

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DW 21-072**

**AQUARION WATER COMPANY OF NEW HAMPSHIRE, INC.**

**Petition for Approval of Loan Financing from the PFAS Remediation Loan Fund**

**Order *Nisi* Approving Financing**

**ORDER NO. 26,490**

**June 24, 2021**

This order authorizes Aquarion Water Company of New Hampshire to borrow up to \$1,284,750 from the PFAS Remediation Loan Fund. 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**

Aquarion Water Company of New Hampshire, Inc. (Aquarion or the Company) is a regulated water utility as defined by RSA 362:2 and RSA 362:4. The Company provides water service to approximately 9,500 customers in the Towns of Hampton, North Hampton, and Rye.

On March 31, 2021, Aquarion requested authorization to secure a long-term loan of up to \$1,284,750 from the PFAS Remediation Loan Fund (PFAS RLF), established by RSA 485-H:10, and administered by the Department of Environmental Services (DES).<sup>1</sup> The Company stated it intends to use the loan proceeds to implement a treatment solution for PFAS concerns at its Mill Road well field (Mill Road). In support of its request, the Company submitted, among other things, a letter of support from Mr. Randal Suozzo, P.E., from the DES Drinking Water and Groundwater Bureau, and approval from its Board of Directors.

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<sup>1</sup> “Per- and polyfluoroalkyl substances (PFAS) are a group of man-made chemicals that includes PFOA, PFOS, GenX, and many other chemicals.” <https://www.epa.gov/pfas/basic-information-pfas>.

Commission Staff (Staff) filed its recommendation on June 7, 2021.

Aquarion's petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted on the Commission's website at <http://www.puc.state.nh.us/Regulatory/Docketbk/2021/21-072.html>.

## **II. POSITIONS**

### **A. Aquarion**

Aquarion requested authority to borrow up to \$1,284,750 from the PFAS RLF, to be used in conjunction with a \$428,250 Drinking Water and Ground Water Trust Fund grant, for construction of a project that includes Granular Activated Carbon (GAC) treatment for Well 6 at Mill Road. Well 6 has the highest PFAS concentrations at Mill Road. According to the Company, the project includes a new raw water main to isolate Well 6 water for treatment, GAC pressure vessels for PFAS removal, and building improvements for an existing garage, where the GAC vessels will be located. Aquarion stated that while the proposed project is the most expensive in comparison to three other projects presented by its engineering consultant, the selected project has advantages such as quicker PFAS treatment availability and the option for future expansion to treat additional wells.

According to Aquarion, PFAS levels have increased at Well 6 since 2017. The Company attempted to mitigate the problem by reducing output from Well 6 and blending the water from Well 6 with water from other wells, including Well 9 and Well 11. As Well 9 and Well 11 are down gradient from Well 6, their PFAS levels have increased as well. If untreated, according to the Company, there would be a substantial loss of production capacity in just a few years. Aquarion stated that the loss of production would be detrimental as the Mill Road well field provided 48 percent of the Company's water production from 2017 to 2020 and Well 6 alone

provided 5 to 10 percent of total production, which increased during the high-demand summer months.

Aquarion requested a financing term of 25 years with an annual interest rate of 1.55 percent, if the loan is closed by August 5, 2021. After that time, the interest rate is subject to change based upon DES's rules pertaining to the PFAS RLF. *See* N.H. Admin. R., Env-DW 1405.05(c) (establishing that the interest rate changes on the first Thursday in August based upon the 11-Bond Index, published by the Bond Buyer). As such, the Company requested an effective date for Commission order of June 30, to enable the required Governor and Executive Council approval in time to meet the closing deadline.

The Company provided additional loan terms, which included: principal and interest payments to begin within one year of substantial project completion or the scheduled completion date; no prepayment penalty; and interest accrued for disbursed amounts on work already completed at 1 percent during the construction period, which can be paid separately or added to the loan balance, as long as the new balance does not exceed the DES approved limit of \$1,284,750. The loan is subject to up to 50 percent of possible principal reimbursement. The Company explained, however, that reimbursement is primarily contingent on judgments or settlements received by the state resulting from lawsuits against the manufacturers of PFAS. The Company represented that if insufficient funds are received by the state to cover 50 percent of the principal, the reimbursement shall be prorated.

Aquarion argued that the loan is consistent with the public good as it will enable the Company continued provision of safe, adequate, and reliable water service to its customers. The Company further stated that the water treatment project and its proposed financing through the PFAS RLF will provide a cost-effective solution in support of the PFAS remediation.

Aquarion contended that the PFAS RLF terms discussed are the best available as no other

lender can match the 1.55 percent interest rate or possible contingent reimbursement. The Company stated that the proposed debt financing will support moving toward a balanced capitalization ratio for the Company, which ultimately is favorable to customers as a less expensive option to an equity infusion. The Company, lastly, stated that the potential rate impact to an average, single-family, residential user would be an increase of \$1.82 per month.

#### **B. Staff**

Staff supported approval of the Company's request as a routine financing consistent with the public good. In doing so, Staff noted the minimal potential impact the financing would have on customer rates. Staff further recognized that the requested finance amount does not present a deleterious impact to the Company's capitalization.

Staff agreed that the proposed financing is the most economically attractive and that other financing options would only increase the possible rate impact to customers. Staff also noted that the purpose of the funds, to treat PFAS concerns, is a necessary investment in the ordinary course of utility operations and allows the Company to provide safe, adequate, and reliable water service to its customers. Staff, however, expressed that its recommendation was not based on the potential of principal reimbursement as it was too remote a possibility to consider.

While Staff did indicate that the proposed project is the most expensive out of the four project options presented to Aquarion by its engineering consultant, Staff recognized the additional benefits that the Company asserted the selected project includes. Staff recommended that the Commission maintain its consistent practice and statutory authority of withholding any prudency determination until completion of the project and examination of its impact in a future rate case.

### III. 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 evidences of indebtedness payable more than 12 months after the date thereof for lawful corporate purposes.” The Commission must conduct a “hearing or investigation as it may deem proper,” then 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. As the Commission has previously noted, “certain financing related circumstances are routine, calling for more limited Commission review of the purposes and impacts of the financing, while other requests may be at the opposite end of the spectrum, calling 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). We engage in a more limited review for routine financing requests. *Id.* at 13-14. 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.* at 13.

The Commission finds Aquarion’s request to be routine. The proposed financing will improve the Company’s capitalization. We also find that the financing will not have a significant impact on rates.

The financing will be used to address PFAS concerns at Well 6 of its Mill Road source of supply. As noted by Staff, the remediation of PFAS in its drinking water supply allows

Aquarion to fulfill its RSA 374:1 duty to provide safe, adequate, and reliable water service to its customers. We further recognize that the 25-year term of the proposed financing at the 1.55 percent interest rate will be beneficial to customers. We therefore find that the financing is consistent with the public good, pursuant to RSA 369:1 and RSA 369:4, and we approve the proposed financing request. We will, however, require Aquarion to do everything within its ability to secure principal forgiveness if it becomes available at any time throughout the term of this financing.

Our approval of Aquarion's financing does not limit or preclude the Commission from reviewing in a future case, directly or indirectly, the prudence, use, and usefulness of any specific project financed by the borrowed funds. RSA 378:28. The Commission retains the authority under RSA 374:4 to be kept informed of Aquarion's use of the financing, separate 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, the request of Aquarion Water Company of New Hampshire, Inc., for approval of its proposed financing transaction, as described herein, is hereby GRANTED; and it is

**FURTHER ORDERED**, that Aquarion Water Company of New Hampshire, Inc., will endeavor to obtain principal forgiveness, if the opportunity is available at any time throughout the term of the approved financing; and it is

**FURTHER ORDERED**, that Aquarion Water Company of New Hampshire, Inc. shall cause a copy of this order *nisi* to be published on its website within one business day, such publication to be documented by affidavit filed with the Commission on or before July 6, 2021; and it is

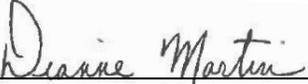
**FURTHER ORDERED**, that the Executive Director of the Commission shall cause a copy of this order *nisi* to be published on the Commission's website within one business day; and it is

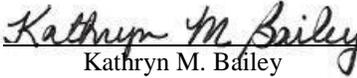
**FURTHER ORDERED**, that persons interested in responding to this order be notified that they may submit their comments or file a written request for a hearing that states the reason and basis for a hearing no later than June 30, 2021 for the Commission's consideration; and it is

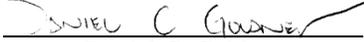
**FURTHER ORDERED**, that any party interested in responding to such comments or request for hearing shall do so no later than July 6, 2021; and it is

**FURTHER ORDERED**, that that this order shall be effective July 8, 2021, unless Aquarion Water Company of New Hampshire, Inc. fails to satisfy the notice and publication obligations set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date.

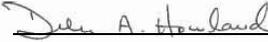
By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of June, 2021.

  
Dianne Martin  
Chairwoman

  
Kathryn M. Bailey  
Commissioner

  
Daniel C. Goldner  
Commissioner

Attested by:

  
Debra A. Howland  
Executive Director

## Service List - Docket Related

Docket#: 21-072

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