rescheduled.

10 Okay. We have to take a roll call
11 attendance of the Commission. My name is Dianne
12 Martin. I'm the Chairwoman of the Public
13 Utilities Commission. And I am alone.

14 Commissioner Bailey.

15 CMSR. BAILEY: Good morning, everyone.
16 I'm Commissioner Kathryn Bailey. And I am alone.

17 CHAIRWOMAN MARTIN: Okay. Let's take
18 appearances, starting with Mr. Fossum.

19 MR. FOSSUM: Good morning,
20 Commissioners. It's been a while since I've been
21 in front of you. So, hello again.

22 Matthew Fossum, here for Aquarion Water
23 Company of New Hampshire. With me on the legal
24 side this morning is Jessica Chiavara, counsel

1 for the Company. We also have a number of
2 Company witnesses who have joined us on the
3 participant side this morning: John Walsh, Deb
4 Szabo, Carl McMorran, and Dan Lawrence.

5 CHAIRWOMAN MARTIN: Okay. Thank you.
6 And Mr. Kreis.

7 MR. KREIS: Good morning, everybody. I
8 am Donald Kreis, the Consumer Advocate, pursuant
9 to RSA 363, Section 28. My job is to represent
10 the collective interests of the residential
11 customers of this utility in this proceeding.

12 CHAIRWOMAN MARTIN: Thank you. And Mr.
13 Richardson.

14 MR. RICHARDSON: Good morning,
15 Commissioners. Justin Richardson, here on behalf
16 of the Town of North Hampton. I believe that
17 Commissioners Rob Landman and Tim Harned are on
18 the public side, but I cannot see them on the
19 screen here today.

20 Thank you for hearing us.

21 CHAIRWOMAN MARTIN: Okay. Thank you.
22 And Ms. Ross.

23 MS. ROSS: Good morning, Commissioners.
24 Anne Ross, Staff Attorney, representing Staff.

1 And with me, on the legal side today, is Eric
2 Wind, also representing Staff. We have several
3 analysts listening to the hearing, but not
4 planning to speak, who will be participating
5 afterwards in the technical session. And I am
6 alone.

7 CHAIRWOMAN MARTIN: Okay. Thank you.
8 All right. Before we get to initial positions,
9 we have a couple of pending motions. The first
10 is the Petition to Intervene filed by
11 Mr. Richardson. Do we have any objections to
12 that intervention?

13 MR. FOSSUM: None from Aquarion.
14 Although, I believe that we skipped Mr. Gearreald
15 as part of the introductions. But Aquarion
16 doesn't have an objection to the North Hampton
17 petition.

18 CHAIRWOMAN MARTIN: Okay. Thank you.
19 And I missed Mr. Gearreald in my lineup. Maybe
20 he's not on my screen.

21 Mr. Gearreald, are you here? Oh, I can
22 see you now. I think you're on mute.

23 MR. GEARREALD: Okay. Let's see.
24 We'll unmute.

1 CHAIRWOMAN MARTIN: No. I think you
2 muted and unmuted. Try one more time.

3 MR. GEARREALD: How are we now?

4 CHAIRWOMAN MARTIN: Good.

5 MR. GEARREALD: Good. Yes. My name is
6 Mark Gearreald. I'm the Town Attorney in-house
7 for the Town of Hampton. And we filed a Petition
8 to Intervene also.

9 Thank you.

10 CHAIRWOMAN MARTIN: Okay. Thank you,
11 Mr. Gearreald. I apologize for that.

12 MR. GEARREALD: No problem.

13 CHAIRWOMAN MARTIN: Okay. Let's start
14 with the Petition to Intervene by the Town of
15 Hampton. Any objections to that petition?

16 MR. FOSSUM: On behalf of Aquarion, no,
17 we do not object to either Hampton or North
18 Hampton.

19 CHAIRWOMAN MARTIN: Okay. Anybody
20 else?

21 MS. ROSS: Staff does not object to
22 Hampton or North Hampton's interventions.

23 CHAIRWOMAN MARTIN: And Mr. Kreis, for
24 good measure?

1 MR. KREIS: I would be delighted if the
2 Commission were to admit those two municipalities
3 as parties to this proceeding.

4 CHAIRWOMAN MARTIN: All right. Then,
5 we will grant that motion to intervene, since I
6 find that the Town of Hampton and North Hampton
7 has demonstrated that its rights may be affected
8 by this proceeding. And I find that the interest
9 of justice and the orderly and prompt conduct of
10 these proceedings will not be impaired by
11 allowing the interventions.

12 And then, we have a pending Motion for
13 Confidential Treatment filed by Aquarion. Any
14 objection to that motion?

15 *[No verbal response.]*

16 CHAIRWOMAN MARTIN: Okay. Seeing none.
17 Having reviewed the programs contained in the
18 motion and referenced therein, and the Company's
19 proposed redactions, I find the redacted
20 information to be commercial and financial
21 information exempt from disclosure pursuant to
22 RSA 91-A:5, IV. And I find the public's interest
23 in the details of the plan is minimal.
24 Accordingly, Aquarion's Motion for Confidential

1 Treatment is granted.

2 Do we have any other preliminary
3 matters we need to address?

4 *[No verbal response.]*

5 CHAIRWOMAN MARTIN: Hearing none.
6 Let's go to initial positions, first from
7 Aquarion.

8 MR. FOSSUM: Thank you. And good
9 morning to the Commissioners and our other
10 parties.

11 In line with its agreement in Docket
12 Numbers DW 18-161 and DW 18-054, Aquarion is here
13 having filed its first full rate case since
14 Docket DW 12-085. In the time since that case,
15 Aquarion has continued to provide safe, reliable
16 water service to its customers in Hampton, North
17 Hampton, and Rye, while addressing a number of
18 changes and challenges.

19 On the changes side, in 2017, Aquarion
20 became part of Eversource Energy, and since then
21 has been able to leverage the synergies of the
22 combined companies to control costs for
23 customers.

24 On the challenges side, since the time

1 of the last rate case, Aquarion has had to
2 confront the difficulties presented by PFAS
3 contamination to assure that the water it
4 provides is safe for customers. Those challenges
5 will continue for the foreseeable future. And
6 Aquarion is taking active steps to assure that
7 the investments it makes generally, and with
8 respect to the PFAS issues specifically, are the
9 most cost-effective for customers.

10 As noted in the testimony and the
11 supporting information that has been filed in
12 this case, Aquarion has met the needs and
13 expectations of its customers in the intervening
14 years while keeping its operating costs low. The
15 time has come, however, to examine and adjust
16 Aquarion's rates, to account for the investments
17 it has made, and will need to make, to assure a
18 safe, reliable water supply.

19 In making this request, Aquarion has
20 been respectful of the impacts on customers
21 during the time of this long-lived pandemic.
22 Initially, as noted in Mr. Morrissey's testimony,
23 Aquarion sought to delay this rate case filing in
24 recognition of customers' hardships, but was not

1 able to convince others in the value of that
2 delay.

3 However, Aquarion has taken another
4 path to help customers, and it has requested that
5 temporary rates be set at the level of current
6 rates. Aquarion remains hopeful that the
7 Commission can and will set the date for
8 temporary rates in the near future, as Aquarion
9 has requested, to assure that it will have an
10 adequate opportunity to earn a reasonable return.

11 As for the permanent rates, in its
12 testimony, Aquarion has described the current and
13 pending investments needed to address the water
14 supply and delivery generally, and to address
15 PFAS issues specifically. In Aquarion's
16 assessment, the projects that are driving much of
17 the need for the changing rates are reasonable,
18 prudent, and appropriately accounted for in its
19 proposal.

20 Beyond the investments in capital
21 projects, in Aquarion's view, it has also
22 presented reasonable and appropriate other
23 adjustments to account for its costs, and that
24 its proposed rate changes should be approved.

1 The Company has also put forward
2 additional proposals to terminate legacy
3 reporting obligations, and to implement this
4 mechanism for addressing property taxes, as well
5 as other proposals, and anticipates successful
6 resolution on those issues.

7 Lastly, Aquarion will respond just
8 briefly to some of the points raised in the
9 position statements that were sent in by Hampton
10 and North Hampton. Without getting into
11 specifics at this time, Aquarion believes it
12 bears noting that at least some of these issues
13 have been discussed and addressed previously, and
14 really need not be part of this case.

15 For example, on the issue of hydrants,
16 the Towns appear to claim that Aquarion is
17 somehow in violation of the Commission's rules on
18 maintenance for not shoveling snow there. This
19 claim comes despite the facts that the
20 Commission's rules do not actually cover snow
21 removal, and that the Commission has already
22 ruled that Aquarion is not violating any order,
23 rule, or tariff by not clearing snow.

24 Hopefully, we can avoid these kinds of

1 unnecessary issues slowing down this case, and we
2 can reach a successful resolution efficiently.

3 We stand ready to work with the parties
4 in this proceeding with the issues truly germane
5 to the filing, with the goal of reaching a fair
6 and appropriate resolution of the case in as
7 swift a manner as possible.

8 Thank you.

9 CHAIRWOMAN MARTIN: Thank you, Mr.
10 Fossum. Okay. Let's hear from Mr. Gearreald
11 next. Oh, you're on mute.

12 MR. GEARREALD: How's that?

13 CHAIRWOMAN MARTIN: Better. Thank you.

14 MR. GEARREALD: I'm showing up as
15 muting on my screen. I'm sorry. Very good.

16 This case that's filed now is, as
17 Attorney Fossum has indicated, the result of a
18 settlement agreement that was reached in case DW
19 18-161 and DW 18-054. At that time, Aquarion --
20 and that case, by the way, was a WICA surcharge
21 case, along with the tax case. And, at that
22 point, Aquarion was hitting its cap of 7.5
23 percent between rate cases.

24 The Town of Hampton had raised a number

1 of issues at that time at the prehearing
2 conference that was -- Mr. Patnaude very kindly,
3 I'm trying not to talk too fast for you, Steve --
4 Mr. Patnaude had made a transcript of, which is
5 in the record. And, at that time, the Town
6 raised a number of issues, which are still
7 pending today. One of which is the fact that
8 Aquarion for years, as verified in the PUC Staff
9 audit, exceeded the allowed rate of return on
10 equity that had been determined by the Commission
11 in the 2012 rate case, DW 12-085. And the rate
12 of return on equity that was allowed in that case
13 was 9.6 percent, where Aquarion at that time was
14 seeking 10.25 percent, just as it is seeking an
15 increase to in these proceedings today.

16 And what I wanted to say in that regard
17 is, and a point which I have raised for Hampton
18 in each of the WICA cases since 2016, that
19 Aquarion is achieving in excess of its rate of
20 return, allowed rate of return, and as documented
21 in the PUC Staff audit, which I've attached a
22 partial copy of to our Statement of Positions.

23 I don't know, madam Chairman, if you
24 have the Statement of Positions? It was filed

1 yesterday.

2 CHAIRWOMAN MARTIN: I apologize. I was
3 trying to find my mute there for a minute. Yes,
4 we do have that. Thank you.

5 MR. GEARREALD: Okay. Very fine.
6 Thank you.

7 If you look on Page 10 of the Statement
8 of Positions, you will see that the PUC Staff
9 performed an audit in November of 2018, in which
10 it found that the Company appears to have been
11 overearning based on the rate of return
12 calculations since 2013. And, in one year, the
13 year 2013, the return on equity achieved was
14 17.35 percent.

15 I would just note that our Statement of
16 Positions, on Page 3, fourth line up from the
17 bottom said "Aquarion earning rates of return as
18 high as 18 percent." That's a typo. We meant to
19 say "17.35 percent".

20 These overearnings translate into a
21 great deal of money that has been paid by
22 customers, which we have attempted at least to
23 estimate what that amount is. And, if you look
24 on Page 11 of our filing, you will see a chart of

1 "Aquarion Over-Earnings Time Line", in which, and
2 this, I'll give credit to Attorney Richardson for
3 putting this together for North Hampton, over
4 \$2 million of overearnings has occurred.

5 We believe that this is something that
6 needs redress. That, as a matter of fact, we
7 filed a complaint with the Commission in March of
8 2019. And, on that point of overearning, the
9 Commission dismissed the complaint without an
10 investigation, on the basis of its perception
11 that what we were asking for was single-issue
12 ratemaking. We disagree with that, and actually
13 filed an appeal to the New Hampshire Supreme
14 Court, which is pending on that subject.

15 But what I would say is that, in the
16 Settlement Agreement that Attorney Fossum
17 referred to, we, the Town of Hampton, reserved
18 the right in the Settlement Agreement in DW
19 18-161 to bring forward the issues in that
20 complaint to the Commission in future
21 proceedings, which would include this rate case.
22 And the Commission approved that Settlement
23 Agreement. So, we believe that the issue of
24 reparations for the overearnings is ripe to be

1 heard in these proceedings. And we would ask
2 that those -- that that complaint be heard.

3 The complaint included not only the
4 years of overearnings and the consequence to
5 consumers, but also the fact that Aquarion
6 refuses to remove snow from its hydrants, leaving
7 that function, which is sort of a public works
8 function, to highly paid firefighters in the
9 towns that are served by its hydrants, including
10 Hampton and North Hampton. We believe that that
11 practice, on the part of Aquarion, for which
12 there's no written agreement, constitutes an
13 unconstitutional payment by the public entities
14 for a private benefit, in the case of *Clapp*
15 *versus Jaffrey*, long-standing case law in New
16 Hampshire.

17 And, so, --

18 CHAIRWOMAN MARTIN: Mr. Gearreald, we
19 lost you for some reason.

20 MR. GEARREALD: How's that?

21 CHAIRWOMAN MARTIN: That's great. Can
22 you back up a little bit so Steve could hear what
23 you were saying?

24 MR. GEARREALD: Sure. So, we have

1 those two issues that I've just covered, one is
2 the years of overearnings on the rate of return
3 on equity, and also the issue of whether or not
4 Aquarion should be providing, as part of its
5 service for hydrants, the clearing of snow from
6 those hydrants, rather than relying on town
7 firefighters to do that, without a written
8 agreement and without any compensation to the
9 towns for doing that.

10 And, so, there are a number of other
11 issues that are at stake here that we have
12 outlined in our Statement of Positions that we
13 would like to have them heard in the course of
14 these proceedings. The return on equity, which
15 would include whether or not reparations are due
16 for past overearnings. The fire hydrant charges
17 are being sought here to be increased to the Town
18 of Hampton by about 34 percent. These are
19 charges, by the way, that are paid by taxpayers,
20 not all of whom are served by Aquarion Water.
21 There are parts of Hampton, and I understand
22 parts of North Hampton as well, which are not
23 served by Aquarion Water. And, yet, the entire
24 taxpayer base are paying for the cost of Aquarion

1 fire hydrants and the availability of water.
2 And, at the current point in time, we have
3 included the bills that we pay annually, which
4 are over \$500,000 for these -- that privilege of
5 availability of water, which I understand to be
6 some of the highest in the Seacoast of New
7 Hampshire. So, we believe a close look is needed
8 at the cost of service study that has been
9 provided by Mr. Guastella.

10 This case also involves the
11 continuation of the pilot WICA Program. We
12 believe there are flaws in that program. As it
13 has been interpreted by the Commission, that
14 program actually amounts to single-issue
15 ratemaking, because it looks only at the
16 surcharge that should be imposed for completed
17 capital improvements in the prior year. And, in
18 fact, that is a mini-rate case. And what ends up
19 happening is, when we learn that there has been
20 overearnings on the allowed return on equity and
21 tried to raise that, the Commission has refused
22 to hear that issue in the past, which is what led
23 us to file our complaint.

24 There is a proposal for an inclining

1 block rates program. This is something that
2 would differentiate rates among two different
3 tiers of customers. In the past, we have asked
4 Aquarion if it would implement such a system, so
5 that the commercial users, who are higher volume
6 users, would pay a higher rate for their per
7 gallon cost than residential customers. And
8 Aquarion has the ability, due to its metering
9 program, to differentiate between the two and
10 accurately track their usage. Nevertheless, the
11 inclining block rates that is being proposed to
12 you this time around are between residential
13 users, those who are seasonal and those who are
14 year-round, rather than comparing the higher
15 volume users, commercial users.

16 We have raised also, in Number 6, the
17 charges for Aquarion's public relations firm,
18 that has been in place since Eversource acquired
19 Aquarion back in 2017. We don't know if those
20 charges are among those that are -- Ms. Szabo has
21 defined as being "miscellaneous", but we don't
22 believe the customers should be saddled with
23 those charges.

24 And, finally, Aquarion is seeking

1 recovery of its merger costs with Eversource.
2 And we believe a close look should be taken at
3 that. Because, if there have been net savings as
4 a result of that transaction, we believe those
5 have been primarily a benefit to shareholders,
6 and not the customers. And, therefore, we, the
7 customers, should not be charged with those in
8 this case.

9 And I thank you.

10 CHAIRWOMAN MARTIN: Okay. Thank you,
11 Mr. Gearreald. Mr. Richardson.

12 MR. RICHARDSON: Thank you, Madam
13 Chairwoman.

14 I will try to not repeat what Attorney
15 Gearreald has said. I think, in general, North
16 Hampton sees a number of issues that we placed in
17 our Statement of Position. I think the most
18 important is that we want to take a hard look at
19 all of the issues that have been raised.

20 On the issue of fire protection that
21 Attorney Gearreald just covered, the only thing
22 that I would add to that is there is a statutory
23 requirement that all service be reasonably safe
24 and adequate and in all respects just and

1 reasonable.

2 In the Commission's rules, 603 --
3 606.03, which is included in our Petition, talks
4 about the utilities negotiating for maintenance
5 of hydrants. And, by statute, and I'll reference
6 RSA 374:30, a utility, before it leases out or
7 enters into agreements for allocating its
8 management responsibilities, that those types of
9 agreements have to be approved by the Commission.
10 And there is no agreement, to the best of our
11 knowledge, covering this responsibility.

12 And this has the impact that Attorney
13 Gearreald noted, in that the rates that are paid
14 by each town are then applied to all of the
15 taxpayers in the Town, including those who do not
16 have water service from Aquarion. But there's an
17 additional impact, in that the cost for the towns
18 to do this is uncompensated. So, the Towns of
19 Hampton and North Hampton, perhaps other
20 communities, are employing firefighters to do
21 this, and then the cost for that service that is
22 for snow removal is also being paid for by the
23 Town taxpayers. We do not derive any particular
24 benefit or the benefits are vastly different for

1 those who have access to hydrants and those that
2 don't.

3 And where that goes to is not only the
4 constitutional question of fairness, but the
5 issue that North Hampton sees is that public
6 utility rates are not supposed to result in
7 subsidies from one class of customers to the
8 other, for one person getting an advantage to the
9 detriment of others. And there's some pretty
10 wide discretion as to what is reasonable and not
11 in the statute, RSA 378:10 and 378:11 are what
12 covers that. But that's an issue that we will
13 probably have to address through testimony, as to
14 what the cost impact is. The 34 percent increase
15 that's been proposed for fire protection is a
16 major increase. And this is an issue that needs
17 to be looked at.

18 Another significant issue, and I'll
19 raise this as an issue, but really as a question
20 to the Commission and to its Staff, is the cost
21 of equity that has been proposed, at a rate of
22 10.25 percent. In prior proceedings, the
23 Commission has suggested in the year since 2013
24 that, in fact, the rate of return on equity in

1 the current market may be going down. We've seen
2 the RRA publications suggesting a baseline rate
3 of return on equity in other proceedings of 9.4
4 percent.

5 The cost of equity examination is very
6 expensive, to hire the consultants. And we're
7 hoping to hear from both Staff and the Office of
8 Consumer Advocate whether that is an issue that
9 they might be able to carry -- carry some of the
10 responsibility. I don't know, I don't have any
11 proposals. But, in prior cases, I've looked at
12 this issue, and you're looking at hiring an
13 expert at the cost of, you know, \$50,000 or more,
14 when you factor in discovery and testimony.

15 It's obviously a bigger issue that goes
16 beyond this case. And, so, we'd really like to
17 hear from the other parties as to how they would
18 address this issue. Otherwise, the Towns will be
19 forced to do that, and to pull it out of their
20 existing budgets, which would be very difficult.
21 As you know, yesterday was town meeting day. So,
22 I would have to find a way to come up with a lot
23 of money to address that.

24 So, that's one issue, in particular,

1 that we hope the Commission or the Consumer
2 Advocate will be able to help the consumers and
3 help the Towns in the process.

4 Another issue that is, I think,
5 important to bring to your attention now is the
6 issue raised in Docket 17-062, which is the
7 Wiggin Way addition. And there is a change of
8 rates in that proceeding proposed, and we've
9 addressed it in that proceeding as well. But the
10 question of how that impacts this proceeding is
11 unknown. And we don't know what the appropriate
12 rate should be, but we feel that that
13 determination needs to be made either in that
14 proceeding or in this one. And, in this
15 proceeding, it presents a particular problem,
16 because the Commission has issued an order of
17 notice that essentially doesn't tell any of the
18 customers anything other than consolidated rates
19 would be used. Which may create the problem of,
20 if the testimony and evidence were to show that a
21 different rate should be used, because it's a
22 large system, with only 42 customers. And, if it
23 is, in fact, significantly more expensive to
24 operate and provide service to those customers, a

1 higher rate may be needed, but it hasn't been
2 noticed in this proceeding.

3 So, that's a -- that's kind of a
4 threshold issue, as to whether it will be
5 addressed in this docket or in the other docket,
6 and how administratively, in terms of customers,
7 that should be handled. Obviously, we can't
8 answer the question of what the appropriate rate
9 should be without a thorough examination of that
10 information. But there is a legal issue with
11 respect to the notice that may need to be
12 examined here in this proceeding or in the other
13 one.

14 That covers all of the other issues I
15 think that we need to talk about today.
16 Obviously, we've tried to outline those in our
17 Statement of Position.

18 We look forward to working with the
19 other parties in trying to come up with rates
20 that are just and reasonable.

21 And thank you for your time.

22 CHAIRWOMAN MARTIN: Thank you, Mr.
23 Richardson. Mr. Kreis.

24 MR. KREIS: Thank you, Chairwoman

1 Martin.

2 On behalf of the Office of the Consumer
3 Advocate, for the most part, I am going to try to
4 follow the good example that the Commission Staff
5 typically sets, by trying to establish a positive
6 tone at a prehearing conference, kicking off what
7 will be, obviously, a very long and reasonably
8 high profile rate case.

9 I do have a few observations to make,
10 however, based on our preliminary review of the
11 Company's filing. And I'm going to start kind of
12 at the end and work my way backwards sort of
13 analytically.

14 Maybe I am missing something, but I
15 don't get why a company that has successfully
16 implemented a WICA program, and is asking here to
17 make that program permanent, also needs a parade
18 of step adjustments on top of that. As a general
19 proposition, I'd say that whenever a utility says
20 "step adjustment", I see an opportunity for
21 alternative regulation that ties automatic rate
22 adjustments to the achievement of agreed-upon
23 performance metrics. That's my first point.

24 My second point: What the Company is

1 proposing here in the area of rate design, and
2 perhaps what other parties may also propose,
3 based on what we have heard this morning, will
4 require some serious scrutiny on behalf of
5 residential customers. We, of course, support
6 inclining block rates. They send the appropriate
7 price signal to encourage conservation and
8 prudent use of what is, after all, a finite
9 resource. We can always make more electricity,
10 but we can't do that with water.

11 As usual in any rate case, there are
12 serious questions here about whether too great a
13 percentage of this Company's costs are being
14 allocated to residential customers. Mr.
15 Gearreald said something similar. If you look at
16 Schedule 5A, the Company wants to increase its
17 overall revenues by 18 percent, but it wants to
18 push up residential revenue by north of 20
19 percent. Someone will have to convince me that
20 that is the right thing to do.

21 My third point: This may surprise some
22 folks who are here, but I am not yet sold on the
23 idea of revenue decoupling for this or any other
24 water utility. As you know, Commissioners, I am

1 an enthusiastic proponent of decoupling for gas
2 and electric utilities. I see that as the right
3 way, which is to say a symmetrical way, to
4 account for sales of those utilities that are
5 lost to energy efficiency.

6 But, again, somebody will have to
7 convince me of the rationale for decoupling in
8 this context, a water utility. And, similarly, I
9 would have to be convinced that adjustments based
10 on total revenue, as opposed to revenue per
11 customer, are the right way to go. I don't have
12 an opinion on that question, but I do need to
13 think about it.

14 Number four: Turning to questions of
15 revenue requirements, I'm concerned about how
16 much of the requested increase is tied to the
17 Company's approach to depreciation. On the
18 request for recovery of merger-related costs, an
19 issue that's already been raised, at the very
20 least, the Company must meet its burden to
21 demonstrate that merger-related savings are real,
22 and that they exceed by a substantial amount the
23 cost of the transaction. And I say that as
24 someone who believes that the devil we know,

1 Eversource, is better than the devil we didn't
2 know, by which I mean the Company's previous
3 owners on a distant corner of the globe. There
4 are surely lots of other revenue requirement
5 issues that we will investigate in due course.

6 Number five. On the question of return
7 on equity, let me just say that 10.25 percent is,
8 to the Office of the Consumer Advocate as Moby
9 Dick was to Captain Ahab. Flotation costs? A
10 premium to account for the allegedly small size
11 of this company? Well, as the second mate on the
12 Pequod said, "I know not all that may be coming,
13 but be it what it will, I'll go it laughing." In
14 this instance, I will be laughing about a utility
15 that is going to extraordinary lengths to
16 insulate itself from shareholder risk at
17 ratepayer expense, with things like the WICA,
18 step adjustments, revenue decoupling, even an
19 automatic property tax adjuster, but at the same
20 time this Company is seeking an absurdly high
21 return on equity. Our harpoons are at the ready.

22 With respect to the questions about
23 hydrants and the schedule in Mr. Gearreald's
24 statement of preliminary filing that alleges

1 overearnings over several years of almost \$2.3
2 million? Well, I guess I would make two points.
3 Both of those issues are currently pending at the
4 New Hampshire Supreme Court, and are probably
5 best resolved there.

6 I don't agree with the Towns' argument
7 about fire hydrants. I don't see any
8 constitutional issues. I don't think it is fair
9 to ask all of this Company's ratepayers to pay
10 the Towns' expenses in shoveling out fire
11 hydrants. And I guess I'm too smart to stand in
12 front of the Commission and say "don't give
13 customers \$2.265 million in reparations", but
14 that is a question that's going to require some
15 deep thinking on my part and some emphatic
16 negotiations, I think. But, again, that question
17 is pending before the New Hampshire Supreme
18 Court. And I think that we're likely to get a
19 decision from that court well before the end of
20 this case, and we should proceed based on that
21 decision.

22 That concludes my opening statement.
23 And, as they say at the Capitol, I yield back the
24 rest of my time.

1 CHAIRWOMAN MARTIN: Thank you, Mr.
2 Kreis. And Ms. Ross.

3 MS. ROSS: Thank you, Commissioner.
4 Staff is still in the process of
5 reviewing the filing and the testimony. And, to
6 respond to the Town of Hampton's questions, or
7 maybe it was the Town of North Hampton's
8 questions about the ROE issue in this case, the
9 Commission has issued an RFP for an ROE expert to
10 assist in this case. So, I believe that's public
11 information. It's on our website. So, we are
12 working on getting some help on the ROE issue.

13 The Staff does note that this case does
14 present a number of rate-adjusting mechanisms,
15 many of which do, as the OCA observed, shift
16 risks away from the Company's shareholders, and
17 those include a permanent WICA, a property tax
18 adjuster, a revenue adjustment mechanism, and
19 three step adjustments. So, the Staff will be
20 looking hard at these mechanisms, and asking the
21 Company to really explain exactly how they will
22 work and why they're needed.

23 In addition, there's a Staff audit in
24 process that will be out in the next few months,

1 and that will be another piece of trying to
2 understand exactly what's going on with this
3 Company with regard to over- or underearning.

4 And I also note that we generally look
5 forward twelve months in terms of making
6 adjustments in rate cases. So, for instance, if
7 the Company is earning -- is overearning in 2020,
8 versus underearning in 2019, we might consider
9 some of the things in the future needing to be
10 changed.

11 Staff doesn't have a position right now
12 on the issues of the fire hydrants and the
13 reparations. We observe that those issues are
14 being litigated elsewhere.

15 And we thank the Commission for its
16 time and attention this morning.

17 CHAIRWOMAN MARTIN: Thank you, Ms.
18 Ross.

19 Commissioner Bailey, anything you want
20 to cover before we let these folks get to the
21 technical session?

22 CMSR. BAILEY: No thank you. I think
23 there are a lot of interesting issues to delve
24 into. But I will wait for further information

1 from the parties. Thank you.

2 CHAIRWOMAN MARTIN: All right. Thank
3 you. Anything else from any of the parties
4 before you go to the technical session?

5 *[No verbal response.]*

6 CHAIRWOMAN MARTIN: All right. Seeing
7 none. Thank you, everyone, for your positions
8 this morning. And you can stay on for the
9 technical session. We are adjourned.

10 ***(Whereupon the prehearing conference***
11 ***was adjourned at 10:51 a.m., and a***
12 ***technical session was held***
13 ***thereafter.)***

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