

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 21-093

AQUARION WATER COMPANY OF NEW HAMPSHIRE'S
OBJECTION TO PETITION TO INTERVENE 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 July 26, 2021 Petition to Intervene (“Petition”) of the Town of North Hampton (“North Hampton” or the “Town”) in the above-captioned docket. In its Petition, North Hampton seeks to justify its participation in this proceeding by speculating on various factual scenarios that are not at issue in this matter and by claiming potential harms or impacts that do not, and will not, occur. Such speculation is insufficient to demonstrate the Town’s standing to participate in this proceeding, but do demonstrate its desire to hinder and delay the proceeding. Accordingly, the Commission should deny North Hampton’s intervention. 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 11, 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 (“Wiggin Way”) subdivisions in the Town of Statham to Aquarion’s water

distribution system. Presently, those customers are served indirectly by 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 result directly from a final and unappealable order of NHDES. Furthermore, in Order No. 26,016 (May 10, 2017), which 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 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 new 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. On March 1, 2021, North Hampton filed a Motion for Hearing to which Aquarion timely objected on March 11. That motion was predicated, in large part, on speculative concerns which did not justify its intervention and on many of the same concerns underlying Hampton's intervention request. In addition, Aquarion noted that North Hampton's prior request for intervention was likely no longer valid and had never been granted. On May 10, 2021, the Commission issued an Order of Notice in the proceeding and required, among other things, that North Hampton file an updated petition to intervene. In response, North Hampton filed the Petition on July 26 which largely repeats arguments made in North Hampton's March 1 motion.

4. 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. Under either standard, a necessary requirement for intervention is a finding that the participation will not impair the prompt conduct of the proceedings. Not only does the Town's Petition not identify any rights, duties, privileges, immunities or other substantial interests that it has at stake in this proceeding, it demonstrates that the Town will introduce the kind of delay and disruption that is contrary to fulfilling the final and unappealable requirement of DES.

5. North Hampton bases its Petition on being a fire protection customer of Aquarion and by noting that it is charged for such service by Aquarion. From that premise, North Hampton makes essentially the same two arguments it has made before in an attempt to justify its participation – any change in rates for customers of Wiggin Way could affect the Town’s fire protection rates (presumably negatively), and any change in service to Wiggin Way could affect the capacity of water available for North Hampton’s fire protection. Both arguments are without support and do nothing to justify North Hampton’s participation in this proceeding.

6. As to North Hampton’s arguments regarding rates, at various points in the Petition, North Hampton contends that “there are serious questions as to whether the public good standard can be met without taking into account the costs to serve these customers without a subsidy.” Petition at 6. Further, North Hampton argues that its intervention is justified because the intervention statute “only requires a showing that substantial interests such as the Towns’ payment of substantial fire protection charges ‘may’ be affected.” Petition at 6. North Hampton’s fire protection charges will not be affected by this proceeding.

7. As has been pointed out in numerous filings with this Commission, Aquarion has been serving the water needs of Wiggin Way for years under seasonal rates. Thus, any incremental operating cost for serving these customers (assuming there is any) is already accounted for in Aquarion’s service.¹ Moreover, as noted in Aquarion’s initial petition, the Wiggin Way customers will be paying the one-time capital costs for converting the system as well as any tax liability created by the capital costs and there will be no capital or other costs shifted to other customers. In circumstances where there is essentially no incremental cost of

¹ Even if, for the sake of argument, one may contend that there is some incremental cost to consider, it would be the incremental operational cost of reading and maintaining an additional 43 residential meters. That cost would be offset by having individual meter charges for these 43 customers who would now be on non-seasonal rates. Thus, there is no cost impact to North Hampton here.

any kind, it strains credibility for North Hampton to claim that there are “serious questions” about any impact on its rates such that its participation is justified. As noted in Aquarion’s March 11, 2021 objection to North Hampton’s motion “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.” March 11 Objection at 5. If North Hampton has “serious questions” about the rates for its service, those questions belong in Aquarion’s pending rate case, Docket No. DE 20-184, and not here. As Aquarion has previously argued, “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.” March 11, 2021 Objection at 6. There is no cost impact to North Hampton from this transaction and no basis for it to intervene.

8. As to the Town’s supply concerns, North Hampton contends that “the proposed franchise expansion for Wiggin Way includes no charges or adjustment for the supply capacity it will take away from public fire protection customers like North Hampton and Hampton.” Petition at 3, and “the proposed expansion to serve the Wiggin Way system includes no adjustment or mechanism to account for the taking of that supply capacity paid for by the Towns.” Petition at 6. Such concerns can only be maintained by being willfully blind to the facts of the service in issue. As Aquarion has repeatedly noted, and as the Commission is fully aware, Aquarion has served the water needs of Wiggin Way for years with no impact to the quantity or quality of water service to North Hampton – whether for fire protection or otherwise. There is no supply capacity that Wiggin Way will “take” from North Hampton. Water service to

North Hampton will not change, and is not proposed to change, because this permanent interconnection does not change anything about the number or type of customers Aquarion serves today. The same 43 customers in Wiggin Way will be served before and after the permanent interconnection, but it will be through individual services, rather than a single metered service. The Commission should not entertain such arguments as a basis for intervention.

9. In addition to failing to justify its intervention, and as noted above, North Hampton has demonstrated that its participation will further hinder and delay an already delayed resolution to this issue. NHDES has issued a final and unappealable order requiring an existing temporary interconnection be made permanent and that Aquarion's franchise be adjusted to accomplish that goal. Aquarion has proposed to modify its franchise and serve these customers in a manner that creates no costs to Aquarion or any customers outside Wiggin Way, and to move the Wiggin Way customers to a rate reflecting their status as permanent customers of Aquarion. Yet, even under these circumstances North Hampton (and Hampton) appear to be trying to undermine the transaction out of unfounded and unsupported concerns about impacts to them that do not, and will not, exist. The process at NHDES to address the public health need for clean water for the Wiggin Way customers was delayed by the Towns, and the Towns appear to want to continue to delay the completion of this process by manufacturing concerns where there are none. There are no supply impacts and there are no rate impacts, and even if there could be, there is a forum for addressing them already, in which both Towns are actively participating. Allowing North Hampton to intervene will cause undue delay contrary to RSA 541-A:32 and should not be granted.

10. 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 Petition.

WHEREFORE, Aquarion respectfully requests that the Commission:


- (1) Deny the Town’s intervention 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.

July 28, 2021
Date

By: _____




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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.

July 28, 2021
Date


Matthew J. Fossum