

STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

November 5, 2008 - 1:30 p.m.
Concord, New Hampshire

NHPUC NOV20'08 PM 2:52

RE: DW 08-098
AQUARION WATER COMPANY OF NEW HAMPSHIRE:
Notice of Intent to File
(Prehearing conference)

PRESENT: Chairman Thomas B. Getz, Presiding
Commissioner Graham J. Morrison
Commissioner Clifton C. Below

Sandy Deno, Clerk

APPEARANCES: Reptg. Aquarion Water Co. of New Hampshire:
Steven V. Camerino, Esq. (McLane, Graf...)

Reptg. the Town of Hampton, N.H.:
Mark S. Gearreald, Esq.

Reptg. the Town of North Hampton, N.H.:
John J. Ratigan, Esq.

Robert Renny Cushing, *pro se*

Reptg. Residential Ratepayers:
Rorie E. P. Hollenberg, Esq.
Kenneth E. Traum, Asst. Consumer Advocate
Stephen Eckberg
Office of Consumer Advocate

Reptg. PUC Staff:
Marcia A. B. Thunberg, Esq.

Court Reporter: Steven E. Patnaude, LCR No. 52

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P R O C E E D I N G S

MS. ROSS: Good afternoon. I would like to open the Aquarion Water Company rate case docketed as DW 08-098. I'm Anne Ross. I will be acting as Hearings Examiner today. And, following this hearing, I will make recommendations to the Commission, who will ultimately rule on interventions and items that may come up today. Aquarion Water Company of New Hampshire provides water service to approximately 8,770 customers in the Towns of Hampton, North Hampton, and Rye. On July 29th, 2008, Aquarion filed with the Commission a notice of an intent to file rate schedules. And, on August 29th, 2008, Aquarion filed for permanent rates. Aquarion seeks an overall increase in annual revenues of \$1,056,070, which represents a revenue increase of 21.08 percent. Aquarion's increase in permanent rates for all its customer classes is proposed for effect on September 26th, 2008.

Aquarion also asks the Commission approve a step adjustment for a significant plant addition currently under construction. Aquarion is currently replacing it's Mill Road standpipe at a cost of approximately \$1.5 million. The project is scheduled to be completed and in service by the end of 2008. And, the

1 associated step adjustment would generate an additional
2 \$222,607 in revenue, or an additional increase of
3 approximately 4.44 percent. The combined proposed rate
4 request and step increase would result in an overall
5 increase in rates of 23.25 percent for general metered
6 residential customers.

7 Aquarion also seeks a temporary rate
8 increase to take effect for bills rendered on or after
9 September 26th, 2008. Aquarion proposes a temporary
10 increase in revenues of \$642,600, or 12.83 percent on an
11 annual basis. The proposed temporary rate increase would
12 add approximately \$4.26 to the average single family
13 residential customer's monthly bill, and would be
14 reconciled with any permanent rates approved by the
15 Commission in this proceeding.

16 At this time, does the Company have
17 evidence of the display ad that was to be run before
18 October 29th?

19 MR. CAMERINO: Yes, I do. I have what
20 right now is just a photocopy of the display ad, with a
21 photocopy of the affidavit of publication, which I can
22 provide to the Clerk. We have not yet received the
23 original.

24 MS. ROSS: Okay. Thank you. That will

1 suffice for today. At this point, I think I would like to
2 begin by taking appearances. And, I can begin with the
3 Company.

4 MR. CAMERINO: Good afternoon, madam
5 Hearings Examiner. Steve Camerino, from McLane, Graf,
6 Raulerson & Middleton, on behalf of the Aquarion Water
7 Company of New Hampshire.

8 MR. GEARREALD: Good afternoon. My name
9 is Mark Gearreald. I am the Town Attorney for the Town of
10 Hampton, which has filed a Motion to Intervene.

11 MR. RATIGAN: John Ratigan, appearing
12 for the Town of North Hampton, who also filed a Motion to
13 Intervene.

14 MS. HOLLENBERG: Good afternoon.

15 MR. FULLER: Henry Fuller, Town of North
16 Hampton Water Commissioners, I believe filed for
17 intervenor.

18 MS. ROSS: Mr. Fuller, do you have a
19 Motion to Intervene today?

20 MR. FULLER: We sent it in.

21 MS. ROSS: Okay. We haven't received it
22 yet. Do you have a copy with you?

23 MR. FULLER: No, I don't.

24 MR. CAMERINO: I think, madam Hearings

1 Examiner, what happened there is I know there was an
2 e-mail from Mr. Landman, who is one of the Water
3 Commissioners. And, it may be that a hard copy was not
4 sent to the Commission. But I know something was
5 communicated by e-mail.

6 MS. THUNBERG: And, the Staff can offer
7 that it does have a copy that it can copy, and submit it
8 to the clerk at the close of this prehearing conference.

9 MS. ROSS: Thank you. That would be
10 helpful. And, Mr. Fuller, you're requesting intervention
11 on behalf of the Town of Hampton Water District, is that
12 correct?

13 MR. FULLER: Water Commissioners.

14 MS. ROSS: Water Commissioners. Thank
15 you.

16 MR. CUSHING: Robert Renny Cushing.
17 And, I'm acting for myself, and also as a representative
18 with Susan Kepner, Dennis Kepner, and Michael Pierce, we
19 filed a Motion to Intervene.

20 MS. HOLLENBERG: Good afternoon. Rorie
21 Hollenberg, Kenneth Traum, and Stephen Eckberg, here for
22 the Office of Consumer Advocate.

23 MS. THUNBERG: Good afternoon. Marcia
24 Thunberg, on behalf of Staff. And, just for

1 clarification, when Mr. Fuller was responding to you, with
2 respect to the title of the intervention, it is the Town
3 of North Hampton Water Commission, just to clarify the
4 record. Thank you.

5 MS. ROSS: Before we begin with the next
6 step, which is to deal with the interventions, I want to
7 mention that we have received a number of consumer letters
8 to the Commission, both via e-mail and also some in hard
9 copy. Those letters will be kept as part of the record.
10 And, we will schedule an evening hearing, which will be an
11 opportunity for any affected customers to share their
12 concerns with the Commissioners. And, we will be
13 scheduling that as part of the procedural schedule in this
14 docket. So, I just wanted you all to be aware of that.
15 You also are free, if you would like today, after we do
16 the positions of the parties, to make public statements
17 today as well. But, in the interest of time, we'd like to
18 keep those statements short today, and just let you know
19 that you will have more time available at the public
20 hearing.

21 With that, I have intervention requests.
22 A letter from the OCA indicating it will participate; an
23 intervention request from the Town of Hampton; from
24 Mr. Robert Renny Cushing, on behalf of himself and several

1 other customers; from the Town of North Hampton; and also
2 today, as I understand it, from the North Hampton Water
3 Commission. Are there any objections to any of those
4 requests for intervention?

5 MS. THUNBERG: None from Staff.

6 MR. CAMERINO: No objection from the
7 Company.

8 MS. ROSS: Okay. Then, I think we are
9 ready to move to take initial positions of the parties in
10 this docket. And, would the Company like to begin?

11 MR. CAMERINO: Certainly. And, let me
12 first address one procedural matter, which relates to the
13 notice that was given by the Company. The order of notice
14 was a little bit different than they sometimes are, and
15 what was ordered in this case was that a display ad be
16 published, that the display ad be sent to the Company's
17 customers, and that notice be given to the Town Clerks of
18 the three towns that the Company serves. As I indicated
19 earlier, the notice -- the display ad was published in the
20 newspaper in the Portsmouth Herald and the Hampton Union.
21 The notice was also sent to all of the Company's regular
22 customers.

23 We learned recently, from the Town of
24 North Hampton, that a separate mailing was not done that

1 would have been addressed to the Town Clerk of each of the
2 towns. What happened was, the Town of Hampton, a mailing
3 was sent to the same address where the Town Clerk is, but
4 the envelope did not say "Town Clerk". The same thing
5 occurred with regard to the Town of Rye. With regard to
6 the Town of North Hampton, the address is for what's known
7 as the "Old Town Hall", the building next door, not having
8 -- not the building that the Clerk is in, and it didn't
9 say "Town Clerk". And, the result of that we think is no
10 harm, in that Hampton has intervened, North Hampton and
11 the Water commission have intervened. We have spoken with
12 the Town of Rye, and can provide you with more details on
13 that, if you'd like. But Mr. Bingaman spoke directly with
14 the Town Manager and provided a full copy of the rate case
15 filing. And, he indicated -- the Town Manager indicated
16 that he would be back to us if he needed anything further.
17 But they have been contacted.

18 I do believe there will probably be some
19 discussion, when we have a discussion about the procedural
20 schedule, in terms of any accommodation we need to make to
21 parties from a timing standpoint, because I know, from
22 conversations with North Hampton, that counsel for North
23 Hampton just learned of this in the last week or ten days,
24 that the Town officials were aware of the case, but

1 counsel didn't have a copy of the filing. And, I suspect
2 Mr. Fuller would have a similar comment for the Water
3 Commissioners.

4 So, my point in bringing this up is,
5 first of all, obviously, just full disclosure, because the
6 order of notice does say it should be "sent to the Town
7 Clerk", and that technically was not done. The envelopes
8 didn't say "Town Clerk". And, secondly, we recognize
9 that, if either North Hampton or the North Hampton Water
10 Commission feel that they're not prepared to make
11 statements today, because they haven't had the time, we're
12 certainly willing to accommodate some kind of follow-up
13 process to allow for that.

14 With that said, with regard to the
15 substance of the case, as --

16 MS. ROSS: Could I ask just a follow-on,
17 before you begin?

18 MR. CAMERINO: Yes. I'm sorry.

19 MS. ROSS: I'm just trying to make sure
20 I understand what you just indicated. Each of the towns
21 is a customer of the water company, is that correct?

22 MR. CAMERINO: I know that, with regard
23 to the Town of Rye, the Town itself is not a customer.
24 It's a precinct of the town known as "Jenness Beach" that

1 is the customer.

2 MS. ROSS: Okay. So, in the case of the
3 other two towns, as customers, they would have received
4 the mailing?

5 MR. CAMERINO: And, that's what
6 happened. And, the address was the same one that would
7 have been used for the Town Clerk, but the envelope didn't
8 say "Town Clerk" on it.

9 MS. ROSS: So, from a --

10 MR. CAMERINO: And, I want to be clear
11 that, on North Hampton, which was the party that I think
12 would say they were notified later than they otherwise
13 would have been, it went to a different building than the
14 one that the Town Clerk is in. And, that appears to be
15 why the Town Clerk itself did not see it.

16 MS. ROSS: Okay. Thank you. Sorry for
17 the interruption.

18 MR. CAMERINO: No, that's okay. As you
19 indicated earlier, the Company is seeking an increase in
20 its annual revenues of a little over \$1 million. That's a
21 21.08 percent overall increase. Of that 21.08 percent,
22 4.85 percent of that relates to what's known as the
23 "Hampton Beach Project", which was previously approved by
24 this Commission for a step increase to occur in 2006. The

1 Company did not actually implement that step increase at
2 the time, and the delay in doing so has saved customers
3 over \$400,000. And, so, that is part of this case. The
4 rate increase would increase a typical residential
5 customer's bill by about 21 cents per day. That's an
6 annual increase of \$75, would increase the typical bill
7 from \$398 to \$473.

8 This case also includes a separate step
9 increase for \$1.5 million, and that is for the Mill Road
10 standpipe replacement that you described earlier. That
11 standpipe was originally constructed in 1914. The reason
12 it's put into this case as a step is that construction is
13 just now being completed, and the plant will go into
14 service before this year is out.

15 The basic reason for the rate relief
16 that's being requested in this case is capital investments
17 that the Company has made to replace aging infrastructure,
18 undersized and aged mains, and other assets that need
19 replacing. And, since the last rate case, \$5.6 million in
20 new capital investment has been made, which, on a net
21 basis, has increased rate base by \$3.1 million. I focus
22 on the capital increases because the case, as filed,
23 reflects operating and maintenance expenses for the pro
24 forma test year -- for the test year that are only \$21,000

1 higher than when Aquarion took over the system in 2002.
2 That is a remarkable number. And, I think it's important
3 for the Commission and the parties to recognize that
4 almost the entirety of the rate relief being requested
5 here is for new capital investment that's been made.

6 Having said that, the parties should be
7 aware that the Company will be updating at least one
8 expense in particular, which relates to chemicals. It's
9 widely known that chemical costs have increased
10 substantially in the last year. And, the Company was
11 notified last month of an increase of substantial
12 proportion in its chemical expenses for water treatment
13 and the like. And, we do expect to update those expenses.

14 There are a number of other proposals in
15 this case other than the request for rate relief. One is
16 implementation of what we refer to as a "WICA", or Water
17 Infrastructure and Conservation Adjustment. The purpose
18 of that is to assist the Company in financing ongoing
19 replacements of aging infrastructure in a timely and
20 cost-effective manner. As is well known in the water
21 industry, there's a need to replace aged mains and
22 undersized mains, and that causes quite a bit of new
23 capital requirements, and, without some kind of relief for
24 the Company, would likely result in more frequent rate

1 cases.

2 The Company is also proposing a System
3 Development Charge. The purpose of that charge would be
4 to offset the cost of system improvements that are made to
5 accommodate new customers. Additional demands that are
6 made on the system for which the Company has oversized its
7 current mains in anticipation of that future growth. The
8 Company's view is that it would be good policy to have the
9 new customers who are coming on the system pay for that,
10 rather than ask existing customers to pay for it.

11 In the rate design area, the Company is
12 proposing an inclining block structure, meaning that the
13 more usage you have, the higher rate you pay on a
14 volumetric basis. With the idea being that that would
15 encourage water conservation. And, the Company is also
16 proposing a Water Balance Conservation Program. The
17 purpose of that program is to ask new developments that
18 come on the system to offset the anticipated increases in
19 water use that they create through the addition of new
20 customers by finding ways to decrease the water use of
21 existing customers through conservation measures. And,
22 what it requires is, for the new development coming on, to
23 either implement some kind of approved conservation
24 measures or make a financial contribution toward programs

1 that the Company has implemented. That Water Balance
2 Conservation Program would apply to new developments that
3 use 100,000 gallons or more per year.

4 Otherwise, the Company anticipates
5 receiving discovery requests from the Staff and
6 intervenors, and very much looks forward to working with
7 them in reaching a conclusion of the proceeding. Thank
8 you.

9 MR. GEARREALD: Yes. Thank you. On
10 behalf of the Town of Hampton, as has been noted, Hampton
11 is one of several municipalities that is served. As a
12 matter of fact, if you look at Page 5 of the testimony of
13 Mr. Bingaman, we are 76 percent of the customers, customer
14 base. And, I have no problem with the procedural point
15 that Attorney Camerino raised earlier. In fact,
16 Mr. Bingaman had given a nice presentation to our Board of
17 Selectmen on September 8th, 2008, on the proposed rate
18 increase. So, we've had ample notice of it.

19 We are not dealing, of course, on a
20 blank slate. If you would look at the -- I'd make
21 reference to the prior rate matters. First, case DW
22 05-119, that was a rate increase case that final orders
23 were issued July 18, 2006. And, then, an order
24 reconciling the recoupment for the temporary rate

1 increase, which was September 22, 2006. Then, in case DW
2 06-094, the Commission approved the acquisition of
3 Aquarion by Macquarie Group, an Australian concern, which
4 acquired it from the Kelda Group, which is a British
5 concern. So, we're not exactly dealing with a blank
6 slate.

7 Obviously, there's a concern on the part
8 of the ratepayers here with regard to the magnitude of the
9 increases coming on the heels, as they do, of those that
10 occurred in case DW 05-119. I do have a copy of the
11 Appendix A to the Settlement Agreement that was approved
12 by the Commission that I would just like to add to the
13 record at this point from that other case.

14 (Attorney Gearreald distributing
15 documents.)

16 MR. GEARREALD: As you can see from this
17 Report of Proposed Rate Changes, Appendix A to the
18 Settlement Agreement, there was classifications made among
19 the ratepayers there which resulted in different
20 percentage of changes in rate increases. The least
21 amount, as you will see in that list, was public fire at
22 16.89 percent. While, as you have mentioned, the proposed
23 rate increase here, the proposed permanent rates is
24 18.8 percent, and, then, with the step increase, goes to

1 23.25 percent. My calculation of the annual cost for a
2 municipal hydrant would go up at a 28 percent rate.
3 That's comparing the figures, the current rate that
4 Hampton pays per hydrant of \$1,190.05, to \$1,519.67. And,
5 we have 283 such hydrants. These costs are based not
6 necessarily on rate of usage, but on the fact of their
7 availability. Nevertheless, with such a dramatic increase
8 coming higher this time against the municipal hydrants,
9 that's a major concern for our municipal budgets. The
10 Town of Hampton has, for a number of years, its taxpayers
11 have voted for limited increases to government, basically
12 opting for default budgets, which are basically only last
13 year's budgets, plus government obligations that can't be
14 avoided. So, our taxpayers have limited government to a
15 great extent on what it can make for increases. And, this
16 year, our taxpayers are nevertheless going to get an
17 increase more on the order of approximately 3 percent.
18 So, such a dramatic increase for a piece of municipal
19 infrastructure of 28 percent is of great concern.

20 So, those are the factors that we
21 propose to have examined while -- during the course of
22 these proceedings. I appreciate the courtesy of counsel
23 for Aquarion providing me with the filings. And, look
24 forward to working with them and with the Staff and with

1 the Consumer Advocate. Thank you.

2 MS. ROSS: I just want to clarify. The
3 Appendix A that you've circulated, typically, we don't
4 actually take exhibits at a prehearing conference.

5 MR. GEARREALD: Yes.

6 MS. ROSS: So, I am assuming that you
7 understand that it's not part of the formal record, unless
8 and until we come to a final hearing and you introduce it
9 as an exhibit?

10 MR. GEARREALD: Correct. This -- I'm
11 basically asking that you take notice of the prior dockets
12 of the Commission in considering the scheduling and what
13 we went through timewise in connection with the prior
14 proceedings. Timewise, in the prior proceedings, the rate
15 filing in that case was July 5, 2005. And, in terms of
16 the demand upon staff and so forth, it took approximately
17 a year before that resulted in a final Settlement
18 Agreement.

19 MS. ROSS: Thank you.

20 MR. RATIGAN: Good afternoon. The Town
21 of North Hampton, having only been recently apprised of
22 this hearing today, is not in a position to make a formal
23 statement today. We ask, I guess, that the record remain
24 open for a couple weeks, so that we can make a written

1 statement, if we so desire. Although, I anticipate that
2 we'll be able to make our concerns addressed during the
3 regular procedural schedule.

4 MR. FULLER: The Town of Water
5 Commissioners just got the books today. We're still in
6 the process as we move on, but we just want an open window
7 so that we can talk about things, on day-by-day things.

8 MS. ROSS: Are you asking for two weeks,
9 as the Town of North Hampton asked, to file --

10 MR. FULLER: Yes, if we can ask for the
11 same, too.

12 MS. ROSS: Thank you.

13 MR. FULLER: Thank you.

14 MR. CUSHING: Yes. We haven't received
15 a copy of the prefiled testimony yet. But, just reading
16 what we -- reading what's been available to the public and
17 looking at the briefing that was given by Mr. Bingaman to
18 the Selectmen Board, we just have some concerns. We want
19 to explore, you know, this is the first rate case post,
20 you know, since Macquarie acquired the utility. And,
21 there's reference to a cost of service study here that's
22 being used as the basis to up the cost to the Town. And,
23 we'd like to be able to review that information and make a
24 case. We think, quite frankly, in these kind of

1 distressed economic times, it might be appropriate for an
2 examination on what the rate of return is. And, it
3 probably would be appropriate to lessen that. That's it
4 for today. And, could we have a piggyback on with the
5 Town of North Hampton for a couple weeks to add other
6 positions?

7 MS. ROSS: Okay. Thank you.

8 MS. HOLLENBERG: Thank you. The Office
9 of Consumer Advocate does not have a position on any of
10 the issues before the Commission at this time. We do look
11 forward to working with the Company, the Staff, and the
12 other parties, including the intervenors who have been
13 granted interventions today throughout these proceedings.
14 And, in addition to an analysis of the Company's proposed
15 revenue increases, we are interested in learning more
16 about their proposed -- their proposals for a System
17 Development Charge, a Water Balance Program, and a Water
18 Infrastructure and Conservation Adjustment. We are also
19 interested in exploring further their proposal for a new
20 inclining block rate, and a proposed step adjustment.
21 Thank you.

22 MS. THUNBERG: Good afternoon. The
23 Staff, in accordance with its normal practices, will be
24 conducting a thorough review of Aquarion's filing, and

1 will be prepared to make its recommendation on the issues
2 as we develop a procedural schedule and have spots for
3 filing those recommendations via testimony. As usual, the
4 Audit Staff will be conducting an audit of Aquarion's
5 books and records for the test year. Staff is aware of
6 the approximately 5.6 million in plant additions that are
7 now in rate base, and that Staff will be looking at that.
8 Aquarion has also filed depreciation testimony and a
9 depreciation study. And, Staff will be reviewing that, as
10 well as the pro forma adjustments to the test year.

11 This is not a -- or, this rate case
12 departs from a normal rate case in that it has some very
13 rate issues, and the Infrastructure and Conservation
14 Adjustment surcharge is a very interesting program or
15 tool. The System Development Charge, the Water Balance
16 Program, introduction of inclining block rates, these are
17 all very interesting issues, progressive issues, and Staff
18 really looks forward to diving into them to see if they're
19 appropriate for this, for the Company. Staff is also
20 aware of the step adjustments and will be taking a
21 position later as to the step adjustments.

22 And, other than that, Staff will be
23 meeting with the parties to this docket in a technical
24 session following this prehearing, to develop a proposed

1 procedural schedule. And, Staff expects to file that on
2 behalf of the parties in the next few days. Thank you.

3 MS. ROSS: Are there any members of the
4 public here who wish to make a preliminary statement
5 today, a public statement?

6 (No verbal response)

7 MS. ROSS: Then, I think, at this point,
8 what I will do is close the prehearing conference. I will
9 make a recommendation on the pending Motions for
10 Intervention. And, I would ask that the parties in the
11 technical session attempt to reach agreement on a
12 procedural schedule. And, to the extent that we have
13 parties here who are not regular participants in our
14 dockets, if you all would help them to understand what
15 kind of discovery opportunities and other process they
16 will have available to them, I think that would be
17 helpful. And, I would hope that Staff could prepare a
18 letter summarizing whatever agreements the parties reach
19 with regard to a procedural schedule.

20 Any other issues that we need to address
21 today?

22 (No verbal response)

23 MS. ROSS: Thank you all.

24 **(Prehearing conference ended at 2:00 p.m.)**