

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 21-090

ABENAKI WATER COMPANY and AQUARION COMPANY

**Petition for Approval of the Acquisition of
Abenaki Water Company by Aquarion Company**

Approval of Extension Request

ORDER NO. 26,497

July 9, 2021

In this order the Commission approves the Joint Petitioners request to extend the deadline under RSA 369:8, II for a preliminary determination on adverse impact of the proposed acquisition by 30 days, until August 8, 2021.

I. PROCEDURAL HISTORY

On April 30, 2021, Aquarion Company (Aquarion) and Abenaki Water Company (Abenaki) (together “Joint Petitioners”) filed a joint petition requesting approval of the acquisition of Abenaki by Aquarion. The Commission issued an Order of Notice on May 4, 2021, setting a prehearing conference on May 14, 2021, and extending the time period to make a preliminary determination of adverse effects on rates, terms, service, or operation of a public utility, pursuant to RSA 369:8(II)(b)(4), by an additional 30 days.

The Office of Consumer Advocate (OCA) noted its participation by letter filed with the Commission on May 3, 2021, and numerous water customers of Abenaki requested intervention. On May 10, 2021, the Joint Petitioners filed supplemental attachments to their Joint Petition. The Prehearing Conference was held as scheduled.

Following the prehearing conference the Commission, by secretarial letter granted all interventions, determined that the 60-day deadline for a preliminary finding on adverse impact under RSA 369:8, II (b) (4) would begin at the earliest on May 10, 2021, and requested that the parties brief legal issues surrounding RSA 369:8, and the standard of review to be used under that statute.

Evidentiary hearings were held on June 28 and 29, 2021. On July 1, 2021, the Joint Petitioners filed a request to extend the 60-day deadline, set to expire on July 9, 2021, for 30 days. The OCA supported the extension request.

II. REQUEST TO EXTEND 60-DAY DEADLINE

A. Joint Petitioners

By letter, filed with the Commission on July 1, 2021, the Joint Petitioners requested that the statutory deadline be tolled and consented to a 30-day extension of the 60-day deadline set to expire on July 9, 2021. At the evidentiary hearing on June 28 and 29, the Commission Staff, the Office of the Consumer Advocate (“OCA”), and other intervenors expressed concerns with respect to the 60-day timeline of RSA 369:8, II, in this case. The concerns on timing relate to Abenaki’s pending rate case in Docket No. DW 20-112 and the potential complexity that brings to the Commission reaching its determination of no adverse effect under RSA 369:8, II within 60 days.

Aquarion recognized that these timing concerns are heightened by the occurrence of a long holiday weekend in the same short time interval between the end of hearings and July 9, 2021. To alleviate the time pressure, the Joint Petitioners respectfully requested and consented to toll the 60-day timeline for the Commission’s determination under RSA 369:8, II for an

additional 30 days, which would extend the review period in this docket to expire August 8, 2021.

The Joint Petitioners argued that this extension will be beneficial to all parties and will enable Aquarion to evaluate issues associated with Abenaki's rate request in light of information gathered at the recent hearings. According to the Joint Petitioners, the extension will also enable Aquarion to explore alternatives for resolution of this proceeding.

B. OCA

The OCA supported the request to toll the statutory deadline and for a 30 day extension.

C. Department of Energy Staff

Department of Energy Staff took no position on the request for extension.

D. Customer Intervenor

The Joint Petitioners did not indicate that they conferred with the Intervenor before filing the request. Nonetheless, no Intervenor has filed a response to the request for extension.

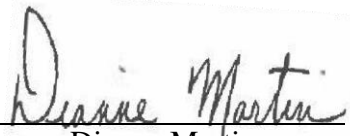
III. COMMISSION ANALYSIS


Although, RSA 369:8 is silent with regard to either an applicant's ability to request an extension, or the Commission's power to grant an extension of the statutory timeline, such Commission action is a matter which would be properly governed by the State's Administrative Procedures Act, RSA Chapter 541-A. Under RSA 541-A:29, the Commission has the responsibility to either act on the matter within statutorily prescribed timelines, RSA 541-A:29, III, or to extend the timeline upon the written agreement of the applicant, RSA 541-A:29, IV. The Joint Petitioners have submitted, in writing, an agreed upon extension of the statutorily prescribed time period. Accordingly, the Commission will extend the timeline for 30 days as requested and agreed upon by the applicant.

Based upon the foregoing, it is hereby

ORDERED, that the 60-day timeline for the Commission's preliminary written determination under RSA 369:8, II (b) (3) is extended for an additional 30 days, which would extend the review period in this docket to expire August 8, 2021.

By order of the Public Utilities Commission of New Hampshire this ninth day of July, 2021.



Dianne Martin
Chairwoman

Daniel C. Goldner
Commissioner

Service List - Docket Related

Docket# : 21-090

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