

THE STATE OF NEW HAMPSHIRE
before the
PUBLIC UTILITIES COMMISSION

AQUARION WATER COMPANY OF NEW HAMPSHIRE

Petition to Charge Seasonal Rates for Emergency Interconnection

Docket No. DW 17-062

AQUARION WATER COMPANY OF NEW HAMPSHIRE’S
OBJECTION TO THE MOTION FOR HEARING ON CHANGE IN RATES OF
THE TOWN OF NORTH HAMPTON

Pursuant to New Hampshire Code of Administrative Rules Puc 203.07 and RSA chapter 541-A, Aquarion Water Company of New Hampshire (“Aquarion” or the “Company”) hereby objects to the Motion for Hearing on Change in Rates (the “Motion”) of the Town of North Hampton (“North Hampton” or the “Town”) filed on March 1, 2021 in the above-captioned docket. In its Motion, North Hampton requests that the Commission schedule a hearing, order the submission of additional information, and stay the proceeding. The Motion provides no justification for North Hampton’s intervention in this matter nor for its specific requests. Accordingly, the Commission should both deny North Hampton’s intervention as well as its requested relief in the Motion. In support of its objection, Aquarion states the following:

1. As noted in Aquarion’s objection to the renewed petition for intervention of the Town of Hampton in December 2020 in this proceeding, on November 20, 2020, Aquarion did what has long been anticipated by the Commission and filed its Petition for Approval of Franchise Expansion, Acquisition of Assets, and Application of Existing Rates in this docket to complete the formal process of permanently interconnecting the customers of the Wiggin Way/Winterberry subdivisions in the Town of Statham to Aquarion’s water distribution system. Presently, those customers are served indirectly by what was designed as a temporary

interconnection that the New Hampshire Department of Environmental Services (“NHDES”) has ordered be made permanent. In fact, on February 12, 2021, NHDES filed a letter in this proceeding stating:

Pursuant to its authority under RSA 485:4, II, [NHDES] determined that an extension of water service from Aquarion to the Wiggin Way HOA water system was “the most feasible and cost-effective option to address the Water System’s arsenic and low water quantity issues,” and that Aquarion “has adequate water supply and system capacity to serve” the Wiggin Way HOA water system. Order at ¶¶ 82-83. The Order required Aquarion to seek PUC approval of a temporary connection to the Wiggin Way HOA water system, Order at 9, which was approved by the Commission on May 10, 2017. ***The Order further required Aquarion to seek PUC approval of a franchise expansion into Stratham for a permanent interconnection. Id.***

The Order was appealed to the New Hampshire Water Council by the Town of Hampton and the North Hampton Water Commission. After a hearing, the Water Council denied the appeal finding the Department had complied with the requirements of RSA 485:4, II. The Town of Hampton declined to appeal the Water Council’s decision, which became final on November 25, 2019.

February 12, 2021 Letter of NHDES in Docket No. DW 17-062 at 1 (emphasis added).

Accordingly, Aquarion’s pending requests in this proceeding arise directly from a final and unappealable order of NHDES. Relatedly, in Order No. 26,016 (May 10, 2017), in which the Commission deferred the then pending intervention requests of the Towns of Hampton and North Hampton, the Commission stated that “This docket will remain open pending Aquarion’s petition to expand its franchise ***as ordered by DES.***” Order No. 26,016 at 6 (emphasis added).

2. As stated in Aquarion’s November 20, 2020 filing, to accomplish the required permanent interconnection and serve these customers directly, it is necessary for Aquarion to expand its existing franchise into the Town of Stratham, acquire certain existing water distribution infrastructure assets already in place, and apply its existing tariff rates to these customers.

3. On December 8, 2020, the Town of Hampton renewed its prior request to intervene, and on December 18, 2020 Aquarion timely objected to that request. The Town of Hampton's request was predicated, in part, on speculative concerns which did not justify its intervention. Some of the same concerns underlie the Motion, and should be rejected for the same reasons.

4. Before turning to the specific requests in the Motion, however, Aquarion first addresses North Hampton's status in this proceeding. As noted, in Order No. 26,016 the Commission deferred ruling upon the then-pending intervention requests of Hampton and North Hampton. Accordingly, the status of those entities remains an open issue. Pursuant to RSA 541-A:32, I, and Puc 203.17, the Commission shall grant intervention if the petitioner states facts demonstrating that its rights, duties, privileges, immunities or other substantial interests may be affected by the proceeding and the interests of justice and the orderly and prompt conduct of the proceedings would not be impaired by allowing the intervention. Further, under RSA 541-A:32, II the Commission may grant a petition to intervene if the intervention would be in the interests of justice and would not impair the orderly and prompt conduct of the proceedings. The Town's intervention request, and this Motion, do not identify any rights, duties, privileges, immunities or other substantial interests that it has at stake in this proceeding and otherwise provide no meaningful basis for its participation in this proceeding.

5. While Hampton elected to renew its intervention request, to which Aquarion has objected, and provide its present reasoning to justify its intervention, North Hampton has not renewed its request to intervene, and relies upon the same petition to intervene it submitted in 2017. While a direct objection to that petition may be untimely, in Aquarion's assessment it is relevant to address in light of the changed facts and the Commission's deferred ruling. North

Hampton's 2017 petition to intervene was based upon its belief that the Wiggin Way connection might have some potential impact on the adequacy of the water supply (paragraph 9), and that it believed NHDES exceeded its authority in ordering the interconnection to Wiggin Way (paragraph 8). NHDES's order relative to the interconnection is now final and unappealable, and the Wiggin Way customers have been served by Aquarion for years with no negative impact to the quantity or quality of North Hampton's water supply. Accordingly, even if once valid (which Aquarion does not admit), the justifications offered by North Hampton for intervention do not hold today. In short, North Hampton has no rights, duties, privileges, immunities or other substantial interests at stake. Moreover, through the Motion North Hampton has demonstrated that its participation would impair the orderly and prompt conduct of the proceedings. The Commission should, therefore, deny North Hampton's previously-deferred intervention.

6. Turning to the items raised in the Motion, should the Commission decide that North Hampton is entitled to intervention and/or that its Motion should be considered, North Hampton's initial concern appears to be that there has been inadequate notice of the proceeding. That is not the case and, even if it were, the issue will be remedied immediately upon the Commission issuing an order of notice relative to Aquarion's November 20, 2020 submission.

7. North Hampton contends that because this proceeding was commenced in 2017 to address seasonal rates, "this proceeding was not noticed for consideration as a permanent franchise expansion." Motion at 2. As noted above, however, in issuing Order No. 26,016 the Commission specifically stated that "This docket will remain open pending Aquarion's petition to expand its franchise as ordered by DES." Order No. 26,016 at 6. Accordingly, regardless of what was in any initial notice, since at least the time Order No. 26,016 was issued, North Hampton and others have been on notice that this docket would remain open for the specific

purpose of considering the filing Aquarion has now made for a permanent interconnection and related franchise expansion. Further, one page after its contention that there has been inadequate notice, North Hampton also points out that following Aquarion's November 20, 2020 submission "The Commission has not issued an order of notice." Motion at 3. To the extent North Hampton may be claiming that a document actually titled "Order of Notice" is necessary to provide adequate notice of the proceeding, once the Commission issues such a notice that concern will be resolved. North Hampton's alleged lack of notice despite the clear language of Order No. 26,016, even if found to be a valid concern, is easily addressed and is not a basis to convene a special hearing or stay the proceeding.

8. Next, North Hampton contends that before any adjustment can be made to the rates paid by the Wiggin Way customers, Aquarion is required to file extensive rate and revenue information in this proceeding and that the proceeding must be stayed pending production of that information. Such a request is not germane to this matter and appears to be little other than a tactic for postponing implementation of the NHDES directive by creating extended delays through burdensome and unnecessary filings.

9. As a first matter, the rates paid by Wiggin Way customers is not an issue for North Hampton. In this proceeding, Aquarion is not proposing to change anything about the rates paid by North Hampton nor anything about the terms or conditions of service to North Hampton. Since there is no proposed rate change for North Hampton, there is no basis for North Hampton to insist upon information about rates or rate impacts.

10. Second, to the extent North Hampton's claim may be understood as a concern about potential adverse impacts to it from the Wiggin Way customers not paying an appropriate rate, such concern is both unfounded, and incorrect. Should the Commission need or desire

financial information about Aquarion, its operations, and the impacts (both present and future) on customers, that information is readily available in Docket No. DW 20-184, Aquarion's pending rate case filing. In fact, in paragraph 14 of its Motion, North Hampton references information it was aware of that was filed in Aquarion's rate case. Accordingly, North Hampton and the Commission have extensive financial information about the Company in Docket No. DW 20-184, and a separate "mini rate case" on this issue need not occur in this proceeding. In fact, the best way to assure that rate, revenue, and other financial issues are addressed fully, is for this docket to conclude quickly and without additional delay. Then, matters pertaining to future service to Wiggin Way, and to all of Aquarion's other customers, can be considered in the broader context of a full rate case. As already noted, NHDES, in a final and unappealable order, has determined that Aquarion must do what it is attempting to do in this proceeding. North Hampton's concerns about not having particular financial information in this docket serves only to impair the orderly and prompt conduct of this required proceeding, contrary to RSA 541-A:32.

11. As an additional matter, North Hampton erroneously speculates that financial information is required because it has "serious concerns that the addition of the Wiggin Way system at the proposed rate could result in unreasonable cost shifting." Motion at 5. It supports this "serious concern" by claiming that because the "Wiggin Way system has only 43 customers," it "will produce very little revenue to offset operations and maintenance expenses and likely require a subsidy by existing customers," and "any improvements that may be needed would not likely be supported by revenues from its 43 customers." Motion at 6. As to the issue of any needed improvements, Aquarion made clear in its petition that the terms of the Asset Transfer Agreement covering the Wiggin Way system were crafted to ensure that neither Aquarion or its existing customers will bear any costs of the transaction covered by the NHDES

Order's mandate. *See* November 20, 2020 Petition at 4-5. There will be no additions to Aquarion's rate base since the Wiggin Way customers will pay for all improvements and will reimburse Aquarion for taxes incurred as a result of the contribution. Thus, North Hampton's concern about subsidizing improvements is incorrect and is no basis for ordering the production of additional information.

12. As to any ongoing operation and maintenance expense, the Wiggin Way system is, and has since 2017, been interconnected with the rest of the Aquarion system. Thus, any potential incremental cost is already muted, if it ever existed at all. Further, given the small size of this portion of the overall Aquarion system – serving just 43 residential customers out of a total of nearly 9,000 customers – there has been essentially no discernable incremental operating cost on Aquarion's operations. In fact, the permanent addition of these customers actually offsets the cost of service for existing customers.

13. As a final volley, North Hampton argues that the impact of the permanent direct interconnection of 43 residential customers, who are already being served by a temporary connection, must be assessed in light of the fire protection concerns of non-Wiggin Way customers. This argument is wholly without merit. As to the rate impacts on fire protection proposed in Aquarion's rate case and discussed in the Motion at paragraph 14, those have nothing whatsoever to do with Wiggin Way or its customers. To the extent that issue should be discussed at all, it is in the context of Aquarion's rate case. With respect to the fire protection supply concerns the Motion describes in paragraph 15, those concerns are entirely without foundation. As has been previously stated and as applies equally here, the Wiggin Way customers have been served by Aquarion for years without any adverse impacts to the quality or quantity of water available to Aquarion's other customers. North Hampton's unsupported

presumption that “lawn watering” in the Wiggin Way area will impact the availability of water for fire protection in North Hampton is an empty and baseless concern.

14. For the reasons set out above, North Hampton’s Motion does not demonstrate that its rights, duties, privileges, immunities or other substantial interests may be affected by the proceeding, but it does demonstrate that its participation would impair the orderly and prompt conduct of the proceedings. Furthermore, the Motion underscores that North Hampton’s participation will result in unnecessary delays and distractions in this proceeding. Accordingly, the North Hampton’s Motion, and intervention, should not be granted.

15. Finally, Aquarion notes that under RSA 541-A:32, III, and Puc 203.17, the Commission may limit an intervention to, among other things, “designated issues in which the intervenor has a particular interest.” In light of the above, Aquarion hereby requests that if the Commission grants the Town’s intervention, it limit North Hampton’s intervention to the issues in which the Town may have a particular interest and over which the Commission has jurisdiction, and that it otherwise deny North Hampton’s Motion.

WHEREFORE, Aquarion respectfully requests that the Commission:

- (1) Deny the Town’s intervention and Motion or limit the Town’s participation; and
- (2) Order such further relief as may be just and equitable.

Respectfully submitted,

Aquarion Water Company of New Hampshire, Inc.

____ March 11, 2021 ____
Date

By: _____



Matthew J. Fossum
Senior Regulatory Counsel
780 North Commercial Street
Post Office Box 330
Manchester, New Hampshire 03105-0330
(603) 634-2961
Matthew.Fossum@eversource.com

Jessica A. Chiavara
Counsel
780 North Commercial Street
Post Office Box 330
Manchester, New Hampshire 03105-0330
(603) 634-2972
Jessica.Chiavara@eversource.com

CERTIFICATE OF SERVICE

I hereby certify that, on the date written below, I caused the attached to be served pursuant to N.H. Code Admin. Rule Puc 203.11.

____ March 11, 2021 ____
Date



Matthew J. Fossum