

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 20-088

ABENAKI WATER COMPANY, INC.

Petition to Approve Financing

Order *Nisi* Approving Financing

ORDER NO. 26,487

June 22, 2021

This order authorizes Abenaki Water Company, Inc. to borrow \$125,000 from the Drinking Water State Revolving Fund to purchase assets required to provide water service. This order is being issued on a *nisi* basis to ensure that interested persons receive notice and have the opportunity to comment or request a hearing before the order becomes effective.

I. PROCEDURAL HISTORY

Abenaki Water Company, Inc. (Abenaki or the Company), is a New Hampshire public water utility comprised of five drinking water systems and one sewer system, including the White Rock drinking water system located in the Town of Bow (Bow or the Town). White Rock has 95 year-round customers.

On June 2, 2020, Abenaki filed a petition seeking authorization pursuant to RSA 369:1, to obtain a \$400,000 loan from the Drinking Water State Revolving Fund (DWSRF) to finance improvements to White Rock. The Company supplemented the petition with pre-filed testimony and financial schedules. Shortly after the Company filed its initial petition, Commission Staff (Staff) engaged the services of engineering consultant Douglas W. Brogan, P.E., to review the

engineering and operational aspects of the Company's proposed improvements. On June 29 and on July 22, respectively, Abenaki responded to Staff's first and second set of data requests.

On August 27, 2020, the Company revised its filing by reducing the amount requested to \$125,000, primarily because it had withdrawn its plan to establish a new well. The Company stated that "after further review, the 3 existing wells have been able to sustain demand throughout the peak season and during this year's summer drought." *See* Abenaki's August 27, 2020, revised filing cover letter, p.2. Under the revised filing, Abenaki proposes to use the \$125,000 loan to reline two existing water tanks, install new distribution valves, and replace two pressure-reduction valves (PRVs). The revised filing was accompanied by financial schedules and a test report of White Rock's PRVs. On September 10, 2020, Abenaki responded to a third set of Staff data requests.

On September 1, 2020, Abenaki submitted an updated Corrective Action Plan (CAP) for White Rock to DES, related to DWSRF funding. On October 13, 2020, DES approved the revised CAP. On September 17, 2020, Mr. Brogan provided Staff with his report regarding the engineering and operational aspects of the Company's revised proposed improvements.

On March 5, 2021, DES approved new extended completion dates for the tank relining and distribution valve projects as well as the replacement of the two PRVs. On March 9, 2021, Abenaki accepted DES's approval of the revised CAP with extended completion dates. On March 12, 2021, Staff recommended that the financing be approved in the amount of \$125,000

for the revised project list, but with rate recovery subject to a future prudency review. *See* Staff Recommendation pp 1-2 (citations omitted).¹

POSITIONS OF THE PARTIES AND STAFF

A. Abenaki

In Abenaki's revised filing, the Company proposed spending \$50,000 to reline two 15,000 gallon steel atmospheric storage tanks. A March 2020 report of an inspection of the tanks indicated that the current tank liners have deteriorated and there is active corrosion. The same report noted that ultrasonic testing performed during the inspection indicated that the thickness of the tank walls is within acceptable ranges for relining, and that relining will extend the tanks' useful life and avoid the costs of total replacement. The report did not indicate that the tanks were leaking or otherwise directly contributing to water loss. *See* Abenaki's Petition (June 2, 2020) Prefiled testimony of Mr. Nicholas LaChance, Attachment (Mass Tank Inspection Services, LLC March 2, 2020, Inspection Report).

The Company also proposed spending \$45,000 to replace distribution valves. The Company stated that White Rock's distribution system is leak-prone and fragile. Barbed fittings join the PVC and polyethylene pipes and such fittings have long been considered substandard, even during the 1970s when the system was first installed. Barbed fittings crack and can potentially leak. The Company stated that unaccounted for water in White Rock's system is typically in the 40 percent range, suggesting pronounced leak problems. The Company explained that the proposed financing will cover the cost to install additional valves in strategic

¹ All page references are to Bates-numbered pages.

locations throughout the distribution system. The valves will better isolate portions of the system in the event of a break, as well as aid in leak detection.

Finally, the Company proposes spending \$30,000 to replace two of White Rock's pressure relief valves. Pressure tests the Company conducted in July and August 2020 suggest that two PRVs at higher elevations in the system are not working. Some locations in the system had pressure readings of up to 120 pounds per square inch (psi). *See* Abenaki's Revised Filing, August 27, 2020, White Rock Pressure Reduction Valve Test Report (PRV Test Report) at 1-2. The Company's NESC water system engineer Josh Davis recommended replacing the two failed PRVs and monitoring the system's three other PRVs annually. *Id.* at 1.

In its revised filing, Abenaki submitted that the proposed \$125,000 DWSRF loan would have the same terms and conditions as indicated in its initial filing, with a fixed interest rate and a term of twenty years.

Mr. St. Cyr stated that Abenaki's current capital structure is weighted more towards equity than debt, and that the addition of debt from the proposed financing would move the Company towards a more balanced capital structure, as debt financing is less expensive than equity financing. *See* Petition (June 2, 2020) St. Cyr prefiled testimony at 4. The Company estimates that the capital additions will result in increased annual property taxes of \$3,177. The Company's estimated costs to obtain the financing are \$10,000, which are proposed to be amortized over the twenty-year term of the loan. *See* Abenaki's August 27, 2020, Revised Filing SPS 8 and SPS 10 schedules.

Mr. St. Cyr stated that the fixed asset additions and the twenty-year financing obligation would have a significant impact on the Company's financial statements. Petition (June 2, 2020)

St. Cyr prefiled testimony at 2. According to the Company's revised SPS 5 schedule, the additions to fixed assets and operating expenses associated with the financing would increase the annual revenue requirement from metered sales by an estimated \$8,482 or 10.67 percent. *See* August 27, 2020, Revised Filing. Mr. St. Cyr's calculations applied an interest rate of 1.700 percent. Petition (June 2, 2020) St. Cyr prefiled testimony at 6; Revised filing, SPS 5. *See also* Section II (B) below, with Staff's updated interest rate and related customer impacts, and Section III, at 8 n.2.

The Company stated that the financing is consistent with the public good because it will provide funds to reline the tanks, add distribution valves, and replace two PRVs, all of which will improve White Rock's reliability. Abenaki asserted that the improvements funded by the financing will reduce the risk of an emergency outage in the future. Abenaki's filing included a letter of support from DES. Petition (June 2, 2020), Testimony of Mr. Nicholas LaChance, Attachment (DES letter dated May 14, 2020).

B. Commission Staff

Staff concluded that each of the proposed projects appeared beneficial from an operations and engineering perspective. *See* Staff Recommendation at 7. Relining the tanks will be less costly than full tank replacement, estimated to cost in excess of \$150,000. Thus relining will be an overall benefit, although it will not address White Rock's water supply shortage issues. Further, according to Staff, the Company stated the tanks will remain in service even if a new source of supply were to be found at a different location in the future. *See* Staff Recommendation Attachments at 22 (Brogan Memo Report, September 17, 2020). Mr. Brogan also noted that higher pressure in the distribution system exacerbates leaks. Thus, requiring the

replacement of the two failed PRVs in a system with a 280 foot drop from top to bottom can only improve the supply/leak situation. Without replacement, the high pressure will put undue stress onto an already fragile distribution system. Staff Recommendation at 5.

Further, replacing and monitoring distribution valves in order to better find, evaluate, and address leaks and to limit the number of customers affected by repairs, is expected to be beneficial. *See* Staff Recommendation Attachments at 23-24. Staff concluded that the improvements appear to be made in the ordinary course of the Company's operations pursuant to its duty to provide safe, adequate, and reliable water service to its customers under RSA 374:1. Staff Recommendation at 8-9.

Staff agrees with the Company that the proposed financing improves Abenaki's equity-heavy capital structure towards a somewhat more balanced structure with 36 percent debt and 64 percent equity, and should reduce Abenaki's overall cost of capital. Mr. St. Cyr's revised SPS 3 schedule shows that the financing would improve the Company's debt to equity ratio from 32 percent (debt) /68 percent (equity) to 36 percent (debt) /64 percent (equity). Staff Recommendation at 4, 8. The rate on the DWSRF loan is extremely favorable and is likely the lowest rate that Abenaki could obtain compared to a bank or other financial institution for a loan with similar terms.

On March 3, 2021, Staff observed from the Department of Environmental Services (DES) website that the interest rate on a DWSRF loan with similar terms is 1.296 percent. That rate was confirmed with DES Staff. Staff Recommendation at 6 (citations omitted). The 1.296 percent interest rate is lower than the rate the Company used in its initial filing. Staff estimated the additional annual revenue required using the 1.296 percent interest rate will total an

estimated \$7,991 or 10.053 percent (instead of an estimated \$8,482 or 10.67 percent using the 1.70 percent interest rate). Staff Recommendation at 8. Staff explained that the annual amount necessary to cover the proposed financing, \$7,991, was included in the rate increase Abenaki requested in Docket DW 21-012. Docket DW 21-012 remains pending before the Commission. *Id.* at 7-8. Staff estimated that the new revenue requirement would increase an average White Rock customer's charges by an estimated \$84.12 annually or \$7.01 per month. *Id.* at 8.

Staff acknowledged that this financing request requires a fairly significant increase in the Company's revenue requirement for White Rock. In recommending approval, Staff gave particular weight to the necessity of the proposed projects. Staff also noted that increased revenue requirements of this nature may be required in small water systems for necessary and reasonable infrastructure improvements, particularly where diminished pressure and concerns regarding supply are at issue. *Id.* at 8-9.

In Staff's view, the revised financing will enable White Rock to provide safe, adequate, and reliable water service to its customers and is therefore consistent with Abenaki's duty to provide "reasonably safe and adequate and in all other respects just and reasonable" service to its customers, pursuant to RSA 374:1. Staff therefore recommended that the Commission find Abenaki has demonstrated that the proposed use of funds, including proposed terms, is appropriate and that the financing, and the purposes to which the financing will be put, are consistent with the public good and should be authorized pursuant to RSA 369:1 and :4. *Id.*

Staff noted the financing and proposed project would be subject to a future prudence review prior to any approval for rate recovery. *Id.* at 9.

II. COMMISSION ANALYSIS

RSA 369:1 states that a utility “may, with the approval of the commission but not otherwise, issue and sell...notes and other evidence of indebtedness payable more than 12 months after the date thereof for lawful corporate purposes.” The Commission after such “hearing or investigation as it may deem proper,” shall authorize the financing “if in its judgment the issue of such securities upon the terms proposed is consistent with the public good.”

RSA 369:4. The Commission reviews the amount to be financed, the reasonableness of the terms and conditions, the proposed use of the proceeds, and the effect on rates. *Appeal of Easton*, 125 N.H. 205, 211 (1984).

The rigor of an Easton inquiry varies depending on the circumstances of the request. We engage in a more limited review for routine financing requests. *Hampstead Water Company, Inc.*, Order No. 26,381 at 9 (July 21, 2020). A routine request is one that will have no discernible impact on rates or deleterious effect on capitalization, and in which the funds are to enable numerous investments appropriate in the ordinary course of utility operations. *Id.* (quotations and citations omitted). A routine request calls for a more limited examination of whether the “use of financing proceeds is in the public good without further review of possible alternative uses of the funds.” *Id.* (quotations and citations omitted). At the other end of the spectrum, some financing requests may call for vastly greater exploration of the intended uses and impacts of the proposed financing. *Public Service Company of New Hampshire*, Order No. 25, 050 at 14 (December 8, 2009).

The goal of a financing review is to ensure that customers are not “affected injuriously” by a capitalization so high that the utility “will not be able to give its consumers at reasonable

rates the service to which they are entitled. . . .” *Appeal of Conservation Law Foundation* 127 N.H. 606, 615 (1986), *quoting Appeal of Seacoast Anti-pollution League*, 125 N.H. 708, 718 (1984). The Commission conducted a detailed investigation into this financing, including discovery related to whether the projects that are the subject of this financing are in the public interest. *See* RSA 369:4. The Staff Recommendation, including Mr. Brogan’s report, is detailed and comprehensive. *See* RSA 365:19. We conclude that investigation is sufficient to allow us to assess the financing and determine that the financing is in the public good.

The record in this docket supports our conclusion that the DWSRF loan provides financing for the projects at favorable rates resulting in reduced costs to customers.² Although the financing may have a significant impact on the stand-alone revenue requirements for White Rock, *see* Docket No. 20-112, in our view, the proposed projects, relining the tanks, the replacement of distribution valves, and the replacement of two PRVs, appear appropriate from the standpoint of the Company’s ability to maintain safe, adequate, and reliable water service. The proposed improvements also appear to be investments made in the ordinary course of the Company’s operations to provide safe and adequate service. We will, in this instance, require the Company to file an update on the leakage and pressure issues to be addressed through this financing. Based on the above, we find that the financing is consistent with the public good and should be authorized pursuant to RSA 369:1 and 369:4.

We issue our decision on a nisi basis to provide interested persons the opportunity to submit comments or request a hearing. Our approval of Abenaki’s financing does not limit or

² We note that the DES website continues to show that 1.296% is the rate for a 20 year DWSRF loan. *See* <https://www.des.nh.gov/sites/g/files/ehbemt341/files/documents/2020-01/srf-loan-charge-rates.pdf>

preclude the Commission from reviewing in a future rate case, directly or indirectly, the prudence, use, and usefulness of any specific project financed by the loan. RSA 378:28. The Commission and Staff also retain the authority under RSA 374:4 to be kept informed of Abenaki's use of the financing independently and apart from any review under RSA 378:28.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that subject to the effective date below, authority for Abenaki Water Company, Inc. to undertake a loan of \$125,000 from the Drinking Water State Revolving Fund under the terms and conditions described in this order, and for the purposes as outlined herein, is hereby GRANTED; and it is

FURTHER ORDERED, that six months after the improvements at issue are implemented, Abenaki Water Company Inc. shall file an update with the Commission regarding the White Rock system's unaccounted for water percentage, and pressure issues (120 psi in some locations); and it is

FURTHER ORDERED, that Abenaki Water Company, Inc. shall cause a copy of this order nisi to be published on its website within one business day of this order, such publication to be documented by affidavit filed with the Commission on or before July 13, 2021; and it is

FURTHER ORDERED, that the Executive Director of the Commission shall cause a copy of this order *nisi* to be published on the Commission's website within one business day; and it is

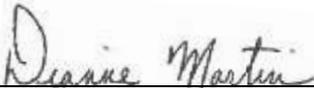
FURTHER ORDERED, that persons interested in responding to this order be notified that they may submit their comments, or file a written request for a hearing that states the reason

and basis for a hearing no later than June 30, 2021, for the Commission's considerations; and it is

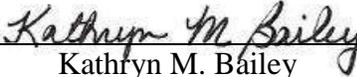
FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than July 6, 2021; and it is

FURTHER ORDERED that this order shall be effective July 8, 2021, unless Abenaki Water Company, Inc. fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date.

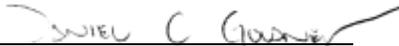
By order of the Public Utilities Commission of New Hampshire this twenty-second day of June, 2021.



Dianne Martin
Chairwoman

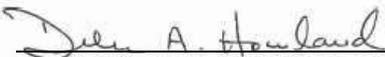


Kathryn M. Bailey
Commissioner



Daniel C. Goldner
Commissioner

Attested by:



Debra A. Howland
Executive Director

Service List - Docket Related

Docket#: 20-088

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