

STATE OF NEW HAMPSHIRE  
BEFORE THE  
PUBLIC UTILITIES COMMISSION

AQUARION WATER COMPANY OF NEW HAMPSHIRE, INC.

DOCKET NO. DW 12-085

**POST HEARING BRIEF BY THE INTERVENOR**  
**TOWN OF NORTH HAMPTON**

The Town of North Hampton (hereinafter “North Hampton”) opposes the Company’s proposed 17.71% rate increase. It opposes any final order that would propose to alter the private fire protection rate that was adopted by the Commission in DW 08-028, Order No. 25,019 and which by its term is not scheduled for review and possible alteration until a new Cost of Study has been completed. So that this Brief will indeed be brief, North Hampton joins in the post hearing arguments presented by the Town of Hampton in its written Closing Argument submittal to the Commission.

**1. The Testimony of David Parcell Should be Credited on the Issue of Cost of Equity.**

The Town of North Hampton believes that the testimony of expert witness David Parcell should be credited by Commission on the cost of equity issue. North Hampton requests that the Commission adopt a ROE no higher than 9.3%.

**2. The Commission’s Order in DW 08-098, Aquarion Water Company of New Hampshire, Order No. 25,019 is Controlling on the Issue of Tariff Rates for Public Fire Protection in this Docket, DW 12-085.**

The issue of Public Fire Protection is not expressly addressed in the settlement agreement that has been submitted by the Company, Staff and OCA for review and approval. This issue was addressed in the Commission’s last Aquarion Water Company rate case, DW 08-098. In that case, all parties proposed and the Commission approved,

via Order No. 25,019, a revision to the proposed rate design for the public fire protection class. The change approved by the Commission has two elements that had the effect of reducing the public fire protection class compared to the other classes.

The first element was an increase in “the fee for establishing or restoring service during normal business hours from \$15 to \$44. This increase is expected to generate \$26,709 in revenues annually and the settling parties propose to dedicate these revenues to the public fire protection class.” See Order No. 25,019 at pgs. 12-13. The Commission noted that, “by dedicating those revenues to the private fire protection class, the settling parties propose that these revenues not be used to increase Aquarion’s overall revenues.” Order at pg. 13.

The second element was an alteration in “the allocation factor used in Aquarion’s August 2005 cost of service study, previously filed in Docket No. DW 05-119, from 75% to 70% of the full cost of public fire protection.” The Commission found that, “this will decrease the proportion of revenues Aquarion receives from the public fire protection class. Order at pg. 13.

The Commission approved these changes, finding that “modifying the Cost of Service results to mitigate the impact of public fire protection customers is not unjust or unreasonable, and we will approve it. **We will revisit the allocations amongst customer classes at the time of Aquarion’s next Cost of Service study.**” (Emphasis added).

Mark Naylor, testifying as to his understanding of how the public fire protection class is treated in this case under the proposed settlement, stated in effect that existing

revenues under the test year are subject to the terms of the Commission's prior order (Order 25,019) but new revenues would not be.

North Hampton submits that in the absence of a new Cost of Service study, the terms of Order No 25,019 are controlling as to how the public fire protection class shall be treated in this docket: all revenues (old and new) that arise from the increase in fees charged for establishing or restoring service during normal business hours shall continue to be dedicated to the private fire protection class to offset the cost of that class of service, and the allocation factor of 70% shall be applied to the full cost of public fire protection.

In plain parlance: a deal is a deal. The Commission's prior Order was not appealed. It is the law of the case, and the current treatment of the private fire protection class established in DW 08-098, Order No. 25,019 is not to be revisited until a new Cost of Service study is performed.

**3. The Cost of Service study proposed in the settlement agreement should be preceded by a discussion and consensus amongst the current parties about its design and objectives.**

Robert Landman, testifying for North Hampton, pointed out that Aquarion's hydrant rates are substantially higher than other water companies and water providers in New Hampshire. He testified that the Aquarion's fire protection rates are significantly higher than the rates other water companies charge elsewhere in the country. The last Cost of Service study by Aquarion resulted in the Company itself recommending a 25% departure from the functional allocation conclusions presented by the study as the true cost of service for the public fire protection class. See Order 25,019 at pg. 13.

This begs the question about the methodology or methodologies to be utilized in the upcoming Cost of Service study, and whether the charges for fire protection elsewhere in New Hampshire and across the country are the product of costs of service studies that have taken a different approach to examining utility costs, and particularly fire protection costs, compared to those that were employed in the last Aquarion study. North Hampton continues to have concern that the fire protection class has been unduly burdened with system costs.

North Hampton requests that the Commission modify the settlement, or otherwise provide in its order, that the parties shall have an opportunity to have input into the methodology of the upcoming cost of service study, that the company shall first disclose the proposed cost of service study methodology to the parties for review and comment, that the parties shall have a reasonable time frame to ask the company to answer data requests regarding the proposed study and its methodology and if concurrence amongst the parties cannot be achieved about the Cost of Service study's methodology, that any party may Petition this Commission for a hearing on the scope and methodology (or methodologies) of the proposed cost of service study.

#### **4. The WICA Program.**

North Hampton has been supportive of the WICA Program because it believes in the stated WICA goals of water conservation, of having less frequent rate cases, and reduced costs by allowing the company to begin earning on its investments sooner that it would without the WICA Program. The testimony from both Mr. Parcell and Ms. Ahern was that the WICA Program appears to be capped at a level that is too low for WICA to achieve some of its stated objectives. This raises the question of whether the WICA

dollar value cap should be raised. To give the program an opportunity to achieve its objectives, the annual WICA capital expenditure cap should be set at what has been judged to be at a capital expenditure investment amount that can accomplish those goals, otherwise all we have done is structure a system that is likely to fail. This wastes everyone's time and goodwill. North Hampton suggests that the Commission consider the testimony of the experts, that the issue of the WICA cap be examined, and that it be set at a level that is judged most realistic to allow the WICA to achieve its objectives.

Respectfully submitted  
Town of North Hampton  
By its Attorneys:

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Date: 6/5/13

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Post Hearing Brief by the Intervenor Town of North Hampton will be forwarded via electronic mail to the Electronic Service List attached on June 7, 2013.

  
John J. Ratigan, Esq.

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Docket #: 12-085-1 Printed: May 23, 2013

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