

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 09-045

AQUARION WATER COMPANY OF NEW HAMPSHIRE, INC.

Petition for Waiver of Short Term Debt Limit

Order *Nisi* Approving Petition

ORDER NO. 24,959

April 22, 2009

I. BACKGROUND

On March 9, 2009, the petitioner, Aquarion Water Company of New Hampshire, Inc. (Aquarion) filed a petition seeking a waiver, *nunc pro tunc*, of the short term debt limit delineated in N.H. Code Admin. Rules Puc 608.05. In brief, Aquarion seeks to increase its short term debt limit from ten percent (10%) to twenty percent (20%) of its net fixed plant primarily in order to fund capital improvements.

According to Aquarion, in 2005 it refinanced a large portion of its short term debt by issuing General Mortgage Bonds in an aggregate principal amount of \$5,900,000. This financing was authorized by the Commission in Order No. 24,482 (July 1, 2005). At the same time, Aquarion received a capital contribution from its parent, Aquarion Company. These transactions reduced Aquarion's short term debt to approximately \$900,000. Since that time, however, Aquarion has borrowed funds on a short term basis from its parent via a pass through short term credit facility between Dresdner Bank and Aquarion Holdings. As of March 2008, Aquarion carried short term debt representing about 10.66% of its net fixed plant, but now carries short term debt of approximately \$4,100,000, a level representing about 16% of its current net fixed plant. This increase, Aquarion states, was necessitated by "ongoing capital improvements" to its

water systems, including the replacement of the Mill Road standpipe, estimated to have cost about \$1,500,000. Aquarion states that the short term debt obtained through the credit facility for these projects has been at rates below the long term financing rate and is, therefore, more favorable. Aquarion contends that a waiver of the limit in Puc 608.05, and approval of a short term debt limit of 20% of its net fixed plant, is necessary to permit it to continue borrowing funds through the short term credit facility so that it might continue to fund its ongoing capital improvements.

On April 13, 2009, Commission Staff recommended the approval of Aquarion's request. In light of Aquarion's failure to identify a date upon which the waiver would cease, Staff also recommended that the waiver terminate no later than March 30, 2010. In addition, Staff noted that Aquarion had previously been cautioned, by Secretarial Letter of October 1, 2003 in Docket No. DW 03-152, not to exceed the short term debt limit without prior commission approval or it would risk sanctions. Rather than sanction Aquarion, Staff recommended that the Commission consider the inclusion of short term debt in Aquarion's capital structure in its current rate case, Docket No. DW 08-098, because Aquarion appears to rely on such debt regularly as part of its capitalization.

II. COMMISSION ANALYSIS

Pursuant to N.H. Code Admin. Rules 201.05(a), the rules of the Commission may be waived if the Commission finds that the waiver is in the public interest and that it will not disrupt the orderly and efficient resolution of matters before the Commission. We agree with Staff that a waiver of the short term debt limit in Puc 608.05 would serve these purposes. We conclude that the relevant projects, including the replacement of a major standpipe were reasonably necessary

to ensure safe and adequate supply of water to Aquarion's customers. Furthermore, we conclude that the Company's desire to keep its capital projects on track by the use of short term credit at rates comparable to or better than those for long term credit, was in the public interest. However, we also agree that regardless of the quality of the short term debt, Aquarion's waiver should not last beyond the end of the first quarter of 2010. In that time, Aquarion ought to be able to arrange appropriate long term debt financing.

Finally, we recognize that large projects, such as the one referenced in the petition, can be costly and can cause difficulty in adhering to the limits of Puc 608.05. Aquarion, however, has been previously cautioned about obtaining Commission approval before exceeding the short term debt limits. Rather than sanction Aquarion in this instance, we will adopt Staff's recommendation and consider the Company's use of short term debt as an element of its capitalization in its current rate case.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that Aquarion Water Company of New Hampshire, Inc.'s request for a waiver of 608.05 is **APPROVED** subject to the effective date below; and it is

FURTHER ORDERED, that Aquarion Water Company of New Hampshire, Inc.'s waiver of 608.05 will terminate on March 31, 2010; and it is

FURTHER ORDERED, that the Petitioner shall cause a copy of this Order *Nisi* to be published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to be no later than May 1, 2009 and to be documented by affidavit filed with this office on or before May 22, 2009; and it is

FURTHER ORDERED, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than May 8, 2009 for the Commission's consideration; and it is

FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than May 15, 2009; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective May 22, 2009, unless the Petitioner fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of April 2009.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

Kimberly Nolin Smith
Assistant Secretary