

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

March 25, 2009 - 6:06 p.m.
Winnacunnet High School
1 Alumni Drive
Hampton, New Hampshire

NHPUC MAY 25 '09 PM 12:51

RE: DW 08-098
AQUARION WATER COMPANY OF NEW HAMPSHIRE:
Notice of Intent to File
(Public informational hearing and
hearing to receive public statements)

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

APPEARANCES: (No appearances taken)

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

ORIGINAL

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P R O C E E D I N G S

CHAIRMAN GETZ: Good evening, everyone.

My name is Tom Getz. I'm the Chairman of the Public Utilities Commission. And, on my left is Commissioner Clifton Below and -- no, on my left is Commissioner Graham Morrison and on my right is Commissioner Clifton Below. This is a public statement hearing in Docket Number DW 08-098 concerning a proposed 21 percent rate increase by Aquarion Water Company. Also here tonight from the Commission is Mark Naylor, who is Director of our Gas and Water Division, he's in the back of the room. And, he's handing out forms, if people are interested in speaking tonight or in making a written comment to submit to us. And, also, on the left side of the auditorium, from my perspective, is Ken Traum, from the Office of Consumer Advocate. And, I know Mark will be happy to answer any questions you have about the proposal and the process. And, I'm sure Mr. Traum will be happy to speak with you as well. So, if you could please get a form from Mr. Naylor, and he'll bring it up. And, if you would like to speak tonight, I'll just call on people in the order I receive the forms.

Unfortunately, this may be Take 1 this evening. We may have to do this twice. The ads that we

1 had directed the Company to run, our order in this case,
2 and I know at least of one other set of advertisements
3 said that this public hearing tonight would start at 6:00.
4 Unfortunately, I've been made aware that there's been a
5 couple of local newspaper articles that have appeared to
6 transpose this proceeding with the ice storm proceedings,
7 and have advertised that or said in the papers that this
8 would start at 7:00 this evening. So, we'll stay at least
9 till 7:00. And, if we have to repeat some of the
10 introductory materials, and if the Company needs to repeat
11 its brief presentation, then we'll be prepared to do that.

12 But let me start with some background on
13 the Commission, then describe the process that we use for
14 dealing with cases that are brought before us. The term
15 "Public Utilities Commission" refers both to the 65
16 employees that work for the agency and for the three
17 Commissioners that you see on stage tonight, who make the
18 decisions in the cases that come before the agency. The
19 three of us will be acting in the same manner as judges in
20 this case, and we are subject to the same kinds of rules
21 as judges. And, among other things, we are subject to ex
22 parte rules, and that means that we cannot talk about the
23 merits of an ongoing case with anyone outside the
24 Commission, except when there is notice and opportunity

1 for all parties to participate. Tonight is one of those
2 situations, and other opportunities will be at the
3 adjudicative hearings that we hold in Concord at the
4 Public Utilities Commission.

5 As for the process used in this case,
6 and all cases before the Commission, it is a formal
7 judicial-style proceeding, that includes written and oral
8 testimony, discovery, cross-examination, briefs, and
9 ultimately a written decision by us, that is subject to
10 rehearing and appeal to the New Hampshire Supreme Court.
11 It is similar in many respects to what occurs in a typical
12 civil trial. For this case, Aquarion filed a petition on
13 August 29, 2008, asking that we approve a request to set
14 temporary rates, which would have increased rates by
15 12 percent effective September 26, 2008, as initially
16 proposed by the Company, and it also seeks to increase
17 permanent rates by approximately 21 percent.

18 We held our initial procedural hearing
19 or prehearing conference in Concord on November 5, 2008.
20 And, based on that prehearing conference, we approved a
21 procedural schedule that provided for a hearing on
22 temporary rates, which was held on January 13, 2009, and
23 it also provides for hearings on the permanent rates,
24 which will be held in July. Petitions to intervene were

1 also granted for the Town of Hampton, the Town of North
2 Hampton, the Town of North Hampton Water Commission, and
3 for Mr. Robert Cushing, who is a State Representative from
4 Hampton.

5 On February 13, 2009, we issued an order
6 that approved temporary rates that resulted in a
7 7.65 percent rate increase effective February 1 of 2009.
8 Now, under the statutes that govern the actions of the
9 Public Utilities Commission, RSA Section 378:27 provides
10 for a temporary rate increase when a utility demonstrates
11 that it is not earning its allowed rate of return. And,
12 in the temporary rate hearing, we concluded that the
13 Company was not earning its allowed rate of return.

14 Ultimately, based on what we find as a
15 result of the hearings in July, there are three possible
16 outcomes: Rates as approved for February 1 could be held
17 the same; those rates could be increased above the
18 7.65 percent; or, they could be decreased and a refund
19 ordered.

20 At present, the Consumer Advocate,
21 Commission Staff, and the other parties are conducting
22 discovery, which means that they are asking the Company
23 questions about its testimony and its exhibits and
24 requesting documents. The answers to those questions and

1 the documents will be the basis for those parties to file
2 testimony on their own, and eventually will provide them
3 the basis to cross-examine the Company when we get to
4 hearing.

5 And, I'd like to emphasize one very
6 important point about the process and our role, which is
7 this: We, the three Commissioners, have formed no opinion
8 on whether the petition to increase permanent rates by
9 21 percent should be approved or denied. And, in fact, we
10 should not do so, and that is the case. Our job is to
11 hear all of the evidence, and then make a decision based
12 on that evidence that is presented to us.

13 Now, as part of the procedure in this
14 case, we scheduled the public statement hearing this
15 evening. And, I'd like to explain the purpose of a public
16 statement hearing. First, we're going to ask the Company
17 to briefly explain its request. We expect there are many
18 questions that you have about the request, and we are
19 hopeful that the Company's presentation will give you
20 answers to some of those questions. Tonight, however, is
21 not the occasion to cross-examine the Company about its
22 proposal. Nevertheless, the Company is prepared to stay
23 after we close the formal part of the proceeding and try
24 to answer individually any questions that you may have

1 about their proposal.

2 The second purpose for tonight's public
3 statement hearing is an opportunity for you to tell us
4 your concerns about the request and to recommend to us
5 areas that you think we should be examining as part of
6 this case. Anyone who is here tonight who would like to
7 speak will be given the opportunity. You will not be
8 under oath and you will not be subject to questions. And,
9 while the statements that are made tonight do not
10 constitute the kind of sworn evidence that is subject to
11 cross-examination that can ultimately be the basis for our
12 decision, our experience has been that your comments prove
13 helpful in identifying issues and areas that our Staff can
14 investigate and that the Consumer Advocate can investigate
15 during the discovery phase and pursue through their
16 testimony and cross-examination. And, it also has proven
17 helpful to us, as Commissioners, to hear your questions
18 and concerns to help us prepare lines of questions that we
19 ask when we get to hearing. At the hearing, like a
20 typical trial, there will be cross-examination of all
21 witnesses on all sides, but the Commissioners take an
22 active role in questioning of the witnesses.

23 So, that's what we're hoping to
24 accomplish tonight. Mr. Patnaude, our stenographer, our

1 court reporter down front, will be recording comments and
2 compiling a transcript. When I call your name from the
3 sheets that Mr. Naylor provides me, I'll just go through
4 the list, and if you can come down and speak at the podium
5 and identify yourself, and then we'll be able to make a
6 full transcript of the proceedings tonight.

7 So, at this time, with those
8 introductory remarks completed, I would turn to the
9 Company. And, I believe Mr. Hibbard is going to make a
10 brief description, a summary of the Company's request.

11 MR. HIBBARD: Thank you,
12 Mr. Commissioner, thanks to the Commission, and thank you
13 for all showing up tonight. We appreciate you taking the
14 time to come and let the Commission and let us know of
15 your concerns and thoughts around this whole matter. As
16 the Commission has stated, this is not really intended for
17 us to talk to you, but rather for you to talk to the
18 Commission and to talk to us. However, we're going to put
19 on a brief presentation to just kind of show you the
20 outline of the rate case and why we're pursuing it.

21 This is our service territory, which you
22 can see the green areas are the areas where we provide
23 water, in Rye, North Hampton, and Hampton. This is an
24 overview of our system. We have 17 wells that, on

1 average, produce slightly under two and a half million
2 gallons per day. We have distribution and storage
3 facilities. In addition, we have 136 miles of
4 distribution water mains and four storage tanks, including
5 one that we replaced in 2008 that replaced a 70 year old
6 tank.

7 Roughly, the way the rate setting
8 process goes is that the Company, in order to maintain the
9 quality delivery of water, invests in the system. It's,
10 as you can imagine, it's old pipes, old water mains, and
11 they constantly have to be upgraded. So, we spend that
12 money to keep the water quality consistent with the
13 requirements of state law and what you deserve. And,
14 then, at certain periods, we come to the Public Utilities
15 Commission and ask them to approve a rate hike that will
16 allow us to get back the money that we've put into the
17 system.

18 The other piece of the rate procedure is
19 that we try to recover and look forward on increased
20 costs. Now, as you all know, virtually everything, the
21 cost of virtually everything has gone up in the last three
22 years. Our last rate hike was in -- was three years ago,
23 and since then we've invested \$5.6 million in the system
24 that I showed you. In addition, costs of virtually

1 everything have gone up, as everyone knows. You know,
2 most companies, when their costs go up, they raise their
3 prices. From the bottle of milk, to the refrigerator you
4 put it in, I mean, they just raise their prices. And,
5 that's not an option for us, because we're a regulated
6 utility, we have to wait for permission from the Public
7 Utilities Commission to raise prices because of increased
8 costs. And, that's why we're here. Needless to say, the
9 costs of fuel and chemicals and health insurance, wages
10 for our workers, have all gone up in the last three years.

11 The final piece of our rate request
12 includes some ideas on restructuring the way rates are set
13 going forward, and I will get to those later in the
14 presentation. This is the impact on your average
15 residential customer using 67,000 gallons of water per
16 year. As you can see, it's 21 cents a day, less than \$7
17 per month, less than \$20 per quarter, and a little over
18 \$75 per year. The percentages sound a lot larger than the
19 actual impact on everyone, which is, again, \$75 per year.

20 These are the capital improvements that
21 we've made since the last rate case. We have -- We're
22 constantly putting money into pipes and valves and meters
23 and hydrants, and we also built the new tank down at the
24 beach that everyone saw a picture of earlier. We've

1 invested over a million dollars in supply, which involves
2 investments in pumps and pumping equipment, and also
3 searching for new supplies of water. We have, again,
4 there's less than \$50,000 invested into the capital
5 equipment we use to treat the water, and another 65,000 in
6 the pumping, and 190,000 in vehicles and computers and
7 other assorted items.

8 The other proposals that I mentioned,
9 the first one is a System Development Charge. And, in
10 essence, that proposal, any new customer coming on, it has
11 to pay a connection fee, essentially. And, the reason for
12 that is that we either have already enlarged the system or
13 will need to enlarge the system to accommodate growth and
14 to accommodate new customers. And, rather than having
15 existing customers bear that, we're proposing that there
16 be a charge for new customers, so that they bear their
17 proportionate share of the improvements we've already made
18 or the improvements we'll have to make to accommodate the
19 growth.

20 The second piece is a Water Balance
21 Plan. That requires large -- new large customers, and
22 those are customers using more than 100,000 gallons per
23 year, to either invest in water conservation measures or
24 to invest in finding new sources of supply to accommodate

1 the strain that's put on our current water supplies.

2 The third proposal in our rate
3 application is a Water Infrastructure Conservation
4 Adjustment. This is essentially a proposal that, rather
5 than waiting three years, that we -- the Company be
6 allowed to go to the PUC and request that they approve
7 interim capital improvements, so that the increase in the
8 charges to cover those capital improvements is more
9 gradual. It lessens the rate shock that consumers have to
10 endure, and it also conceivably lessens the regulatory
11 charges, the expenses the Company has to incur, and the
12 expenses the State has to incur in these procedures.

13 And, finally, is we propose conservation
14 rates, and this was suggested by the Department of
15 Environmental Services. And, the idea of that is, after a
16 certain point, your water becomes more expensive. And,
17 the aim is to prompt people to conserve water, knowing
18 that, after a certain point, it will cost them more.

19 The one last piece that we want to point
20 out is there's a Fire Protection Charge that we've asked
21 for an increase of. The Fire Protection Charge covers not
22 just hydrants. It's very often referred to as a "Hydrant
23 Charge", and that's somewhat misleading. It covers the
24 entire systemwide accommodations that have to be made.

1 The pipes have to be larger, the supply has to be larger,
2 the pressure has to be larger to effectively fight fires,
3 than it would need to be simply to service residential
4 customers. So, that those costs are invested by the
5 Company, and their maintenance is expensive. And, the
6 Fire Protection Charge is not simply to water customers,
7 but it's actually to the municipalities who enjoy that
8 fire protection. Many taxpayers in those towns may not be
9 water customers, but they still enjoy the benefit of
10 protection against fires and the water to put fires out.
11 And, so, that is charged to the towns, and, through the
12 towns, to every taxpayer.

13 We really appreciate you coming out
14 tonight. And, when this is done, as the Commissioner
15 noted, a few representatives of the Company will be
16 available to answer any questions you might have. Within
17 the hearing, we're not actually available for questions.
18 Again, like I said, this is mostly a matter of you talking
19 to the Commission, and we'll be listening. And, we
20 appreciate you coming out to let us know how you feel.
21 Thanks very much.

22 CHAIRMAN GETZ: Thank you. And, the
23 first speaker we have is Fred Rice.

24 MR. RICE: Commissioner, I'm not

1 following you around town. I was up last night at the
2 public hearing up in Exeter concerning the ice storm.
3 And, again, I appreciate your folks being willing, and
4 you, as the Commissioners especially, being willing to
5 come out personally and listen to what everybody has to
6 say. I know it takes a lot out of your schedule, but
7 that's your job, but we do appreciate it.

8 I was on the Board of Selectmen a number
9 of years ago and we had public hearings where we did ask
10 questions of the utility companies when they came in.
11 And, the thing that sticks in my mind from that is the
12 fact that the entire -- all of the questioning, what we
13 got back was -- we didn't have any of the people who did
14 the operating in the company, we had just the attorneys.
15 And, they sat on this very same stage, and we sat here in
16 the audience, and every time we asked a question the
17 answer always seemed to be "Well, we're only doing what
18 the federal law allows us to do." And, that seemed to be
19 the answer for everything. It wasn't whether it was the
20 right thing to do or anything else, it seemed that it was
21 just "We're doing it because we can." And, it was kind of
22 like thumbing their nose at us, was almost the attitude
23 that everybody walked out of here with. We just had that
24 feeling that there wasn't an understanding that there were

1 real concerns coming from the people. So, I'm glad to see
2 that you're listening tonight, and that you can talk to
3 the utility company later on. And, I hope that there is a
4 better realization of this concern that we have.

5 One of my concerns, I've got a number of
6 concerns on this, and one is that the procedure by which
7 the utility company goes in for their rates. They operate
8 the system, understandable. They go out and put in
9 whatever they deem is necessary for the operation and the
10 increase and so forth. There's no input from the public
11 on that, there's no input from the towns that they serve
12 on that. And, then, they say "this is what we got." And,
13 then, to simplify it, they come back and say "Okay, we did
14 this. Pay us." And, that's kind of what we're stuck
15 with. We're kind of stuck with what they give, other than
16 if you have a hearing like this. There's not really a
17 check and balance on what they're doing.

18 The towns, before they can go out and
19 spend the money, all the towns have to go out, and in this
20 same room here, we have our deliberative session, we vote
21 on a budget and we vote on warrant articles to get
22 specific things done. And, that at least is a means of a
23 back-and-forth. We have hearings all along the way as
24 this is developed, not after-the-fact. It's not a matter

1 of "Well, we built a new road here or we bought a new
2 snowplow or a new fire engine. Now, we'll come and talk
3 with the Town about whether we should be able to pay for
4 it or not." Here, it's a done deal; with the towns, it's
5 not.

6 If the procedure lent itself more to
7 some type of input or give-and-take with the customers
8 before these things are done, a couple of things would
9 happen. We'd have more of a feeling of participation in
10 it and we'd have more of an opportunity to challenge
11 things as to whether they were really necessary this year
12 or maybe they needed to be put off or there could be some
13 type of negotiation. I think that would be a plus on both
14 sides. I think that would be a win/win.

15 A couple of other things that are
16 possible. I think that the rate of return, one of our
17 selectmen mentioned to me tonight, we're looking at an
18 8 percent rate of return or thereabouts. That's pretty
19 high in these economic times. That might have been good
20 when this was set a couple of years ago. Right now,
21 within the last couple of months, as everybody knows, the
22 economy has gone to hell in a hand basket. And, we've
23 certainly got more than our share of economic woes. And,
24 to sit here and say "We want to get back what we had what

1 was established a couple years ago", when the economy was
2 kind of fat, that may not be the best way to go. And, I
3 wish you would review that.

4 The percentage of increase, all at once
5 right now, to be asking for a 21 percent permanent
6 increase, that's an awful lot, especially in these times.
7 The amount that was stated as the increase is about \$75 a
8 year, and these are rough figures, \$75 a year if you used
9 67,000 gallons a month. Okay. But, then, as a separate
10 item, he came back and said "Well, we're going to have a
11 conservation fee, that if you use more than 11,000 gallons
12 a quarter, we're going to increase that by 12,000 -- by
13 12 percent. So, you're automatically, you have jumped, if
14 you use that 67,000, your bill is not \$75 increase a year,
15 it's an increase of about \$85 a year. So, you know, we've
16 get all these hidden components in this thing. By the
17 time a little bit here gets added on and a little bit
18 there gets added on, we really end of taking it right in
19 the ear. It gets to be burdensome. It is particularly
20 burdensome right now that we see a company that, because
21 they were told several years ago that they can get an "X"
22 rate of return, that in this times, these economic times,
23 that they insist on getting the same thing, because they
24 can. It's the same kind of attitude that we got several

1 years ago when we had the lawyers up here.

2 I think it would be good if there were a
3 -- if the utility came to, through the PUC, if necessary,
4 come to the towns and worked together with the towns to
5 set up a budget. You know, the towns themselves have to
6 set up a capital budget. We may have a lot of things,
7 like a new school or a new building or a new, in this
8 town, we've got fire stations and police stations and fire
9 trucks and all kinds of vehicles, and we put these into a
10 capital budget, and we spread them out over the year so
11 that the increase is a little easier. It's a heck of a
12 hit when you get hit with 20 some percent all at once, and
13 it stair steps up. Smaller increments negotiated with the
14 towns over time would be a much more acceptable way to do
15 it.

16 So, in your -- your three options that
17 were described that you have, I hope that you will
18 certainly not take the option of granting the full rate
19 increase at this time. The economy and the customers just
20 can't handle it, nor can the towns. This town is getting
21 hit with the State Retirement Fund stuff and everything
22 else, and we've still got to pay, you know, we've still
23 got payments for the fire service and so forth. But all
24 of these things are a heavy burden on the towns.

1 Until such time as the utility can
2 demonstrate that it has exercised and implemented internal
3 constraints, significant internal constraints, in
4 salaries, in benefits, in all of their operating
5 expenditures, they should not be asking us to foot the
6 bill as if it was business as usual. Thank you very much.

7 CHAIRMAN GETZ: Thank you, Mr. Rice. Is
8 it Art Gopalan?

9 MR. GOPALAN: Yes. Good evening.
10 Thanks for the opportunity to speak to you. Some of my
11 comments are going to be somewhat duplicative of what
12 Mr. Rice said, but nevertheless I prepared a statement, so
13 I will just read it. I've lived here in Hampton since
14 '84, and Hampton is a nice place to live. I'm not here to
15 purely dump on Aquarion Water Company, but merely to voice
16 my concerns about the steep rate changes requested, and to
17 offer some recommendations to alter the course. It's no
18 secret that Aquarion Water Company is a state-sanctioned
19 monopoly. The control of that monopoly is exercised by
20 the PUC. In that process, the ratepayers are relegated to
21 a lower tier based on the assumption that PUC is acting on
22 behalf of them.

23 What I am proposing here is to assign a
24 stronger voice for the ratepayers in the operating process

1 of PUC and Aquarion Water Company. It will enable more
2 realistic evaluation of costs, and hence a reasonable and
3 more rational rate increase.

4 Number 1. The rate of return guarantied
5 of almost 9 percent is unrealistic. The rate of return
6 must be set more frequently than once every two years.
7 The rate of return must be on par with municipal bond
8 market yield or prime interest rate plus 2 percent.

9 2. The ratepayer must have the
10 opportunity to review the proposed capital improvements
11 and major maintenance that requires capital expenditure by
12 Aquarion and approve the same before their execution. The
13 rate of return must also be listed at that time. In the
14 current process, the ratepayer has no idea of proposed
15 improvements or additions until it comes up for a rate
16 increase request. One of the criticisms, perhaps, of the
17 proposed changes that I'm forwarding here will be that it
18 will slow down the process. However, it would require
19 Aquarion to generate long range plans and table each
20 project from that collection about a year or earlier for
21 its execution based on the need. PUC must have a set of
22 scorecards or metrics filled out by Aquarion concerning
23 the project and its financing to convince the ratepayers
24 to approve it.

1 Number 3. If the ratepayer is asked to
2 amortize the capital expenses incurred by Aquarion, then
3 the ratepayer must own the facilities, since they have
4 paid Aquarion back, including the rate of return. You
5 cannot have Aquarion to continue to own the
6 infrastructure, once the Aquarion is reimbursed through
7 the rates their customers pay. If Aquarion Water Company
8 were to operate as any other competitive enterprise, it
9 can continue to own the infrastructure, although it would
10 have been paid for by its customers through their purchase
11 of water, where the unit price is determined by the
12 marketplace. Aquarion Water Company is operating in a
13 protected environment. The ratepayer not only pays for
14 the infrastructure, but also pays for the operating
15 expenses, with profit, which are separated from the
16 capital improvement costs.

17 Number 4. Once the facilities are in
18 place, Aquarion will become an operator of those
19 facilities satisfying the condition as outlined in Step
20 Number 3 above. From that point on, the operation of the
21 system must be released on a contract basis for three or
22 five years. Other operators must be allowed to bid for
23 the operating -- operating the ratepayer-paid Aquarion
24 systems on a competitive rate basis. Without competition,

1 the system will not benefit the ratepayers.

2 Number 5. Water is not plentiful in the
3 Seacoast area as evidenced by frequent difficulty during
4 the summer seasons. I am all for conserving the use of
5 water. However, I do not think that the new developments
6 that require water use can be handed out without requiring
7 the developer to bear all the associated incremental
8 costs. Certain portions of the incremental costs, such as
9 expanded physical facilities, should not be spread over
10 the ratepayer base.

11 I recognize that some of the above items
12 may be beyond the purview of PUC and may require state
13 intervention with appropriate legislation. However, we
14 need that kind of change in direction in order to make a
15 meaningful, cost-effective, customer-friendly water
16 delivery system.

17 Nibbling at the edges of the current
18 PUC/Aquarion partnership is akin to changing curtains to
19 give the room appearance of a fresh look. The 21 plus
20 percent rate increase request is unrealistic in my
21 judgment. Thank you.

22 CHAIRMAN GETZ: Thank you. Sharon
23 Fontaine.

24 MS. FONTAINE: Hi, again. I was at the

1 meeting last night also --

2 FROM THE FLOOR: Could you speak into
3 the microphone.

4 MS. FONTAINE: Hi, again. I was at the
5 meeting last night, too, in Exeter. I'm a resident of
6 Hampton, as I said last night, and I'm a single mother
7 working three jobs. So, with this rate increase, it's
8 going to put more of a burden on myself to keep my
9 household going. And, I know improvement is a good thing,
10 but, at a 21 percent increase, it's unrealistic. And, I
11 feel, haven't we learned anything from the Wall Street
12 dilemma, that sometimes people in management reap rewards
13 financially, and the trickle-down effect is to the
14 consumer, and we get hurt sometimes from that rate
15 increase. We can't afford another increase. And, that's,
16 once again, another big expense from another utility.
17 And, I can't imagine those in charge will be gaining
18 profit. We must be careful not to overcharge consumers,
19 with so many of us struggling to make ends meet.

20 And, I do agree with improving water
21 quality, but let's not forget or lose sight of the big
22 profit and the big problems for all those involved. And,
23 I don't know, that rate increase, I wouldn't want that on
24 my conscience. Thank you.

1 CHAIRMAN GETZ: Thank you. Christie
2 Conrad.

3 MS. CONRAD: Yes. Christie Conrad. I
4 live at 395 Winnacunnet Road, in Hampton. A couple of
5 things I'm curious about, have to do with the ownership of
6 the Company, and trying to figure out who it is that
7 really owns it. I think that -- I hope that the Consumer
8 Advocate is peeling away at the layers here, because it's
9 my understanding that it's actually owned through various
10 layers out of the United States, and in Australia,
11 specifically, is what my understanding is of it. And, so,
12 I think that that needs to be addressed, that you need to
13 look, and I'm sure you are, look a little bit further than
14 just, you know, what the ownership structure is here and
15 where the costs are here, but, in fact, back to the true
16 owners of the Company.

17 I think that I have greater concerns,
18 and I would think that, as a PUC, you might also have
19 concerns about ownership of our water. I know that, in
20 other instances where there are multinationals that own
21 local water, it becomes more profitable for them to bottle
22 that water and ship it out of the area and make more
23 profit off of that water. And, that's a concern that I
24 have about the direction that this might go.

1 I also -- I work with low income people.
2 And, I know that many of them are not homeowners, but, in
3 fact, rent, but they pay utilities. And, I think that the
4 impact on them is something to consider as well, that it's
5 not just a homeowner, but renters are impacted by this.
6 And, I think that that's an important element to what goes
7 on here, and I don't think that 21 plus percent is
8 reasonable.

9 Again, I agree, this is a protected
10 environment. There aren't the checks and balances that we
11 might normally have in the free market. And, it feels
12 like it's not -- it's not set up in a way that allows for
13 consumers to have much control over.

14 Another question I have is, what will
15 Aquarion do if they don't get the 21 percent? What does
16 it mean for them? What does it mean for us, if they don't
17 get that?

18 The other thing that I wanted to say is
19 that Representative Cushing, who is an intervenor, he's
20 got a petition to intervene in the case, is not here
21 tonight as a result of he's in the Legislature, and
22 they're in session tonight until late this evening. He
23 and Representative Kepner, Susan Kepner, who I believe is
24 also part of that intervention, are both there in Concord

1 and couldn't be here tonight.

2 CHAIRMAN GETZ: Thank you. Jerry --

3 MR. ZNOJ: Yes, Znoj.

4 CHAIRMAN GETZ: Yes, I couldn't read the
5 last name.

6 MR. ZNOJ: I know you couldn't pronounce
7 it. That's why when you said "Jerry", I said "right
8 here". Good evening to the Commissioners. I have two or
9 three points. I'm a resident here, and a Hampton
10 Selectman as well.

11 CHAIRMAN GETZ: Actually, could you just
12 spell your name or pronounce it for Mr. Patnaude, because
13 I --

14 MR. ZNOJ: Znoj.

15 CHAIRMAN GETZ: "Znoj". Thank you.

16 MR. ZNOJ: Z-n-o-j. Yes. This double
17 digit rate increase that's now being sought follows on the
18 heels of another double digit rate increase that we had
19 only two years ago; 18.64 percent back in July of 2006,
20 and now 21.08 percent this time. I believe that this --
21 these amounts, in their absolute sense, is too large.
22 Second of all, I think that the rates, the number of times
23 they're coming before us and asking for rates are too
24 frequent. Prior to this, these last two increases, one

1 occurred six years, and the one before that eight years
2 before that. So, I'm concerned about the amount of rate
3 increases that are being asked and the frequency of the
4 rate increases.

5 The second point I'd like to make is,
6 you know, we got employment 9 to 10 percent, investors
7 have lost anywhere from 40 to 50 percent in their
8 portfolios, 401(k) programs. And, I would like the
9 Commission to think about what a reasonable rate of return
10 is these days, and take another look at what
11 "reasonability" is. Like I'm earning two percent on
12 certain bonds right now in my state value [sic] fund or my
13 money market funds. And, that's very reasonable,
14 considering today's situation, because most people are
15 losing mean by 10, 20, 30, 40 percent.

16 And, lastly, this parent company of
17 Aquarion Water Company of New Hampshire is an Australian
18 bank, which acquired Aquarion Water Company by indirect
19 acquisition, approved by this Commission October 31st,
20 2006. And, it is only fair to the taxpayer -- the
21 ratepayers here to have this Commission inquire into the
22 financial stability of this bank which owns the Macquarie
23 Group, which owns the -- which Macquarie Utilities is a
24 part of, and Macquarie Utilities owns the shares of

1 Aquarion Water Company. I would ask the Commission to
2 look into the health of all these business entities,
3 corporate entities, and also the salaries of the
4 executives, to assure that we have the right motivation
5 occurring here, as to why these rates and these rate
6 increases are being requested. Thank you.

7 CHAIRMAN GETZ: Thank you. Richard
8 Nichols.

9 MR. NICHOLS: Thank you for coming,
10 appreciate the opportunity. Name is Richard Nichols. I
11 live at 9 Great Boars Head Avenue, in Hampton, and I'm
12 also a Hampton selectman. My understanding is, in July of
13 2006, there was an 18 percent increase. And, I understand
14 that this proposal is apparently for another 21 percent.
15 I'm not familiar with the business of running a water
16 company. However, the thing that struck me is that the
17 rates are based on an 8.8 percent return on investment.
18 That seems like an exceptionally high return to me,
19 relative to my perception of the risk. I don't see that,
20 when they build a water tower, that there's a high level
21 of risk as to whether or not they're going to lose
22 principal from that or whether or not there's going to be
23 a requirement from the marketplace, *etcetera*.

24 If you want to compare it to other

1 areas, for example, the New Hampshire Retirement System
2 also happens to use 8 percent in their actuarial
3 calculations for return on investment. The corresponding
4 risk there, they have actually lost 30 percent of their
5 portfolio in the first four months of this fiscal year.
6 And, that's based on an asset allocation of 45 percent
7 domestic equities, 15 percent international, and
8 40 percent fixed investment vehicles. This 8.8 percent is
9 higher than what they're expecting, and obviously we saw
10 that they're paying a price now for the risk that they
11 took.

12 I don't remember, I think you have to go
13 back to the early '80s to find a time frame where you
14 could get a return like 8 or 9 percent on a fairly low
15 risk investment. I think returns going forward --
16 anticipation of investment returns going forward are going
17 to go down. I mean, we're in an environment of 6.4
18 percent contraction of GDP. I think we expect contraction
19 for a while. I don't think we're going to see growth come
20 back to 4 and 5 percent levels. So, if you're looking at
21 it from the standpoint of Macquarie, the Company that owns
22 Aquarion, 8.8 percent, putting that burden on the rate
23 holders is just, hey, if I can get in on that, if I can
24 get an 8.8 percent return based on my perception of the

1 risk, that's a great deal.

2 One other factor, I don't know if this
3 enters into it, but somebody mentioned the sale of bottled
4 water. I don't know that they're doing it or planning on
5 doing it or whatever. But I do know is they have got a
6 program called the "Safety Valve Program". And,
7 essentially what that is is it's sold by Aquarion, to
8 their customers, the charge is \$60 per year, which is
9 reasonable, I actually participate in that, I think it's a
10 good deal. I can tell you that there's 9,200 assessed
11 properties in the Town of Hampton, I don't know what
12 percentage actually have water service. And, I don't know
13 what the market penetration is of Aquarion with the Safety
14 Valve Program, but I suspect it's high, at an attractive
15 \$60 price. But I also would anticipate, based on a very
16 low frequency of a claim, that there's probably some
17 fairly high margins, for example, 60 times 8,000 is
18 480,000. And, with some very infrequent claims, I would
19 suspect that could be a very significant number, perhaps
20 six figures, in terms of gross margin, in relation to what
21 I understand is about a \$5 million revenue level for
22 Aquarion.

23 So, I think that -- I don't know what
24 the legalities are, but I would think peripheral

1 businesses that directly tie to the financials that
2 directly come into the water company evaluation I think
3 should be something that is somehow considered. Thank
4 you.

5 CHAIRMAN GETZ: Thank you. That's all
6 the forms that I've been given. Sir, did --

7 MR. SPINELLI: I got here a little late.
8 Do you have to register to speak?

9 CHAIRMAN GETZ: Yes. Basically, if you
10 just want to come up and speak, and just state your name
11 for the court reporter, and we'll get the details later.

12 MR. SPINELLI: Yes. My name is Mike
13 Spinelli, from Rye, New Hampshire. I moved here from
14 Windham. And, I was shocked when I got my first water
15 bill. And, the reason was, I learned, as I did a lot of
16 analysis, because I used to work for public utilities
17 years ago, and I know about the rate of return and so on.
18 But every other place I lived I paid for my consumption.
19 And, when I got Aquarion's bill, it had consumption, and
20 another column said "rental of meter". So, I called up
21 and I said "Well, gee, I don't want to rent a meter. I'll
22 buy one. It's only \$200 a meter. Why am I paying \$400 a
23 year to rent it?" I was told that "that's only a
24 fictitious figure, that it's just the way the rates are

1 delivered to you." So, if I cut -- and they had set me up
2 for a one and a half inch meter, which is like a
3 commercial. So, then, I'm having it cut right now down to
4 one inch. But I still feel the rates are exorbitant
5 compared to what Rye Water District charges.

6 But I think I'm a little bit more
7 concerned about the fact that what I did read, it said
8 that, because of a \$5 million expenditure, this rate
9 increase was necessary. And, I happen to have a degree in
10 accounting. And, I said to myself, "why would you take a
11 permanent 20 percent increase forever, to pay off a
12 one-time expenditure?" It's seems to me, if it -- if we
13 were forced to accept it, then I would say it should be
14 limited to when that thing is paid off. You know, it's
15 not like a highway toll, where they continue it
16 indefinitely.

17 And, I do, as I say, I worked in public
18 utilities, I worked in accounting, I worked for New
19 England Gas and Electric years ago. And, we all
20 understood that we had to keep our profits down because of
21 this rate of return. And, I'm not sure, I just heard the
22 figure a few minutes ago, it's 8 percent or so, which
23 seems reasonable. But my only -- I think the only thing I
24 really would like for you to carry away from what I've

1 said is the fact that, if this increase is based on a
2 one-time expenditure, then why is it an eternal increase.

3 And, number two, I'd like to see someone
4 look at the fact that we could pay only for the water we
5 use, and not for renting meters. Thank you.

6 CHAIRMAN GETZ: Thank you, sir.
7 Ms. Woolsey, did you want to speak?

8 MS. WOOLSEY: Good evening, gentlemen.
9 Thank you for coming to Hampton to hear us. I had the
10 privilege of appearing before you a couple of years ago
11 when you were here to told your hearing on the acquisition
12 by Macquarie. In the spirit of full disclosure, I have
13 served as a member of the Hampton Water Works Advisory
14 Council, and I currently serve on the Aquarion Customer
15 Advisory Council. No compensation. I'm also Chairman of
16 the Municipal Budget Committee. And, I can tell you, from
17 my over 30 years of experience in municipal government,
18 that no one ever wants to pay more for anything. And, I
19 understand that a rate increase will impact our property
20 taxes as well as because of the increase in the cost of
21 the hydrant rental, and the hydrants do provide the
22 unmetered water supply for fire suppression that we need
23 for this community.

24 We happen to be fortunate enough to be

1 part of perhaps a quarter of the world's population that
2 has access to a clean, safe water supply, but that comes
3 with a price tag. It's not only good for our health, but
4 it helps with our ISO rating, which, since I sell
5 insurance for a living, I'm very aware of the impact of
6 the ISO rating, which our water supply is factored at
7 40 percent of the ISO rating for this town. And, Hampton
8 has been very fortunate to maintain a Level 3 ISO rating
9 for many years. So, our fire department and our public
10 are very fortunate to have the consistent, large capacity
11 water system that we have.

12 We're faced, as a community and a
13 nation, with the staggering consequences of years of
14 failure to maintain and rebuild our vital infrastructure.
15 The gentleman who spoke just before me was talking about a
16 one-time \$5 million expenditure. Quite frankly, as I
17 understand from our meeting last fall with Aquarion,
18 before Mr. Bingaman left, Aquarion plans on an orderly,
19 ongoing reconstruction and maintenance of the water
20 system. They have proved that they're committed to
21 maintaining the physical plant. They completed the
22 project at Hampton Beach, and that was done at the time
23 when the Town of Hampton spent \$17 million on
24 infrastructure reconstruction at the Beach, and Aquarion

1 spent another, I think, 1.5 million to construct --
2 reconstruct the water lines down there, which were very
3 old, and that was done in conjunction with the
4 infrastructure project.

5 The Little River Road Project, Mill Road
6 in North Hampton rebuild, and the new larger capacity
7 holding tank that you saw on Mill Road. I can speak to
8 the Little River Road Project, because that was done
9 basically at my request. The Town of Hampton was ready to
10 commit \$350,000 to reconstruct Little River Road. And, I
11 approached then I believe it was Hampton Water Works at
12 that time, and said that, if they were going to
13 reconstruct the road with all that money, and we were
14 constantly having blow-outs at the bell joints, it was an
15 old iron pipe, I thought it was put in when the Pilgrims
16 landed, but apparently it was '50s vintage. And, it was
17 causing -- blow-outs in water mains can cause tremendous
18 damage. And, since we had had three within the space of
19 several years, the water company did agree to reconstruct.
20 They not only reconstructed all of Little River Road, and
21 I don't know the cost, but they picked an excellent,
22 excellent contractor. It's very traumatic for a
23 neighborhood when you have a whole neighborhood ripped up
24 for a new water line going in. So, I feel they have been

1 very, very responsible.

2 In addition to the administration and
3 maintenance, it's also expensive to identify and bring on
4 new wells to enhance the water supply to an increasingly
5 heavily populated area. I had the privilege, while
6 Hampton Water Works still owned the company, of going on a
7 field trip that we took to North Hampton, when the Company
8 was experimenting with drilling the big rock -- the deep
9 rock wells up there. That has to be a very, very
10 expensive proposition. And, most of our wells in Hampton
11 and in the Seacoast area, as I understand it, are
12 gravel-packed surface wells. And, the demand for water
13 around here is tremendous. So, that has to be a burden,
14 locating new sources of water, and paying for them.

15 I did question your decision a few
16 months ago to allow FairPoint to take over Verizon's water
17 -- phone system. But I did find that, during the ice
18 storm, and I didn't make it to Exeter last night, I saw
19 FairPoint and Comcast trucks all over the place, and I
20 never saw a Unitil truck until at least a week after the
21 beginning of the outage. And, the two things that worked
22 in my house for the five days that we were sitting there
23 freezing to death were my land line phone and the water.
24 And, once again, from an insurance perspective, we were

1 able to keep the water running so the pipes didn't freeze
2 when the temperature in the house got down to 28 degrees.

3 I'm not qualified to say "yes" or "no"
4 to a proposed increase or to judge whether the rate
5 increase is justified at all. I will rely on your
6 professional judgment. And, after a review of all the
7 facts, I count on you, because you are the professionals,
8 to make a rate structure decision sufficient to meet the
9 future needs of this system and to sustain a first class
10 water supply. Thank you, gentlemen.

11 CHAIRMAN GETZ: Thank you. Was there
12 anyone else that wished to speak this evening?

13 MR. RATIGAN: Good evening,
14 Mr. Commissioners. My name is John Ratigan, from the law
15 firm of Donahue, Tucker & Ciandella, in Exeter and
16 Portsmouth. I represent the Town of North Hampton and its
17 Board of Selectmen. They have a meeting this evening,
18 which had been previously scheduled, and regret that they
19 couldn't be here. They did ask me to communicate some
20 sentiments.

21 The first of which is simply that they
22 would like you to understand that, in the last budget
23 year, they implemented a 2 percent increase over the prior
24 year's budget, and this year they're proposing a decrease

1 of their budget. I would give you my experience as a
2 municipal attorney working around the state,
3 municipalities are under tremendous pressure to keep
4 budgets stable or to decrease spending, because there's
5 less state aid.

6 And, I think that it's really incumbent
7 upon the Commission, and I know you will be respectful of
8 this, to take into account the truly extraordinary
9 financial circumstances, that not only municipals are
10 experiencing, but also households. You know, the people
11 that are struggling to make ends meet are not really here
12 this evening. They're simply -- We've heard from a couple
13 people, and we've heard representatives of those people,
14 but it's really, in a sense, the Richard Nixon silent
15 majority that you're not hearing from. And, I think that,
16 if there is ever a circumstance in which the bare minimum
17 return in a rate increase would be in order as these
18 circumstances.

19 The Company has made a number of what I
20 would call "creative" system charges that it is proposing
21 in this rate case, and we have not had an opportunity to
22 fully analyze those, and so we don't take any position on
23 them this evening. We will take a position on them in the
24 public hearings before the Commission. There's a System

1 Development Charge, which is a way of recouping,
2 basically, I think what I understand to be a buy-in into
3 the capital costs of the system by new people who hook
4 onto the system. There's a Water Balance Plan, which
5 addresses conservation measures and ways of achieving
6 reductions in water usage, which I think is something
7 that's been directed by the Department of Environmental
8 Services as a goal that the Company should pursue. And,
9 then, there's a WICA surcharge, which I understand is an
10 opportunity to gain temporary increases on plant that's
11 already been implemented and built in the field in between
12 rate cases.

13 I actually thought that, to the extent
14 that some of these are seen as "creative ratemaking", some
15 of these could be good things to adopt, but we'll have to
16 see. But it struck me as what seems to be missing, and
17 I've kind of been involved in monitoring on behalf of
18 North Hampton, of Aquarion and its predecessor's rate
19 cases for a number of years, what seems to be missing is
20 what I would call a "typical management structure", where
21 you set forth goals and objectives, and then you reward
22 people on their ability to meet those goals and
23 objectives. And, I understand that that takes more
24 planning and more review, and it may be planning review

1 that has to be implemented in between rate cases. But it
2 seems to me that I think that tying rate of return and
3 tying the ability to recover certain aspects of corporate
4 costs, which are passed on, and which presumably reflect
5 good management, should be tied to these principles.

6 I asked the Company in recent data
7 requests whether it would support linking some portion of
8 the Company's allowed rate of return and some portion of
9 the parent company's management cost recovery to agreed
10 upon set of goals and objectives for Aquarion New
11 Hampshire, and the answer, with some explanation, was
12 "no", they wouldn't support that.

13 And, I would encourage the Company to
14 rethink that, and I would encourage the Commissioners to
15 consider that. And, I'll just give you one perspective.
16 DES has observed, and I think many people know, we're kind
17 of in a basin here in the Seacoast. There's only so much
18 water, you can only put so many straws in the ground. DES
19 has sought to get the Company to reduce water usage,
20 municipalities have addressed this by regulating
21 increasingly water withdrawals. And, there has been a
22 regional planning basis, an implementation of trying to
23 see water regulation on a regional basis, and not simply
24 on a boundary basis, and not simply on a basis that's

1 linked to utilities or municipalities that provide water
2 service. And, in this particular instance, I think it was
3 probably the predecessor company, but it is now inherited
4 by this company, lost water has gone from 12 percent,
5 rising about in increments of about 2 percent per year, up
6 to 20 percent over the last four or five years. Well, if
7 you don't -- if you don't lose that much water, you don't
8 have to create new wells to pump more water out of the
9 ground, and to incur that attendant expense, it takes at
10 least a million dollars, plus or minus, to get a new
11 groundwater supply well permitted in the State of New
12 Hampshire to supply a municipality or a large water
13 withdrawal.

14 So, I think of that as what would have
15 been a suitable objective, you know, to figure out how we
16 can reduce water losses, instead of having to incur the
17 expense of drilling new wells and asking ratepayers to pay
18 for that. That strikes me as good management. I know the
19 PUC Staff is very capable. It seems to me that, if we
20 could get to goals and objectives, and tying some portion
21 of rate of return and recovery of costs to goals and
22 objectives, you'd have a regulatory regime that would
23 probably respond to many concerns that people have about
24 "Is management really looking after us? Are they really

1 paying attention? Are they really -- is their economic
2 interest tied with our economic interest?" And, I think
3 that's -- those are questions that I hope would resonate
4 with the Commission, I hope those are questions that will
5 resonate with the Company, because I sense we're entering
6 into an environment where people are requiring more of
7 you, because of unexpected events that can unfold. And,
8 the best way that we can perhaps unleash the creativity
9 that lies both in the Company and in the municipalities
10 and at the regulatory level is to try to anticipate and
11 try to plan, and then set some portion of rate of return,
12 some portion of profit to meeting those objectives.

13 I think that, you know, the historic way
14 of approaching ratemaking without taking those into
15 account isn't working. And, we've seen some examples of
16 why it doesn't work, we've seen the customer and the
17 feedback, we've seen the political feedback that some of
18 this isn't working. And, we would hope that you would
19 consider that. Thank you.

20 CHAIRMAN GETZ: Thank you. It's a
21 little after 7:00, when the errant newspapers indicated
22 that the meeting would actually be beginning. Is there
23 anybody who's recently come in to the meeting who would
24 like to say something tonight?

1 (No verbal response)

2 CHAIRMAN GETZ: I think what we would do
3 at this time then, it's about 10 after 7. I think we
4 would -- let's take about -- we'll take about a 10 minute
5 break, and see if anyone else shows up who was relying on
6 some of these other newspaper articles. And, then, we
7 will resume and give folks an opportunity to speak
8 tonight. So, let's take about ten minutes.

9 (Recess taken at 7:11 p.m. and the
10 hearing reconvened at 7:20 p.m.)

11 CHAIRMAN GETZ: Okay. Good evening.
12 Folks. We're resuming the public statement hearing. It's
13 7:20. We took a brief recess, in case there were folks
14 who showed up after 7:00 because of a misunderstanding
15 about the timing that the hearing was to begin. And, if
16 there's anyone else that's arrived and would like to make
17 a public statement tonight, please come forward?

18 (No verbal response)

19 CHAIRMAN GETZ: And, if there are no
20 takers, which appears to be the case, then we will close
21 the public statement hearing for this evening. Thank you
22 for coming, everyone.

23 (Hearing ended at 7:21 p.m.)
24