

THE STATE OF NEW HAMPSHIRE
before the
PUBLIC UTILITIES COMMISSION

AQUARION WATER COMPANY OF NEW HAMPSHIRE

Petition for Franchise Expansion, Acquisition of Assets and Application of Existing Rates

Docket No. DW 21-093

JOINT MOTION FOR RECONSIDERATION

Pursuant to New Hampshire Code of Administrative Rules Puc 203.33 and RSA chapter 541-A, Aquarion Water Company of New Hampshire (“Aquarion” or the “Company”) and the Wiggin Way Homeowners Association (“Wiggin Way”), (collectively the “Moving Parties”) hereby seek reconsideration of the November 17, 2021 Procedural Order (the “Order”) of the New Hampshire Public Utilities Commission (“Commission”) in this proceeding. In support of their motion, the Moving Parties state the following:

1. As noted in the Order, on October 18, 2021, the Commission issued a procedural order directing the parties to file either an agreed-upon proposed procedural schedule on their own by October 29, 2021, or individually file motions with regards to proposed procedural schedules if no agreement could be reached. On October 29, 2021, the Moving Parties filed a joint motion requesting the Commission to schedule a hearing on a date in February 2022 without additional process. The same day, the Towns of Hampton and North Hampton (collectively, the “Towns”) filed a joint motion requesting the Commission to order the parties to file memoranda and/or prefiled testimony 20 days prior to the hearing date.

2. Over the objection of the Moving Parties, the Commission issued the Order concluding that “briefing the issues would be helpful to the Commission.” Order at 2.

Accordingly, the Commission set a schedule for briefing with briefs to be filed by all parties other than the Towns on January 20, and reply briefs from the Towns by February 3.

3. Initially, the Moving Parties note that despite the Order's conclusions, there is nothing that the Towns have presented in this matter that justifies pre-hearing briefing. Despite this sustained contention, the Moving Parties will abide by the Commission's conclusions that briefing would be helpful. However, the Moving Parties do take issue with the Commission's schedule for briefing and request that it be reconsidered.

4. The briefing schedule as laid out by the Commission confers an advantage on the Towns in this proceeding that is not justified by the circumstances. Rule Puc 203.32(c) specifies that that the Commission shall establish a briefing schedule allowing rebuttals or replies "when such a sequential schedule is necessary to assure due process, fairness or full discussion of the issues presented." The basis for the Commission's conclusion in the Order to allow the Towns to present reply briefs is that in the May 10, 2021 order of notice in this proceeding, the Commission noted that the case could "require detailed examination of possible rate subsidization or preference under RSA 378:10." Order at 2. Respectfully, the issue of potential rate subsidization or preference is not in issue in this case, and to the extent it could be, that is only because the Towns have attempted to make such a claim. As Aquarion repeatedly noted in its objections to the Towns' intervention requests, to the extent there are any concerns about rates or revenues, such matters are properly addressed in the pending rate case in which the Towns are participating, and continuing to bring them here does nothing other than create further delay to a process to remedy a public health hazard that the Towns have already delayed for years.

5. Despite the above, the Towns have continually attempted to claim in this proceeding that there is the possibility of rate subsidization or preference that must be addressed.

This matter, however, is about the permanent interconnection (at no cost to Aquarion or the Towns) of 43 residential customers who have already been served by Aquarion for years. Therefore, any potential for subsidization or preference is non-existent, yet the Towns have continued to press the claim. Because the Towns have argued that such potential for preference must be addressed, pursuant to Puc 203.25 the burden of proof on that issue rests with the Towns. Accordingly, it is unfair, and potentially inconsistent with due process, for the Commission to establish a briefing schedule that confers an advantage on the Towns by allowing them the opportunity to respond to any arguments made by others, and without the other parties being able to respond to the Towns.

6. RSA 541:3 states that the Commission may grant rehearing of an order or decision when “good reason for the rehearing is stated in the motion.” In this case, good reason is shown for the reasons stated above and the Moving Parties request that the Commission either revise the briefing schedule to provide for simultaneous briefing and reply briefing by all parties wishing to opine on the issues in dispute, or provide an opportunity for the non-Town parties to respond to any pleadings from the Towns. The Moving Parties are authorized to state that the New Hampshire Department of Energy concurs that the relief sought in this motion should be granted.

WHEREFORE, the Moving Parties respectfully request that the Commission:

- (1) Reconsider the briefing schedule as set out in the Order; and
- (2) Order such further relief as may be just and equitable.

Respectfully submitted,

Aquarion Water Company of New Hampshire, Inc.

Date: December 6, 2021

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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.

Date: December 6, 2021



Jessica A. Chiavara