

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 20-044

ABENAKI WATER COMPANY, INC.

**Petition for Approval of Financing from the
Drinking Water and Groundwater Trust Fund**

Order Modifying Order No. 26,410 (September 29, 2020)

O R D E R N O. 26,533

October 19, 2021

I. PROCEDURAL HISTORY

On April 6, 2020, Abenaki Water Company, Inc. (Abenaki or the Company) filed a petition to approve a loan of \$45,000 from the Drinking Water and Groundwater Trust Fund (DWGTF) and \$5,000 in grant funds. At the time of its request, Abenaki intended to use the proceeds to buy a 10,000 gallon water storage tank and four 2-inch gate valves for its Tioga Belmont (AWC-TB) water system to prevent a reoccurrence of a water main leak in December 2019, which drained the AWC-TB system's 4,500 gallon storage tank and resulted in a water emergency. The Company spent \$31,848, more than twice AWC-TB's annual revenues, to repair the leak and provide bulk water deliveries to AWC-TB's 22 customers.

In Order No. 26,410 (September 29, 2020), issued *nisi*, the Commission approved Abenaki's request to obtain the \$45,000 DWGTF loan, finding that the financing was consistent with the public good, notwithstanding the resulting impact on AWC-TB's rates. *Id.* at 6; *see also* RSA 369:1 and :4. The Commission stated that its approval of the \$5,000 grant was unnecessary because Abenaki was not required to repay this amount. *Id.*

The Commission determined the loan would enable the Company to make necessary improvements to the AWC-TB system, “which appear to be the most cost-effective solution given [its] needs.” Order No. 26,410 at 6. It also found that “financing the proposed projects appears to be in the ordinary course of Abenaki’s system’s operations, and is consistent with the Company’s duty to provide safe and adequate water service [] under RSA 374:1.” *Id.* at 6-7. The Commission noted that the New Hampshire Department of Environmental Services (NHDES) supported the proposed improvements. *Id.* at 6.

On August 12, 2021, Abenaki filed a letter detailing a change in the scope of the project to be financed by the \$45,000 DWGTF loan. Abenaki requested the Commission to approve the change in the use of the loan proceeds, but did not request any change in the terms of the financing itself. No responses to Abenaki’s August 12 letter were filed.

II. POSITIONS OF THE PARTIES

A. Abenaki

Instead of a new water storage tank and additional gate valves, which it intended to buy and install as part of its original project, Abenaki proposed addressing the AWC-TB system’s underlying issues by beginning a water main replacement project. Abenaki stated that a residential developer had constructed the water system with substandard materials commonly used in residential plumbing, such as PVC piping and nylon fittings, which are known to break and leak, as occurred in the 2019 AWC-TB system water main leak. Abenaki added that some water mains were buried more than 9 feet deep, deeper than necessary, and the distribution valves identified on the system map from the prior owner were difficult to locate.

To address these issues, the Company plans to start replacing the water mains and fittings with 3-inch high-density polyethylene pipe and appropriate fittings, burying the mains 6 feet deep, and installing distribution valves. According to Abenaki, the changes will enhance system reliability by reducing leaks and improving the Company's ability to detect leaks and make repairs, rather than simply providing an "insurance plan" against future leaks, such as a larger water storage tank. As one of the attachments to its August 12 letter, Abenaki provided a letter from the NHDES dated July 30, 2021, in which the NHDES stated its support for the Company's new plan for water system upgrades for the AWC-TB system. The NHDES noted that detailed, accurate record drawings for the system would be prepared, as in the original project.

B. Department of Energy

The New Hampshire Department of Energy has taken no position on Abenaki's request.

III. COMMISSION ANALYSIS

The Commission may modify its orders at any time after they have been issued. RSA 365:28. It is not required to hold a hearing before modifying an order when no hearing was required by statute, or in fact held, before the order issued. *Id.* The Commission's statutory authority to reconsider and modify its orders "is limited only in that the modification must satisfy the requirements of due process and be legally correct." *Northern Utilities, Inc.*, Order No. 26,526 at 3 (September 23, 2021) (citing *Elec. & Gas Utilities*, Order No. 26,375 at 3 (June 30, 2020)).

No hearing was required by statute, and no hearing was held, before Order No. 26,410 was issued (September 29, 2020). *See* RSA 369:4. As a result, no hearing is required in this instance. In addition, there has been no objection to Abenaki's request

to change the scope of the project to be funded by the financing approved in that order.

In Order No. 26,410, we stated that *Appeal of Easton*, 125 N.H. 205 (1984) requires the Commission to review, among other things, the amount of the financing, its terms and conditions, the proposed use of the financing, and the anticipated effect on customer rates. Order No. 26,410 at 5 (September 29, 2020) (citing *Appeal of Easton*, 125 N.H. at 211-13). Abenaki's August 12 letter has proposed no change to the amount of the financing or its terms, so that the anticipated effect on rates remains the same. The only proposed change is a different use of the funds for the same purpose, which is to make needed improvements to the AWC-TB system.

We previously found that the \$45,000 DWGTF loan would be used to finance projects which appeared to be in the ordinary course of Abenaki's system's operations and were consistent with the Company's duty under RSA 374:1 to provide safe and adequate water service. Similarly, we find that Abenaki's proposed revised plan to address the deficiencies in the AWC-TB system is in the ordinary course of its operations and consistent with the duty to provide safe and adequate water service. Further, we find that Abenaki's revised plan, which seeks to address the underlying causes of leaks in the AWC-TB system and to reduce the time needed to respond to them, is a cost-effective way to improve AWC-TB's service and, therefore, is consistent with the public good.

Accordingly, we approve Abenaki's request to change the scope of the project to be financed by the \$45,000 DWGTF loan. As previously noted in Order No. 26,410, this approval does not limit the Commission's future review of the prudence, use, and usefulness of any specific project directly or indirectly financed by this loan. The

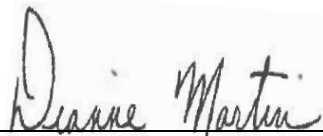
Commission retains its authority under RSA 374:4 to keep informed of the Company's use of the financing independently and apart from any RSA 378:28 review.

Based upon the foregoing, it is hereby

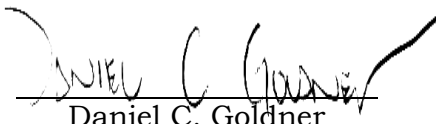
ORDERED, that Abenaki's August 12, 2021 request to change the scope of the project to be funded by the financing previously approved in Order No. 26,410 (September 29, 2020) is approved; and it is

FURTHER ORDERED, that Order No. 26,410 (September 29, 2020) is modified, consistent with this order.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of October, 2021.



Dianne Martin
Chairwoman



Daniel C. Goldner
Commissioner

Service List - Docket Related

Docket# : 20-044

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