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January 10, 2011

VIA HAND DELIVERY AND ELECTRONIC MAIL

Debra A. Howland
Executive Director and Secretary
New Hampshire Public Utilities Commission
21 Fruit Street, Suite 10
Concord, New Hampshire 03301-2429



Re: DW 10-293, Aquarion Water Company of New Hampshire, Inc. ("Aquarion")
2010 Water Infrastructure and Conservation Adjustment (WICA) Filing
Affidavits of Publication

Dear Ms. Howland:

Enclosed for filing with the Commission are affidavits of publication stating that Order No. 25,186 was published in the Union Leader on December 28, 2010 and in the Portsmouth Herald, Exeter News Letter and Hampton Union on December 31, 2010.

Please do not hesitate to contact me with any questions regarding this filing.

Sincerely,

A handwritten signature in blue ink that reads "Donna Schesser".

Donna Schesser
Assistant to Steven Camerino, Esq.

Enclosures

cc: Service List (via electronic mail)

516677

UNION LEADER CORPORATION

P O BOX 9513
MANCHESTER, NH 03108

MCLANE LAW FIRM
11 SO MAIN ST STE 500
CONCORD NH 03301

I hereby certify that the legal notice of PUBLIC UTILITIES-DW 10-29,
PO number:88020 was published in the New Hampshire Union Leader
and/or New Hampshire Sunday News, newspapers printed at Manchester, NH
by the Union Leader Corp.
On :

12/28/2010

State of New Hampshire
Hillsborough County
Subscribed and sworn to before me this

3rd day of January, 2011


Notary Public



Legal Notice

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION
DW 10-293
AQUARIUM WATER COMPANY OF
NEW HAMPSHIRE, INC.
Water Infrastructure and
Conservation Adjustment 2011-2013
Projects and 2011 Surcharge
Order Nisi Granting Petition
ORDER NO. 25,186
December 22, 2010

I. BACKGROUND

Aquarion Water Company of New Hampshire, Inc. (Aquarion) is a regulated public utility as defined by RSA 362:2 and 362:4 and provides water service to approximately 8,770 customers in the towns of Hampton, North Hampton and Rye. On November 1, 2010, Aquarion filed its petition for approval of its 2011 Water Infrastructure and Conservation Adjustment (WICA) surcharge and its proposed 2011-2012 capital projects under its WICA tariff provision. The WICA tariff provisions were approved as a pilot program in Aquarion's rate case, Docket No. DW 08-098, see Aquarion Water Company of New Hampshire, Order No. 25,019 (Sept. 25, 2009). The purpose of the WICA is to allow Aquarion to recover the fixed costs of certain pre-approved non-revenue producing capital improvements completed and placed in service between general rate cases. Aquarion requests Commission approval of a surcharge to customer bills to reflect recovery of \$721,546 in 2010 WICA capital spending. These projects were approved by the Commission's Order in Docket No. DW 09-211, see Aquarion Water Company of New Hampshire, Order No. 25,065 (Jan. 15, 2010), for which a budget of \$908,000 was approved. Aquarion's 2010 capital spending for WICA projects totaled \$721,546 and includes: water main replacements costing \$574,020; replacement of customer meters costing \$104,061; and replacement of services, hydrants, valves and production meters costing \$43,465. Including return, depreciation expense, and taxes, Aquarion seeks new revenues of \$89,142. To recover these revenues, Aquarion, in its petition, sought a 1.4896 percent surcharge to customer bills, for service rendered on or after January 1, 2011.¹

Aquarion, in conformity with the WICA provisions, also seeks Commission approval for its proposed 2011 WICA capital projects, which would be included in the WICA surcharge for service rendered on and after January 1, 2012. These projects have a construction budget in the amount of \$988,012, and, as with its 2010 WICA spending, the majority of this investment is dedicated to the replacement of water main. Furthermore, Aquarion seeks preliminary Commission approval for its proposed 2012 projects, with total WICA capital spending in the amount of \$492,807. Aquarion also has provided a list of proposed 2013 projects for advisory purposes.

On December 15, 2010, Staff filed a letter recommending approval of Aquarion's filing on behalf of Staff, Aquarion, the Town of Hampton, and the Town of North Hampton. (The Office of the Consumer Advocate did not participate in this case). Staff stated that it conducted discovery and met with parties in a technical session; the Town of North Hampton also conducted its own discovery. Staff attached to its letter selected Aquarion responses to Staff's discovery requests. Staff indicated that certain corrections and adjustments resulting from discovery responses result in a recommended 2011 WICA surcharge of 1.5715 percent, which would generate new revenues of \$93,614. A typical residential customer taking 67,000 gallons of water annually would see an increase in their annual bill of \$7.64, or about \$0.64 per month. Staff and the parties also recommended that the Commission approve Aquarion's 2011 WICA construction budget of \$988,012, comprised primarily of main

replacement. Completion of these proposed projects would result in a 2012 cumulative WICA surcharge of 3.7825 percent, which would reflect recovery of both 2010 and 2011 WICA projects. A typical residential customer would realize a total bill impact of \$18.40 annually in 2012, or about \$1.53 per month. Staff and the parties also recommended that the Commission approve Aquarion's projected 2012 WICA projects totaling \$492,807 on a preliminary basis. Staff and the parties assert that the completed 2010 WICA projects are prudent, used and useful. Staff further advised the Commission that Aquarion had provided advance notice of the WICA filing and surcharge request, through bill inserts beginning in September 2010.

On December 3, 2010, Aquarion filed a Motion for Confidential Treatment relating to its response to Staff Data Request 1-1, presenting the identities and bid offer amounts of potential contractors for an Aquarion WICA-related project. Aquarion argues that releasing this information will result in a competitive disadvantage to it in the form of less advantageous or more expensive construction contracts. According to Aquarion, disclosure of the identities and bid offers of its potential contractors would have a chilling effect on future bidding for Aquarion projects, in that disclosure of these terms would cause competitive harm to the bidders for the project considered in Staff 1-1. Likewise, disclosure of Aquarion's pricing terms for such projects to third parties, including competitors, could cause Aquarion direct competitive harm. As such, Aquarion contends that disclosing its confidential commercial information would cause it competitive disadvantage and that the information should, therefore, be exempt from disclosure under RSA chapter 91-A, and otherwise be treated as confidential.

The petition and subsequent docket filings, other than information for which confidential treatment is requested or granted by the Commission, is posted to the Commission's website at

<http://www.puc.nh.gov/Regulatory/Docketbk/2010/10-293.htm>

II. COMMISSION ANALYSIS

In Order No. 25,019, the Commission approved the WICA as a pilot program to allow Aquarion to place into rates a surcharge to recover its investment in replacing aging infrastructure; Aquarion has submitted completed and proposed projects and associated budgets for our review. In 2010, Aquarion actually spent \$721,546 for projects approved in Order No. 25,065; for 2011, Aquarion proposes to spend about \$988,000, largely for water main replacement. For 2012, Aquarion proposes a construction budget of \$479,000, \$300,000 of which is dedicated to water main replacement. Aquarion's filing, as well as its responses to discovery requests, shows that it continues to develop a priority list of needed improvements to its physical plant, including water mains and valves. Staff, Hampton, and North Hampton have reviewed the three-year list of WICA projects, conducted discovery, and met with Aquarion in a technical session to discuss the filing. Staff has also clarified and resolved issues related to minor computational errors by Aquarion. Staff, Hampton, and North Hampton recommend approval of Aquarion's filing with the noted modifications.

Having reviewed Aquarion's filing and the recommendations of Staff, Hampton, and North Hampton, we approve Aquarion's 2011 WICA surcharge, as recommended by Aquarion, Staff, Hampton, and North Hampton for completed 2010 WICA projects that were previously approved in docket No. DW 09-211. Also, we approve the 2011 schedule of WICA projects. We are satisfied that the proposed capital projects and budget for 2011 are reasonable and necessary, and fulfill the objective of the WICA program to accelerate the replacement of aging infrastructure. Thus, we find the investment decisions to be prudent. Our approval of the 2011 projects will permit Aquarion to seek cost recovery of those projects in its 2011 WICA filing to be submitted on or before November 1, 2011. At that time, prior to permitting Aquarion to recover on those assets, we will determine whether the projects are, in fact, used and useful in the provision of utility service, pursuant to RSA 378:28. We will also approve the schedule of 2012 projects on a preliminary basis, understanding that Aquarion, Staff and the parties may make further recommendations once the 2011 filing is made and reviewed.

As to Aquarion's motion for confidential treatment, in determining whether commercial or financial information should be deemed confidential and private, we consider the three-step analysis applied by the New Hampshire Supreme Court, *Unit-Il Corp. and Northern Utilities, Inc.*, Order No. 25,014 (Sept. 22, 2009) at 3 (citing *Lambert v. Belknap County Convention*, 157 N.H. 375, 382-83 (2008)). First, we evaluate whether there is a privacy interest at stake that would be invaded by the disclosure; when commercial or financial information is involved, this step includes a determination of whether an interest in the confidentiality of the information is at stake. If no such interest is at stake, the Right-to-Know law requires disclosure. *Id.* Second, when a privacy interest is at stake, the public's interest in disclosure is assessed. *Id.* Disclosure should inform the public of the conduct and activities of its government; if the information does not serve that purpose, disclosure is not warranted. *Id.* Finally, when there is a public interest in disclosure, that interest is balanced against any privacy interests in non-disclosure. *Id.*

In furtherance of the Right-to-Know law, the Commission's rule on requests for confidential treatment, N.H. Code Admin. Rules Puc 203.08, is designed to facilitate the balancing test required by the relevant case law. *Id.* The rule requires petitioners to: (1) provide the material for which confidential treatment is sought or a detailed description of the types of information for which confidentiality is sought; (2) reference specific statutory or common law authority favoring confidentiality; and (3) provide a detailed statement of the harm that would result from disclosure to be weighed against the benefits of disclosure to the public. N.H. Code Admin. Rules Puc 203.08(b).

No party has objected to Aquarion's request for confidential treatment. We begin our analysis by noting that the information Aquarion seeks to protect relates to bidding information. As noted by Aquarion, third parties who may obtain the information would be aware of the bidders' pricing terms. Such disclosure may harm Aquarion's competitive position, in that its competitors would be aware of its pricing terms, and also harm the competitive position of Aquarion's bidders, in that the competitors of the bidders, in turn, would be made aware of the bidders' pricing arrangements. This could have a chilling effect on Aquarion's ability to attract competitive bidders for its projects. Moreover, protection of this information may redound to the benefit of Aquarion's customers to the extent Aquarion is able to negotiate more favorable arrangements. Accordingly, we conclude that there is a privacy interest at stake which would be invaded by disclosure.

As to the public's interest in disclosure, the information at issue concerns the identity and offer terms for bidding on an Aquarion WICA-related project. This information relates to the Aquarion's financial arrangements with potential contractors, but reveals little if anything about the functions of the Commission. See *Unit-Il Corp. and Northern Utilities,*

Inc., Order No. 25,014 (Sept. 22, 2009) at 3 (citing *Lambert v. Belknap County Convention*, 157 N.H. 375, 382-83 (2008)). While the information is, in some sense, informative about the finances of the utility, which are subject to the Commission's scrutiny, we nevertheless conclude that any public interest in disclosure is slight. This is so because little information about the Commission, including the processes by which it reviews such information, or the conclusions drawn therefrom, would be discerned by disclosure. Balancing the above interests, we conclude that Aquarion's interest in privacy outweighs the public's interest in disclosure. Accordingly, we grant Aquarion's motion for confidential treatment. Consistent with Puc 203.08(k), our grant of the motion for confidential treatment is subject to our on-going authority, on our own motion, on the motion of Staff, or on the motion of any member of the public, to reconsider our determination.

Based upon the foregoing, it is hereby

ORDERED NISI, that subject to the effective date below, Aquarion Water Company of New Hampshire, Inc.'s 2011 WICA surcharge of 1.5715 percent is APPROVED; and it is

FURTHER ORDERED, that Aquarion's schedule of 2011 capital projects under its WICA tariff is hereby APPROVED; and it is

FURTHER ORDERED, that Aquarion's schedule of 2012 projects is approved on a preliminary basis, subject to further recommendations of the parties in the fall of 2011; and it is

FURTHER ORDERED, that Aquarion shall cause a copy of this Order Nisi to be published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to be no later than January 3, 2011 and to be documented by affidavit filed with this office on or before January 24, 2011; and it is

FURTHER ORDERED, that all persons interested in responding to this Order Nisi be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than January 10, 2011 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 January 17, 2011; and it is

FURTHER ORDERED, that this Order Nisi shall be effective January 24, 2011, unless Aquarion fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

FURTHER ORDERED, that Aquarion shall file a compliance tariff with the Commission on or before January 5, 2011, in accordance with N.H. Code Admin. Rules Puc 1603.02(b); and it is

FURTHER ORDERED, that Aquarion's motion for confidential treatment is GRANTED, as set forth above.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of December, 2010.

Thomas B. Getz, Chairman
Clifton C. Below, Commissioner
Amy L. Ignatius, Commissioner
Attested by: Lori A. Davis
Assistant Secretary

¹According to Aquarion's tariff as approved by the Commission, a WICA surcharge will be determined by the proportion of incremental revenues resulting from the pre-tax return on completed plant, plus depreciation and property tax, compared to the total revenue requirement approved in Aquarion's last general rate case. The WICA surcharge amount will be the resulting percentage times the current customer bill amount.

(UL - Dec. 28)

AFFIDAVIT OF PUBLICATION

I hereby certify that the foregoing legal notice was published once in the Portsmouth Herald, Exeter News Letter and Hampton Union on December 31st, 2010



Andy Ambrogio
Advertising Representative

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

Sworn to this 7th day of January, 2011

Before me,



Notary Public

CATHERINE R. DAWSON, Notary Public
My Commission Expires April 15, 2014

Ad Number: 074736

Insertion Number: N/A

Size: 3 Col x 20.5 in

Color Type: N/A

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B-6-All

DW 10-293

OBITUARIES/COMMUNITY

Hazel V. Jackson

HAMPTON — Hazel V. Jackson, 86, died Saturday, Dec. 25, 2010, at Oceanside Skilled Nursing and Rehabilitation. She was born Feb. 23, 1924, in Hyannis, Mass., the daughter of the late Irvil and Aroline (Burdick) Luce. She resided for many years in Ipswich, Mass., before moving to Seabrook, and had resided in Hampton since 1999. She was a graduate of Greenfield (Mass.) High School. Mrs. Jackson retired from

Data General in Portsmouth after 10 years of service. She had previously worked in production for Sylvania in Ipswich and as a waitress in Essex, Mass. The widow of Robert E. Jackson, who died in 2001, she is survived by two sons, Robert E. Jackson Jr. of Hampton and David A. Jackson of Lee; four daughters, Sally A. Doucette of Center Barnstead, Judy E. Perry of Seabrook, Linda M. Ambrose of Exeter and Beverly C. Joslyn of Penacook; 11 grandchildren; nine great-

grandchildren; one sister, Patricia Chuiques; and several nieces and nephews. WE REMEMBER: She enjoyed camping, reading and dining out and loved crocheting, making afghans for all her family. Spring services will be held in Assembly of God Church, Exeter. Assistance with arrangements was by Remick & Gendron Funeral Home-Crematory, Hampton. Visit www.RemickGendron.com.

Dorris Evelyn Chambers

NEWBURYPORT, Mass. — Dorris Evelyn Chambers, 86, died Friday, Dec. 24, 2010, at Brigham Manor in Newburyport. She was born in Beverly, the daughter of Raymond and Maude Killam. She was educated in Beverly and Boston schools and then learned a love of flying in Amesbury. She was a U.S. Navy veteran, serving from 1944 to 1945. Mrs. Chambers owned Heritage Personnel in Hampton, N.H. She had previously worked at Arthur D. Little in

Cambridge for many years. She always loved music and was a soloist and choir director. Upon her retirement she traveled throughout the U.S. and Canada with her husband, Roy, and their dogs. She later worked and volunteered at Hope Children's Home in Tampa, Fla., before returning to New England. The widow of Roy Chambers, she is survived by one daughter, Susan (Heritage) Battiste; one sister, Ruth Kulberg; and several nieces, nephews and cousins.

She was predeceased by one brother, Arthur Killam. WE REMEMBER: Thanks go to James Steam Mill, to Grace and Peter, to Grace Morgan House and to all of the caring staff at Brigham Manor. Funeral services were held Thursday in the Second Congregational Church, West Boxford. Burial was in Harmony Cemetery, Boxford. To sign an online guest book visit www.confetfuneralhomes.com.

Walter L. Liebenow

STARKVILLE, Miss. — Walter L. Liebenow, 61, of Starkville, died unexpectedly Monday, Dec. 27, 2010, in Rock Hill, N.Y. He was born Sept. 4, 1949, in Illion, N.Y., the son of the late Walter L. and Grace Langley Liebenow. Mr. Liebenow was administrator of Clay County Correctional Facility in West Point, Miss.

He is survived by his wife, Mary Liebenow of Starkville; one son and his wife, Walter L. "Chip" and Muffy Liebenow III of Germantown, Tenn.; one daughter and her husband, Erin and Frederick Gennaro of Rock Hill; four grandchildren; one brother, Thomas Liebenow and his wife Melanie of Hampton, N.H.; and one sister, Brooke LeBlanc and her husband Ronald of Ches-

ter, N.H. SERVICES: Calling hours will be held Friday, Dec. 31, from 1 to 2 p.m. at Ramsay's Funeral Home, 3534 State Route 55, Kauneonga Lake, N.Y. Funeral services will be held at 2 p.m. in the funeral home. Burial will be in Hancock Cemetery, Hancock, Mass.

Town Offices closed for New Year's Eve

STRATHAM — The Stratham Town Offices will be closed today, Friday, Dec. 31 for the New Year's Eve holiday.

Historical Society hosts J. Dennis Robinson Wednesday

EXETER — Join the Exeter Historical Society on Wednesday, Jan. 5 at 7:30 p.m. (with refreshments at 7 p.m.), for an illustrated lecture, "The History of the Wentworth Hotel," by J. Dennis Robinson, editor of the popular Web site SeacoastNH.com and author of two best-selling books on the history of Strawberry Banke Museum and Wentworth by the Sea hotel. The program will take place at the Exeter Historical Society, 47 Front St., Exeter. The program is free and open to the public.

Julia's Restaurant offers Puerto Rican cuisine on Thursday

EXETER — Julia's Restaurant at the Seacoast School of Technology, 40 Linden St., Exeter is offering Puerto Rican cuisine for lunch on Thursday, Jan. 6. The student manager is Zacarias Pagan of Sanborn Regional High School. On the menu: Appetizers — empanadas, \$2 Soups — Puerto Rican Fish Stew (Bacalao), \$2 Breads — Campobello Bread, Carnival Corn Bread (Pan de Maiz de Carnaval) and Julia's rolls Salads — Four Bean Salad with Hard Boiled Eggs, and White Cheese and Fruit Salad with Lemon-Honey Dressing, \$2 Entrees — Chicken with Papaya (Pollo con Papaya) and

Puerto Rican Pot Roast, \$6 Sides — Yellow Rice, Okra and Roasted Yellow Plantains with Balsamic Vinegar Desserts — Puerto Rican Coconut Cake with Pina Colada Sorbet and Caramel Custard Flan, \$2 For more information or reservation call 775-8473 or e-mail julias@sau16.org.

Register for adult education classes

EXETER — Registration for Adult Basic Education, English for Speakers of Other Languages (ESOL), and General Equivalency Diploma (GED) prep classes begins in January at Exeter Adult Education at the Tuck Learning Campus, Entrance D, 30

Linden St., Exeter. All adults interested in improving their reading, writing, and math skills, speaking and reading English, or studying to take their GED are urged to attend that day. Registration for ABE/GED morning classes is Wednesday, Jan. 12, at 9 a.m. Registration for ABE/GED night classes is Thursday, Jan. 13, at 6:30 p.m. ESOL registration is on Monday, Jan. 10, at 9 a.m. for day classes and 6:30 p.m. for night classes. All interested students are urged to attend registration if possible. If not possible, students should call Exeter Adult Education at 775-8457 as soon as possible. Visit <http://adultedrw.sau16.org>.

Obituary Guidelines

For guidelines on how to submit an obituary, visit www.seacoastonline.com/SubmitObit

LEGAL NOTICE TOWN OF EAST KINGSTON, NEW HAMPSHIRE BOARD OF SELECTMEN NOTICE OF PUBLIC HEARING

In accordance with RSA 40:13, the East Kingston Board of Selectmen will conduct a Public Hearing on the proposed budget for 2011 on Tuesday, January 11, 2011, at the Town Offices Building, 24 Depot Road, East Kingston, New Hampshire at 7:00pm. The regularly scheduled Selectmen's Meeting will commence after the public hearing. The public is encouraged to attend.

Deborah G. Gallant, Admin. Asst. Date Of Notice: December 14,2010

#813

2t E 12/28, 31

Legal Notice Notice of Public Hearing

North Hampton School Board Public Hearing on a Proposed Bond Issue

The North Hampton School Board will hold a public hearing on a proposed \$2,556,250 Bond Issue for an addition and renovation project to the North Hampton School on Wednesday, January 5, 2011 at 7:30PM in the North Hampton School Cafeteria.

David Sarazen, Chairman Robert Copp Victoria Kilroy Henry Marsh Kari Schmitz

North Hampton School Board

#2699

2tP12/29, 11/2/31

Legal Notice STATE OF NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION DW 10-293

AQUARION WATER COMPANY OF NEW HAMPSHIRE, INC. Water Infrastructure and Conservation Adjustment 2011-2013 Projects and 2011 Surcharge Order Nisi Granting Petition Q R D E B N Q. 25,186 December 22, 2010

I. BACKGROUND

Aquarion Water Company of New Hampshire, Inc. (Aquarion) is a regulated public utility as defined by RSA 362:2 and 362:4 and provides water service to approximately 8,770 customers in the towns of Hampton, North Hampton and Rye. On November 1, 2010, Aquarion filed its petition for approval of its 2011 Water Infrastructure and Conservation Adjustment (WICA) surcharge and its proposed 2011-2012 capital projects under its WICA tariff provision. The WICA tariff provisions were approved as a pilot program in Aquarion's rate case, Docket No. DW 08-098, see Aquarion Water Company of New Hampshire, Order No. 25,019 (Sept. 25, 2009). The purpose of the WICA is to allow Aquarion to recover the fixed costs of certain pre-approved non-revenue producing capital improvements completed and placed in service between general rate cases. Aquarion requests Commission approval of a surcharge to customer bills to reflect recovery of \$721,546 in 2010 WICA capital spending. These projects were approved by the Commission's Order in Docket No. DW 09-211, see Aquarion Water Company of New Hampshire, Order No. 25,065 (Jan. 15, 2010), for which a budget of \$908,000 was approved. Aquarion's 2010 capital spending for WICA projects totaled \$721,546 and includes: water main replacements costing \$574,020; replacement of customer meters costing \$104,061; and replacement of services, hydrants, valves and production meters costing \$43,465. Including return, depreciation expenses, and taxes, Aquarion seeks new revenues of \$89,142. To recover these revenues, Aquarion, in its petition, sought a 1.4896 percent surcharge to customer bills, for service rendered on or after January 1, 2011.

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II. COMMISSION ANALYSIS

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Having reviewed Aquarion's filing and the recommendations of Staff, Hampton, and North Hampton, we approve Aquarion's 2011 WICA surcharge, as recommended by Aquarion, Staff, Hampton, and North Hampton for completed 2010 WICA projects that were previously approved in docket No. DW 09-211. Also, we approve the 2011 schedule of WICA projects. We are satisfied that the proposed capital projects and budget for 2011 are reasonable and necessary, and fulfill the objective of the WICA program to accelerate the replacement of aging infrastructure. Thus, we find the investment decisions to be prudent. Our approval of the 2011 projects will permit Aquarion to seek cost recovery of those projects in its 2011 WICA filing to be submitted on or before November 1, 2011. At that time, prior to permitting Aquarion to recover on those assets, we will determine whether the projects are, in fact, used and useful in the provision of utility service, pursuant to RSA 378:28. We will also approve the schedule of 2012 projects on a preliminary basis, understanding that Aquarion, Staff and the parties may make further recommendations once the 2011 filing is made and reviewed.

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In furtherance of the Right-to-Know law, the Commission's rule on requests for confidential treatment, N.H. Code Admin. Rules Puc 203.08, is designed to facilitate the balancing test required by the relevant case law. Id. The rule requires petitioners to: (1) provide the material for which confidential treatment is sought or a detailed description of the types of information for which confidentiality is sought; (2) reference specific statutory or common law authority favoring confidentiality; and (3) provide a detailed statement of the harm that would result from disclosure to be weighed against the benefits of disclosure to the public. N.H. Code Admin. Rules Puc 203.08(b).

No party has objected to Aquarion's request for confidential treatment. We begin our analysis by noting that the information Aquarion seeks to protect relates to bidding information. As noted by Aquarion, third parties who may obtain the information would be aware of the bidders' pricing terms. Such disclosure may harm Aquarion's competitive position, in that its competitors would be aware of its pricing terms, and also harm the competitive position of Aquarion's bidders, in that the competitors of the bidders, in turn, would be made aware of the bidders' pricing arrangements. This could have a chilling effect on Aquarion's ability to attract competitive bidders for its projects. Moreover, protection of this information may redound to the benefit of Aquarion's customers to the extent Aquarion is able to negotiate more favorable arrangements. Accordingly, we conclude that there is a privacy interest at stake which would be invaded by disclosure.

As to the public's interest in disclosure, the information at issue concerns the identity and offer terms for bidding on an Aquarion WICA-related project. This information relates to the Aquarion's financial arrangements with potential contractors, but reveals little if anything about the functions of the Commission. See Unifit Corp. and Northern Utilities, Inc., Order No. 25,014 (Sept. 22, 2009) at 3 (citing Lambert v. Belknap County Convention, 157 N.H. 375, 382-83 (2008)). While the information is, in some sense, informative about the finances of the utility, which are subject to the Commission's scrutiny, we nevertheless conclude that any public interest in disclosure is slight. This is so because little information about the Commission, including the processes by which it reviews such information, or the conclusions drawn therefrom, would be discerned by disclosure. Balancing the above interests, we conclude that Aquarion's interest in privacy outweighs the public's interest in disclosure. Accordingly, we grant Aquarion's motion for confidential treatment. Consistent with Puc 203.08(k), our grant of the motion for confidential treatment is subject to our on-going authority, on our own motion, on the motion of Staff, or on the motion of any member of the public, to reconsider our determination.

Based upon the foregoing, it is hereby ORDERED NISI, that subject to the effective date below, Aquarion Water Company of New Hampshire, Inc.'s 2011 WICA surcharge of 1.5715 percent is APPROVED; and it is FURTHER ORDERED, that Aquarion's schedule of 2011 capital projects under its WICA tariff is hereby APPROVED; and it is

FURTHER ORDERED, that Aquarion's schedule of 2012 projects is approved on a preliminary basis, subject to further recommendations of the parties in the fall of 2011; and it is

FURTHER ORDERED, that Aquarion shall cause a copy of this Order Nisi to be published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to be no later than January 3, 2011 and to be documented by affidavit filed with this office on or before January 24, 2011; and it is

FURTHER ORDERED, that all persons interested in responding to this Order Nisi be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than January 10, 2011 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 January 17, 2011; and it is

FURTHER ORDERED, that this Order Nisi shall be effective January 24, 2011, unless Aquarion fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

FURTHER ORDERED, that Aquarion shall file a compliance tariff with the Commission on or before January 5, 2011, in accordance with N.H. Code Admin. Rules Puc 1603.02(b); and it is FURTHER ORDERED, that Aquarion's motion for confidential treatment is GRANTED, as set forth above.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of December, 2010.

Thomas B. Getz Chairman

Clifton C. Below Commissioner

Amy L. Ignatius Commissioner

Attested by:

Lori A. Davis Assistant Secretary

¹According to Aquarion's tariff as approved by the Commission, a WICA surcharge will be determined by the proportion of incremental revenues resulting from the pre-tax return on completed plant, plus depreciation and property tax, compared to the total revenue requirement approved in Aquarion's last general rate case. The WICA surcharge amount will be the resulting percentage times the current customer bill amount.

#9314

1tPHE 12/31

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DW 10-293

OBITUARIES/REGION

Hazel V. Jackson

HAMPTON — Hazel V. Jackson, 86, died Saturday, Dec. 25, 2010, at Oceanside Skilled Nursing and Rehabilitation. She was born Feb. 23, 1924, in Hyannis, Mass., the daughter of the late Irvil and Aroline (Burdick) Luce. She resided for many years in Ipswich, Mass., before moving to Seabrook, and had resided in Hampton since 1999. She was a graduate of Greenfield (Mass.) High School. Mrs. Jackson retired from

Data General in Portsmouth after 10 years of service. She had previously worked in production for Sylvania in Ipswich and as a waitress in Essex, Mass. The widow of Robert E. Jackson, who died in 2001, she is survived by two sons, Robert E. Jackson Jr. of Hampton and David A. Jackson of Lee; four daughters, Sally A. Doucette of Center Barnstead, Judy E. Perry of Seabrook, Linda M. Ambrose of Exeter and Beverly C. Joslyn of Penacook; 11 grandchildren; nine great-

grandchildren; one sister, Patricia Chaises; and several nieces and nephews. WE REMEMBER: She enjoyed camping, reading and dining out and loved crocheting, making afghans for all her family. Spring services will be held in Assembly of God Church, Exeter. Assistance with arrangements was by Remick & Gendron Funeral Home-Crematory, Hampton. Visit www.RemickGendron.com.

Dorris Evelyn Chambers

NEWBURYPORT, Mass. — Dorris Evelyn Chambers, 86, died Friday, Dec. 24, 2010, at Brigham Manor in Newburyport. She was born in Beverly, the daughter of Raymond and Maude Killam. She was educated in Beverly and Boston schools and then learned a love of flying in Amesbury. She was a U.S. Navy veteran, serving from 1944 to 1945. Mrs. Chambers owned Heritage Personnel in Hampton, N.H. She had previously worked at Arthur D. Little in

Cambridge for many years. She always loved music and was a soloist and choir director. Upon her retirement she traveled throughout the U.S. and Canada with her husband, Roy, and their dogs. She later worked and volunteered at Hope Children's Home in Tampa, Fla., before returning to New England. The widow of Roy Chambers, she is survived by one daughter, Susan (Heritage) Battiste; one sister, Ruth Kulberg; and several nieces, nephews and cousins.

She was predeceased by one brother, Arthur Killam. WE REMEMBER: Thanks go to James Steam Mill, to Grace and Peter, to Grace Morgan House and to all of the caring staff at Brigham Manor. Funeral services were held Thursday in the Second Congregational Church, West Boxford. Burial was in Harmony Cemetery, Boxford. To sign an online guest book visit www.confetfuneralhomes.com.

Walter L. Liebenow

STARKVILLE, Miss. — Walter L. Liebenow, 61, of Starkville, died unexpectedly Monday, Dec. 27, 2010, in Rock Hill, N.Y. He was born Sept. 4, 1949, in Illion, N.Y., the son of the late Walter L. and Grace Langley Liebenow. Mr. Liebenow was administrator of Clay County Correctional Facility in West Point, Miss.

He is survived by his wife, Mary Liebenow of Starkville; one son and his wife, Walter L. "Chip" and Muffy Liebenow III of Germantown, Tenn.; one daughter and her husband, Erin and Frederick Gennaro of Rock Hill; four grandchildren; one brother, Thomas Liebenow and his wife Melanie of Hampton, N.H.; and one sister, Brooke LeBlanc and her husband Ronald of Ches-

ter, N.H. SERVICES: Calling hours will be held Friday, Dec. 31, from 1 to 2 p.m. at Ramsay's Funeral Home, 3534 State Route 55, Kauneonga Lake, N.Y. Funeral services will be held at 2 p.m. in the funeral home. Burial will be in Hancock Cemetery, Hancock, Mass.

A quarter of a billion reasons to buy a ticket

BY DAVE CHOATE
dchoate@seacoastonline.com

Seacoast residents have millions and millions of reasons to play the lottery this week. The ticket purchases were reaching a fever pitch Thursday, one day away from the drawing for a Mega Millions lottery jackpot that totalled \$237 million and was still growing. Spurred on by the lure of becoming extremely wealthy overnight, many people have been hitting local stores to pick up tickets, hoping to beat the odds in the biggest way imaginable.

"I've been selling them left and right," said Karen Raynes, who works at her family's Marelli's Market in Hampton. "Because of the holidays, everybody's been wanting to put them in their stockings and at least win something." Raynes said sales have been brisk throughout the week because of the holidays. She believes the relatively inexpensive price of a ticket — \$1 — is a major draw, and said she's seen customers who never buy them taking a chance this week.

"One guy said, 'You know what, that's a quarter of a billion dollars.' My gosh, it's hard to look at it that way," she said. The reports were similar from downtown Portsmouth to the Massachusetts border. Jerry Sarno, manager at Tedeschi Food Shop in Portsmouth, said business has been picking up throughout the week. He predicted a blitz on Friday, given the human tendency to wait until the last second. "They wait until the last minute," he said. For many of those buying the

tickets, there was an opportunity to dream about the possibilities of suddenly becoming a multi-millionaire, no matter how slim the chance. While some said they would go for the extravagant, Brandon Lavin of Nottingham was among those who came up with a variety of uses, many of them practical. "I would probably do the same thing that most people would pick. I'd probably just buy a house outright, put a bunch of it in savings, pay off

all my bills" and give away more to friends, family and charity, he said. Raynes said she planned to buy a ticket and would "spruce up" the family store, which is nearly 100 years old. But for Jessica Turritt, an employee at Tedeschi who already bought a ticket, winning wouldn't bring about any big changes. "I'd fix up my apartment," Turritt said. "And stay at work."

Obituary Guidelines

For guidelines on how to submit an obituary, visit www.seacoastonline.com/SubmitObit

LEGAL NOTICE
TOWN OF EAST KINGSTON, NEW HAMPSHIRE
BOARD OF SELECTMEN
NOTICE OF PUBLIC HEARING

In accordance with RSA 40:13, the East Kingston Board of Selectmen will conduct a Public Hearing on the proposed budget for 2011 on Tuesday, January 11, 2011, at the Town Offices Building, 24 Depot Road, East Kingston, New Hampshire at 7:00pm. The regularly scheduled Selectmen's Meeting will commence after the public hearing. The public is encouraged to attend.

Deborah G. Gallant, Admin. Asst.
Date Of Notice: December 14, 2010

#813

2t E 12/28, 31

Legal Notice
Notice of Public Hearing
North Hampton School Board Public Hearing on a Proposed Bond Issue

The North Hampton School Board will hold a public hearing on a proposed \$2,556,250 Bond Issue for an addition and renovation project to the North Hampton School on Wednesday, January 5, 2011 at 7:30PM in the North Hampton School Cafeteria.

David Sarazen, Chairman
Robert Copp
Victoria Kilroy
Henry Marsh
Kari Schmitz

North Hampton School Board

#2699

2t P12/29, 1t 12/31

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Legal Notice
STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION
DW 10-293
AQUARIUM WATER COMPANY OF NEW HAMPSHIRE, INC.
Water Infrastructure and Conservation Adjustment 2011-2013 Projects
and 2011 Surcharge
Order Nisi Granting Petition
ORDER NO. 25,186
December 22, 2010

I. BACKGROUND

Aquarion Water Company of New Hampshire, Inc. (Aquarion) is a regulated public utility as defined by RSA 362:2 and 362:4 and provides water service to approximately 8,770 customers in the towns of Hampton, North Hampton and Rye. On November 1, 2010, Aquarion filed its petition for approval of its 2011 Water Infrastructure and Conservation Adjustment (WICA) surcharge and its proposed 2011-2012 capital projects under its WICA tariff provision. The WICA tariff provisions were approved as a pilot program in Aquarion's rate case, Docket No. DW 08-098, see Aquarion Water Company of New Hampshire, Order No. 25,019 (Sept. 25, 2009). The purpose of the WICA is to allow Aquarion to recover the fixed costs of certain pre-approved non-revenue producing capital improvements completed and placed in service between general rate cases. Aquarion requests Commission approval of a surcharge to customer bills to reflect recovery of \$721,546 in 2010 WICA capital spending. These projects were approved by the Commission's Order in Docket No. DW 09-211, see Aquarion Water Company of New Hampshire, Order No. 25,065 (Jan. 15, 2010), for which a budget of \$908,000 was approved. Aquarion's 2010 capital spending for WICA projects totaled \$721,546 and includes: water main replacements costing \$574,020; replacement of customer meters costing \$104,061; and replacement of services, hydrants, valves and production meters costing \$43,465. Including return, depreciation expense, and taxes, Aquarion seeks new revenues of \$89,142. To recover these revenues, Aquarion, in its petition, sought a 1.4896 percent surcharge to customer bills, for service rendered on or after January 1, 2011.

Aquarion, in conformity with the WICA provisions, also seeks Commission approval for its proposed 2011 WICA capital projects, which would be included in the WICA surcharge for service rendered on and after January 1, 2012. These projects have a construction budget in the amount of \$988,012, and, as with its 2010 WICA spending, the majority of this investment is dedicated to the replacement of water main. Furthermore, Aquarion seeks preliminary Commission approval for its proposed 2012 projects, with total WICA capital spending in the amount of \$492,807. Aquarion also has provided a list of proposed 2013 projects for advisory purposes.

On December 15, 2010, Staff filed a letter recommending approval of Aquarion's filing on behalf of Staff, Aquarion, the Town of Hampton, and the Town of North Hampton. (The Office of the Consumer Advocate did not participate in this case). Staff stated that it conducted discovery and met with parties in a technical session; the Town of North Hampton also conducted its own discovery. Staff attached to its letter selected Aquarion responses to Staff's discovery requests. Staff indicated that certain corrections and adjustments resulting from discovery responses result in a recommended 2011 WICA surcharge of 1.5715 percent, which would generate new revenues of \$93,614. A typical residential customer taking 67,000 gallons of water annually would see an increase in their annual bill of \$764, or about \$0.64 per month. Staff and the parties also recommended that the Commission approve Aquarion's 2011 WICA construction budget of \$988,012, comprised primarily of main replacement. Completion of these proposed projects would result in a 2012 cumulative WICA surcharge of 3.7825 percent, which would reflect recovery of both 2010 and 2011 WICA projects. A typical residential customer would realize a total bill impact of \$18.40 annually in 2012, or about \$1.53 per month. Staff and the parties also recommended that the Commission approve Aquarion's projected 2012 WICA projects totaling \$492,807 on a preliminary basis. Staff and the parties assert that the completed 2010 WICA projects are prudent, used and useful. Staff further advised the Commission that Aquarion had provided advance notice of the WICA filing and surcharge request, through bill inserts beginning in September 2010.

On December 3, 2010, Aquarion filed a Motion for Confidential Treatment relating to its response to Staff Data Request 1-1, presenting the identities and bid offer amounts of potential contractors for an Aquarion WICA-related project. Aquarion argues that releasing this information will result in a competitive disadvantage to it in the form of less advantageous or more expensive construction contracts. According to Aquarion, disclosure of the identities and bid offers of its potential contractors would have a chilling effect on future bidding for Aquarion projects, in that disclosure of these terms would cause competitive harm to the bidders for the project considered in Staff 1-1. Likewise, disclosure of Aquarion's pricing terms for such projects to third parties, including competitors, could cause Aquarion direct competitive harm. As such, Aquarion contends that disclosing its confidential commercial information would cause it competitive disadvantage and that the information should, therefore, be exempt from disclosure under RSA chapter 91-A, and otherwise be treated as confidential.

The petition and subsequent docket filings, other than information for which confidential treatment is requested or granted by the Commission, is posted to the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2010/10-293.htm>

II. COMMISSION ANALYSIS

In Order No. 25,019, the Commission approved the WICA as a pilot program to allow Aquarion to place into rates a surcharge to recover its investment in replacing aging infrastructure; Aquarion has submitted completed and proposed projects and associated budgets for our review. In 2010, Aquarion actually spent \$721,546 for projects approved in Order No. 25,065; for 2011, Aquarion proposes to spend about \$988,000, largely for water main replacement. For 2012, Aquarion proposes a construction budget of \$479,000, \$300,000 of which is dedicated to water main replacement. Aquarion's filing, as well as its responses to discovery requests, shows that it continues to develop a priority list of needed improvements to its physical plant, including water mains and valves. Staff, Hampton, and North Hampton have reviewed the three-year list of WICA projects, conducted discovery, and met with Aquarion in a technical session to discuss the filing. Staff has also clarified and resolved issues related to minor computational errors by Aquarion. Staff, Hampton, and North Hampton recommend approval of Aquarion's filing with the noted modifications.

Having reviewed Aquarion's filing and the recommendations of Staff, Hampton, and North Hampton, we approve Aquarion's 2011 WICA surcharge, as recommended by Aquarion, Staff, Hampton, and North Hampton for completed 2010 WICA projects that were previously approved in docket No. DW 09-211. Also, we approve the 2011 schedule of WICA projects. We are satisfied that the proposed capital projects and budget for 2011 are reasonable and necessary, and fulfill the objective of the WICA program to accelerate the replacement of aging infrastructure. Thus, we find the investment decisions to be prudent. Our approval of the 2011 projects will permit Aquarion to seek cost recovery of those projects in its 2011 WICA filing to be submitted on or before November 1, 2011. At that time, prior to permitting Aquarion to recover on those assets, we will determine whether the projects are, in fact, used and useful in the provision of utility service, pursuant to RSA 378:28. We will also approve the schedule of 2012 projects on a preliminary basis, understanding that Aquarion, Staff and the parties may make further recommendations once the 2011 filing is made and reviewed.

As to Aquarion's motion for confidential treatment, in determining whether commercial or financial information should be deemed confidential and private, we consider the three-step analysis applied by the New Hampshire Supreme Court. *Unitil Corp. and Northern Utilities, Inc.*, Order No. 25,014 (Sept. 22, 2009) at 3 (citing *Lambert v. Belknap County Convention*, 157 N.H. 375, 382-83 (2008)). First, we evaluate whether there is a privacy interest at stake that would be invaded by the disclosure; when commercial or financial information is involved, this step includes a determination of whether an interest in the confidentiality of the information is at stake. If no such interest is at stake, the Right-to-Know law requires disclosure. *Id.* Second, when a privacy interest is at stake, the public's interest in disclosure is assessed. *Id.* Disclosure should inform the public of the conduct and activities of its government; if the information does not serve that purpose, disclosure is not warranted. *Id.* Finally, when there is a public interest in disclosure, that interest is balanced against any privacy interests in non-disclosure. *Id.*

In furtherance of the Right-to-Know law, the Commission's rule on requests for confidential treatment, N.H. Code Admin. Rules Puc 203.08, is designed to facilitate the balancing test required by the relevant case law. *Id.* The rule requires petitioners to: (1) provide the material for which confidential treatment is sought or a detailed description of the types of information for which confidentiality is sought; (2) reference specific statutory or common law authority favoring confidentiality; and (3) provide a detailed statement of the harm that would result from disclosure to be weighed against the benefits of disclosure to the public. N.H. Code Admin. Rules Puc 203.08(b).

No party has objected to Aquarion's request for confidential treatment. We begin our analysis by noting that the information Aquarion seeks to protect relates to bidding information. As noted by Aquarion, third parties who may obtain the information would be aware of the bidders' pricing terms. Such disclosure may harm Aquarion's competitive position, in that its competitors would be aware of its pricing terms, and also harm the competitive position of Aquarion's bidders, in that the competitors of the bidders, in turn, would be made aware of the bidders' pricing arrangements. This could have a chilling effect on Aquarion's ability to attract competitive bidders for its projects. Moreover, protection of this information may redound to the benefit of Aquarion's customers to the extent Aquarion is able to negotiate more favorable arrangements. Accordingly, we conclude that there is a privacy interest at stake which would be invaded by disclosure.

As to the public's interest in disclosure, the information at issue concerns the identity and offer terms for bidding on an Aquarion WICA-related project. This information relates to the Aquarion's financial arrangements with potential contractors, but reveals little if anything about the functions of the Commission. See *Unitil Corp. and Northern Utilities, Inc.*, Order No. 25,014 (Sept. 22, 2009) at 3 (citing *Lambert v. Belknap County Convention*, 157 N.H. 375, 382-83 (2008)). While the information is, in some sense, informative about the finances of the utility, which are subject to the Commission's scrutiny, we nevertheless conclude that any public interest in disclosure is slight. This is so because little information about the Commission, including the processes by which it reviews such information, or the conclusions drawn therefrom, would be discerned by disclosure. Balancing the above interests, we conclude that Aquarion's interest in privacy outweighs the public's interest in disclosure. Accordingly, we grant Aquarion's motion for confidential treatment. Consistent with Puc 203.08(k), our grant of the motion for confidential treatment is subject to our on-going authority, on our own motion, on the motion of Staff, or on the motion of any member of the public, to reconsider our determination.

Based upon the foregoing, it is hereby

ORDERED NISI, that subject to the effective date below, Aquarion Water Company of New Hampshire, Inc.'s 2011 WICA surcharge of 1.5715 percent is **APPROVED**; and it is **FURTHER ORDERED**, that Aquarion's schedule of 2011 capital projects under its WICA tariff is hereby **APPROVED**; and it is

FURTHER ORDERED, that Aquarion's schedule of 2012 projects is approved on a preliminary basis, subject to further recommendations of the parties in the fall of 2011; and it is

FURTHER ORDERED, that Aquarion shall cause a copy of this Order Nisi to be published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to be no later than January 3, 2011 and to be documented by affidavit filed with this office on or before January 24, 2011; and it is

FURTHER ORDERED, that all persons interested in responding to this Order Nisi be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than January 10, 2011 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 January 17, 2011; and it is

FURTHER ORDERED, that this Order Nisi shall be effective January 24, 2011, unless Aquarion fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

FURTHER ORDERED, that Aquarion shall file a compliance tariff with the Commission on or before January 5, 2011, in accordance with N.H. Code Admin. Rules Puc 1603.02(b); and it is

FURTHER ORDERED, that Aquarion's motion for confidential treatment is **GRANTED**, as set forth above.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of December, 2010.

Thomas B. Getz
Chairman

Clifton C. Below
Commissioner

Amy L. Ignatius
Commissioner

Attested by:

Lori A. Davis
Assistant Secretary

¹ According to Aquarion's tariff as approved by the Commission, a WICA surcharge will be determined by the proportion of incremental revenues resulting from the pre-tax return on completed plant, plus depreciation and property tax, compared to the total revenue requirement approved in Aquarion's last general rate case. The WICA surcharge amount will be the resulting percentage times the current customer bill amount.

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DW 10-293

N.H. GOP RESURGENCE SWEEPS ASIDE THE DEMOCRATS IN 2010

BY NORMA LOVE
Associated Press

CONCORD — New Hampshire Republicans built a resurgence in 2010 on an anti-tax, limited-government groundswell born out of the recession and government bailouts that will shift politics to the right in 2011.

Local GOP candidates successfully tied to New Hampshire concerns about the direction that Democratic House Speaker Nancy Pelosi, Senate Majority Leader Harry Reid and President Barack Obama were leading the nation.

Republicans captured both congressional seats, the open U.S. Senate seat, all five Executive Council seats, 19 of 24 state Senate seats and 298 of 400 House seats. The only major race they lost was the governor's seat to Democratic incumbent John Lynch.

"This was a year certainly where Republicans managed to win back almost everything they lost over the past decade," said political scientist Dante Scala.

Republicans courted local tea party activists. They vilified Pelosi and Reid over the health care overhaul and massive stimulus spending aimed at jump-starting the economy and linked their opponents to those policies.

In the 2nd District, where Ann McLane Kuster ran as the Democratic candidate, signs sprang up with "Kuster-Pelosi" as though she was Pelosi's running mate. And only after prodding at one debate did 1st District Democratic incumbent Carol Shea-Porter say

she would vote for Pelosi for speaker if re-elected. She lost to former Manchester Mayor Frank Guinta.

"The big issues were the size of government. The Republicans from (U.S. Sen.-elect) Kelly Ayotte down to the state legislator were able to frame the issue as small government versus big government," said Scala.

Ayotte, a former attorney general a but political novice, defeated U.S. Rep. Paul Hodes in the race to replace retiring Republican Judd Gregg in the Senate. Former U.S. Rep. Charlie Bass came out of retirement to claim Hodes' vacated 2nd District seat, beating Kuster.

Republican candidates spoke almost in unison about cutting taxes and spending and promising to create jobs.

In past elections, they said Democrats would enact income and sales taxes, but this year Lynch promised to veto both. So local GOP candidates instead hammered home Democrats' willingness to pass taxes by pointing to an unpopular expansion of a 5 percent interest and dividends tax to include limited liability companies and partnerships, or LLCs.

Democratic lawmakers backed repealing the tax expansion but not fast enough to avoid having Republicans make it a political lightning rod.

Social issues received little attention except in the governor's race, where advocacy groups spent hundreds of thousands of dollars trying to defeat Lynch because he

signed gay marriage into law.

Lynch won a historic fourth consecutive two-year term and will be the longest-serving governor in New Hampshire since colonial times if he finishes the term.

"It was a credit to Lynch he was so personally popular and probably the most well known politician in New Hampshire," said Scala.

Republicans should be careful not to overreach the mandate voters gave them to keep government spending in check, Scala and pollster Andrew Smith said.

"You have to be careful when you win. Americans like to have things change a little bit at a time, not wholesale," said Smith.

Smith believes voters were simply tired of the party in power, Democrats, and voted for a change. The dynamic at the national level played out on the local stage, he said.

For most of the decade, Democrats were the fiscally conservative, socially liberal party, added Scala. When they lost their grip on fiscal issues, Republicans took advantage, he said.

"The mandate is a traditional New Hampshire mandate: Keep government small, keep taxes low," said Scala.

The question going forward will be whether Republicans can be the fiscally conservative and socially conservative party, he said.

"Social conservatives certainly think this victory this past November was in large part their victory and they're going to cash in on it," said Scala.

No obituaries were submitted for publication in today's Herald.

**LEGAL NOTICE
PUBLIC HEARING**
Town of Hampton Falls - 2011 BUDGET PROPOSAL

The Board of Selectmen will hold a public hearing on Wednesday, January 12, 2011, 7:00 p.m., at the Town Hall, 1 Drinkwater Road, to review and accept public comment on the proposed municipal budget. The complete budget package is available at the Town Clerk's office.

Board of Selectmen

#1207 1t HE 12/31

LEGAL NOTICE

Notice is hereby given that a Public Hearing regarding the removal of public shade trees will be held **Wednesday, January 12, 2011 at 7:30 a.m.** at City Hall, City Manager's Conference Room, 4th floor, 1 Junkins Avenue, Portsmouth NH.

#12517 1t P 12/31

Obituary Guidelines

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Legal Notice
STATE OF NEW HAMPSHIRE
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DW 10-293
AQUARIUM WATER COMPANY OF NEW HAMPSHIRE, INC.
Water Infrastructure and Conservation Adjustment 2011-2013 Projects
and 2011 Surcharge
Order Nisi Granting Petition
ORDER NO. 25,186
December 22, 2010

I. BACKGROUND

Aquarion Water Company of New Hampshire, Inc. (Aquarion) is a regulated public utility as defined by RSA 362:2 and 362:4 and provides water service to approximately 8,770 customers in the towns of Hampton, North Hampton and Rye. On November 1, 2010, Aquarion filed its petition for approval of its 2011 Water Infrastructure and Conservation Adjustment (WICA) surcharge and its proposed 2011-2012 capital projects under its WICA tariff provision. The WICA tariff provisions were approved as a pilot program in Aquarion's rate case, Docket No. DW 08-098, see Aquarion Water Company of New Hampshire, Order No. 25,019 (Sept. 25, 2009). The purpose of the WICA is to allow Aquarion to recover the fixed costs of certain pre-approved non-revenue producing capital improvements completed and placed in service between general rate cases. Aquarion requests Commission approval of a surcharge to customer bills to reflect recovery of \$721,546 in 2010 WICA capital spending. These projects were approved by the Commission's Order in Docket No. DW 09-211, see Aquarion Water Company of New Hampshire, Order No. 25,065 (Jan. 15, 2010), for which a budget of \$908,000 was approved. Aquarion's 2010 capital spending for WICA projects totaled \$721,546 and includes: water main replacements costing \$574,020; replacement of customer meters costing \$104,061; and replacement of services, hydrants, valves and production meters costing \$43,465. Including return, depreciation expense, and taxes, Aquarion seeks new revenues of \$89,142. To recover these revenues, Aquarion, in its petition, sought a 1.4896 percent surcharge to customer bills, for service rendered on or after January 1, 2011.

Aquarion, in conformity with the WICA provisions, also seeks Commission approval for its proposed 2011 WICA capital projects, which would be included in the WICA surcharge for service rendered on and after January 1, 2012. These projects have a construction budget in the amount of \$988,012, and, as with its 2010 WICA spending, the majority of this investment is dedicated to the replacement of water main. Furthermore, Aquarion seeks preliminary Commission approval for its proposed 2012 projects, with total WICA capital spending in the amount of \$492,807. Aquarion also has provided a list of proposed 2013 projects for advisory purposes.

On December 15, 2010, Staff filed a letter recommending approval of Aquarion's filing on behalf of Staff, Aquarion, the Town of Hampton, and the Town of North Hampton. (The Office of the Consumer Advocate did not participate in this case). Staff stated that it conducted discovery and met with parties in a technical session; the Town of North Hampton also conducted its own discovery. Staff attached to its letter selected Aquarion responses to Staff's discovery requests. Staff indicated that certain corrections and adjustments resulting from discovery responses result in a recommended 2011 WICA surcharge of 1.5715 percent, which would generate new revenues of \$93,614. A typical residential customer taking 67,000 gallons of water annually would see an increase in their annual bill of \$7.64, or about \$0.64 per month. Staff and the parties also recommended that the Commission approve Aquarion's 2011 WICA construction budget of \$988,012, comprised primarily of main replacement. Completion of these proposed projects would result in a 2012 cumulative WICA surcharge of 3.7825 percent, which would reflect recovery of both 2010 and 2011 WICA projects. A typical residential customer would realize a total bill impact of \$18.40 annually in 2012, or about \$1.53 per month. Staff and the parties also recommended that the Commission approve Aquarion's projected 2012 WICA projects totaling \$492,807 on a preliminary basis. Staff and the parties assert that the completed 2010 WICA projects are prudent, used and useful. Staff further advised the Commission that Aquarion had provided advance notice of the WICA filing and surcharge request, through bill inserts beginning in September 2010.

On December 3, 2010, Aquarion filed a Motion for Confidential Treatment relating to its response to Staff Data Request 1-1, presenting the identities and bid offer amounts of potential contractors for an Aquarion WICA-related project. Aquarion argues that releasing this information will result in a competitive disadvantage to it in the form of less advantageous or more expensive construction contracts. According to Aquarion, disclosure of the identities and bid offers of its potential contractors would have a chilling effect on future bidding for Aquarion projects, in that disclosure of these terms would cause competitive harm to the bidders for the project considered in Staff 1-1. Likewise, disclosure of Aquarion's pricing terms for such projects to third parties, including competitors, could cause Aquarion direct competitive harm. As such, Aquarion contends that disclosing its confidential commercial information would cause it competitive disadvantage and that the information should, therefore, be exempt from disclosure under RSA chapter 91-A, and otherwise be treated as confidential.

The petition and subsequent docket filings, other than information for which confidential treatment is requested or granted by the Commission, is posted to the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2010/10-293.htm>

II. COMMISSION ANALYSIS

In Order No. 25,019, the Commission approved the WICA as a pilot program to allow Aquarion to place into rates a surcharge to recover its investment in replacing aging infrastructure; Aquarion has submitted completed and proposed projects and associated budgets for our review. In 2010, Aquarion actually spent \$721,546 for projects approved in Order No. 25,065; for 2011, Aquarion proposes to spend about \$988,000, largely for water main replacement. For 2012, Aquarion proposes a construction budget of \$479,000, \$300,000 of which is dedicated to water main replacement. Aquarion's filing, as well as its responses to discovery requests, shows that it continues to develop a priority list of needed improvements to its physical plant, including water mains and valves. Staff, Hampton, and North Hampton have reviewed the three-year list of WICA projects, conducted discovery, and met with Aquarion in a technical session to discuss the filing. Staff has also clarified and resolved issues related to minor computational errors by Aquarion. Staff, Hampton, and North Hampton recommend approval of Aquarion's filing with the noted modifications.

Having reviewed Aquarion's filing and the recommendations of Staff, Hampton, and North Hampton, we approve Aquarion's 2011 WICA surcharge, as recommended by Aquarion, Staff, Hampton, and North Hampton for completed 2010 WICA projects that were previously approved in docket No. DW 09-211. Also, we approve the 2011 schedule of WICA projects. We are satisfied that the proposed capital projects and budget for 2011 are reasonable and necessary, and fulfill the objective of the WICA program to accelerate the replacement of aging infrastructure. Thus, we find the investment decisions to be prudent. Our approval of the 2011 projects will permit Aquarion to seek cost recovery of those projects in its 2011 WICA filing to be submitted on or before November 1, 2011. At that time, prior to permitting Aquarion to recover on those assets, we will determine whether the projects are, in fact, used and useful in the provision of utility service, pursuant to RSA 378:28. We will also approve the schedule of 2012 projects on a preliminary basis, understanding that Aquarion, Staff and the parties may make further recommendations once the 2011 filing is made and reviewed.

As to Aquarion's motion for confidential treatment, in determining whether commercial or financial information should be deemed confidential and private, we consider the three-step analysis applied by the New Hampshire Supreme Court. *Unitil Corp. and Northern Utilities, Inc., Order No. 25,014 (Sept. 22, 2009)* at 3 (citing *Lambert v. Belknap County Convention*, 157 N.H. 375, 382-83 (2008)). First, we evaluate whether there is a privacy interest at stake that would be invaded by the disclosure; when commercial or financial information is involved, this step includes a determination of whether an interest in the confidentiality of the information is at stake. If no such interest is at stake, the Right-to-Know law requires disclosure. *Id.* Second, when a privacy interest is at stake, the public's interest in disclosure is assessed. *Id.* Disclosure should inform the public of the conduct and activities of its government; if the information does not serve that purpose, disclosure is not warranted. *Id.* Finally, when there is a public interest in disclosure, that interest is balanced against any privacy interests in non-disclosure. *Id.*

In furtherance of the Right-to-Know law, the Commission's rule on requests for confidential treatment, N.H. Code Admin. Rules Puc 203.08, is designed to facilitate the balancing test required by the relevant case law. *Id.* The rule requires petitioners to: (1) provide the material for which confidential treatment is sought or a detailed description of the types of information for which confidentiality is sought; (2) reference specific statutory or common law authority favoring confidentiality; and (3) provide a detailed statement of the harm that would result from disclosure to be weighed against the benefits of disclosure to the public. N.H. Code Admin. Rules Puc 203.08(b).

No party has objected to Aquarion's request for confidential treatment. We begin our analysis by noting that the information Aquarion seeks to protect relates to bidding information. As noted by Aquarion, third parties who may obtain the information would be aware of the bidders' pricing terms. Such disclosure may harm Aquarion's competitive position, in that its competitors would be aware of its pricing terms, and also harm the competitive position of Aquarion's bidders, in that the competitors of the bidders, in turn, would be made aware of the bidders' pricing arrangements. This could have a chilling effect on Aquarion's ability to attract competitive bidders for its projects. Moreover, protection of this information may redound to the benefit of Aquarion's customers to the extent Aquarion is able to negotiate more favorable arrangements. Accordingly, we conclude that there is a privacy interest at stake which would be invaded by disclosure.

As to the public's interest in disclosure, the information at issue concerns the identity and offer terms for bidding on an Aquarion WICA-related project. This information relates to the Aquarion's financial arrangements with potential contractors, but reveals little if anything about the functions of the Commission. See *Unitil Corp. and Northern Utilities, Inc., Order No. 25,014 (Sept. 22, 2009)* at 3 (citing *Lambert v. Belknap County Convention*, 157 N.H. 375, 382-83 (2008)). While the information is, in some sense, informative about the finances of the utility, which are subject to the Commission's scrutiny, we nevertheless conclude that any public interest in disclosure is slight. This is so because little information about the Commission, including the processes by which it reviews such information, or the conclusions drawn therefrom, would be discerned by disclosure. Balancing the above interests, we conclude that Aquarion's interest in privacy outweighs the public's interest in disclosure. Accordingly, we grant Aquarion's motion for confidential treatment. Consistent with Puc 203.08(k), our grant of the motion for confidential treatment is subject to our on-going authority, on our own motion, on the motion of Staff, or on the motion of any member of the public, to reconsider our determination.

Based upon the foregoing, it is hereby

ORDERED NISI, that subject to the effective date below, Aquarion Water Company of New Hampshire, Inc.'s 2011 WICA surcharge of 1.5715 percent is APPROVED; and it is

FURTHER ORDERED, that Aquarion's schedule of 2011 capital projects under its WICA tariff is hereby APPROVED; and it is

FURTHER ORDERED, that Aquarion's schedule of 2012 projects is approved on a preliminary basis, subject to further recommendations of the parties in the fall of 2011; and it is

FURTHER ORDERED, that Aquarion shall cause a copy of this Order Nisi to be published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to be no later than January 3, 2011 and to be documented by affidavit filed with this office on or before January 24, 2011; and it is

FURTHER ORDERED, that all persons interested in responding to this Order Nisi be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than January 10, 2011 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 January 17, 2011; and it is

FURTHER ORDERED, that this Order Nisi shall be effective January 24, 2011, unless Aquarion fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

FURTHER ORDERED, that Aquarion shall file a compliance tariff with the Commission on or before January 5, 2011, in accordance with N.H. Code Admin. Rules Puc 1603.02(b); and it is

FURTHER ORDERED, that Aquarion's motion for confidential treatment is GRANTED, as set forth above.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of December, 2010.

Thomas B. Getz
Chairman

Clifton C. Below
Commissioner

Amy L. Ignatius
Commissioner

Attested by:

Lori A. Davis
Assistant Secretary

¹ According to Aquarion's tariff as approved by the Commission, a WICA surcharge will be determined by the proportion of incremental revenues resulting from the pre-tax return on completed plant, plus depreciation and property tax, compared to the total revenue requirement approved in Aquarion's last general rate case. The WICA surcharge amount will be the resulting percentage times the current customer bill amount.