

BEFORE THE NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

DW 17-062

RE: Aquarion Water Company of New Hampshire, Inc.

TOWN OF HAMPTON'S PETITION TO INTERVENE

NOW COMES the Town of Hampton in the above entitled matter and petitions the Commission to allow it to intervene in these proceedings as a party, and in support of said Petition says as follows:

In accordance with PUC Rule 203.17 and RSA 541-A:32, the Town of Hampton seeks to intervene in the present proceeding. Its rights and substantial interests will be directly affected by the proceeding, as it is the largest customer of the public water supply company, Aquarion Water Company of New Hampshire, Inc., as further set out in more detail below.

1. The Town of Hampton has approximately 15,000 year round residents and lies at the heart of the Seacoast region of New Hampshire.
2. The population of Hampton in the summer months rises dramatically to the point where Hampton becomes one of the largest municipalities population-wise in the State.
3. The majority of the residents in Hampton receive their water service from Aquarion Water Company of New Hampshire, Inc. (hereinafter, "Aquarion" of the "Company"). (Aquarion also serves North Hampton and parts of Rye.)
4. The Town of Hampton contains about three quarters of the residential customers who are served by Aquarion, and the Town of Hampton's Fire Department utilizes more than half of the public fire hydrants for which Aquarion insures the availability of water.

5. The Company has filed on April 14, 2017 with the Commission a Petition that it styles as a Petition to Charge Seasonal Rates for Emergency Interconnection. It relates to a temporary, emergency interconnection that would provide water service to the Wiggin Way Subdivision, which is located in a Town of Stratham. Stratham is not part of the Company's franchise territory.
6. The Company's Petition recites that it is prompted to file the Petition by DES Administrative Order No. 17-006 WD. See copy attached. This DES Order, which is dated March 29, 2017, will be appealed by the Town of Hampton to the Water Council pursuant to RSA 485:59 and RSA 21-O:14, I-a. The Town will also be seeking a stay of the DES Order in an appropriate legal forum, inasmuch as it would require not only a temporary interconnection, but a permanent interconnection as well. The DES Order requires Aquarion to seek the Commission's approval of the interconnection.
7. When Aquarion petitioned the Commission in 2016 for a connection to the same Wiggin Way Subdivision in Stratham, the Town of Hampton filed with the Commission a Petition to Intervene similar to this one. This Petition was not ruled upon because the emergency interconnection request was withdrawn and the docket was closed.
8. The current Petition by the Company appears to be its first step towards carrying out the DES Order, notwithstanding the Company's telling the Towns it currently serves, including Hampton, at a quarterly meeting on March 20, 2016 that "The acquisition of Wiggin Way was on their [the Homeowners' Association's] initiative, not the Company's." Simply because the Wiggin Way Homeowners' Association wants the interconnection as a "quick fix" to its long-ignored water problems is no justification for DES ordering it. Notably, however, the Company appears to be assuming from the way

its current Petition is styled (merely as a Petition to Charge Seasonal Rates for the Emergency Interconnection) that it does not need the Commission's approval to establish the temporary connection with the Association. The DES Order, however, requires the Company to apply to the PUC for permission to make the connection, not just to charge a special rate.

9. The Town's reasons for appealing the DES Administrative Order dated March 29, 2017 include, but are not limited to, the following:
 - a. In its Statement of Fact and Law, Section C, paragraphs 16-76, the DES Order sets forth in great detail a long standing history, going back to 2006, of water shortages in the Wiggin Way Association's wells, violations of DES drinking water standards, and repeated failures to act by the Association to remediate these problems, despite numerous notices and orders by DES.
 - b. These paragraphs reveal that the Association's responses to DES violation notices and to its own perceived well problems have been limited to shutting off one of its wells and to bringing a number of in bulk water deliveries, without spending any monies to permanently remediate the wells.
 - c. The Order does not reveal what alternatives for remediation of the Association's wells have been explored by either the Association or by DES as opposed to obtaining water through an interconnection with the Aquarion system, which has only previously provided water to the Association on an emergency basis through a temporary connection that was installed in the summer of 2016 pursuant to a DES Order that did not have the approval of the this Commission until after the fact.

- d. By contrast with the specifics that are detailed by DES in the Order about the Association's violations of its statutory and regulatory duties as to its own wells, the DES Order provides no detail or analysis to support the bald allegations that appear in only one paragraph (#81) of that Order, to the effect that the estimated cost to the Association of additional well siting and permitting, etc., would be approximately three times the estimated cost of connecting the Association's system to Aquarion's.
- e. While it may be that the actual costs of an interconnection are modest, that fact alone does not warrant ordering the connection. The costs of the Association to fix their own problem is also perfectly affordable, and should be the preferred result in view of Hampton's larger system-wide concerns.
- f. On information and belief, the cost of developing new wells to the Association would only cost a modest amount, and this comparatively wealthy Association, whose member properties collectively have an assessed value of \$27,557,700.00, can well afford when that cost is spread among its 48 members. The same holds true for arsenic remediation, a small, manageable charge for the Association to fix its own problems, which it is legally required to do under DES's own regulations.
- g. Similarly lacking in detail or analysis are the DES conclusions in paragraph 82 of its Order that Aquarion has an adequate water supply and system capacity to serve the Association "without adversely affecting its existing customers".
- h. Nowhere in the Order does DES acknowledge or reveal that in 2016, Aquarion came very close to not being able to produce sufficient water to meet the demands of its existing customers in the Hampton, North Hampton, and Rye. Attached

hereto is a graph prepared by Aquarion itself that shows when this supply crisis occurred.

- i. Nowhere in the Order does DES acknowledge or reveal that Aquarion has been telling officials in its existing franchise Towns that a new production well is already needed to serve existing customers, whose cost exceeds half a million dollars; this cost will be borne by its existing customers when that cost is incorporated into the rate base.
 - j. Nowhere in the Order does DES acknowledge or reveal that there have already been approved in Hampton, several new large commercial developments where Aquarion Water has already committed to providing water. This growth will add significant volume demands to those of its existing customer base. When these approved commercial developments are built out as projected, over 46,000 gallons per day of new demand for water will be added to the existing customer base of Aquarion in the three Towns that it already serves.
10. Intervention by Hampton is needed now in order for Hampton to be kept fully informed of the Company's and the Commission's intentions and to be in a position to voice the Town's concerns in a timely and meaningful way before any temporary connection is sought to be made permanent.
 11. The Town of Hampton has participated in all the recent rate cases before this Commission that have been filed by Aquarion.

WHEREFORE, the Town of Hampton requests that the Commission:

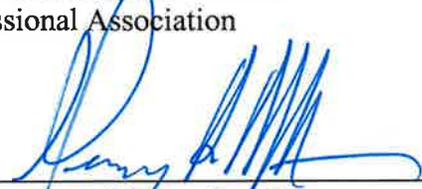
- A. Allow the Town of Hampton to intervene as a party in this matter;

- B. Notify the Town in advance of any further proceedings herein and allow the Town of Hampton to be heard before any Orders are issued; and
- C. Grant such other and further relief as may be just.

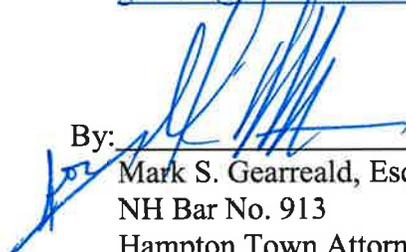
Respectfully submitted,
Town of Hampton,
By its Attorneys,

Devine, Millimet & Branch,
Professional Association

April 21, 2017

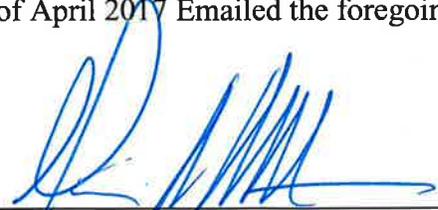
By: 
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April 21, 2017

By: 
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Certificate of Service

I hereby certify that I have this 21st day of April 2017 Emailed the foregoing Petition to Intervene to the service list electronically.


George R. Moore, Esquire