

BEFORE THE STATE OF NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

PETITIONER: NORTH HAMPTON WATER COMMISSION

**RE: COMPLAINT OF THE TOWN OF HAMPTON AGAINST AQUARION WATER
COMPANY OF NEW HAMPSHIRE, INC.**

PETITION TO INTERVENE IN DOCKET DW 19-065

NOW COMES the North Hampton Water Commission in the above entitled matter and petitions the Commission to allow it to intervene in these proceedings against Aquarion Water Company Inc. (hereafter “Aquarion”) as a party, as a result of the Town of North Hampton’s expenditures for FY 2020 of \$277,681 for 150 fire hydrants (\$1,851.21 per hydrant), its government buildings usage, and its residential customers, and in support of said Petition says as follows:

Count 1: Overearning by Aquarion as to allowed Return on Equity and allowed rate of return, pursuant to N.H. RSA 365:1 and 29.

1. In DW 12-085, the last general rate case involving this utility, the Towns of North Hampton and Hampton had to hire a ratings expert to argue against Aquarion’s expert who had requested an increase in the rate of return on equity (ROE) to 10.25% from 9.75%, when the economy was in the midst of the “Great Recession “; the Commission in Order No. 25,539. adopted the testimony of the Towns’ expert and set a reduced ROE of 9.6%.

2. Because the ROE set by the Commission was arrived at using the expert testimony of the rate expert (David Parcell) hired jointly by Hampton and North Hampton and therefore North Hampton has a vested interest in having the Commission’s Order adhered to.

3. Each percentage point of the ROE in DW 12-085 was worth about \$154,000 in earnings.

4. Aquarion files annual reports in late March of each year reporting on earnings in the prior calendar year. Aquarion's annual report for the year 2016, filed with the Commission in 2017, provided for the first time a figure on ROE achieved, which was reported to be 13.11%, or 3.51% above the allowed 9.6% ROE.

5. The Town of Hampton complained in DW 16-828 about excessive earnings but the Commission denied any hearing and in Order No. 25,982 on January 27, 2017 stated that it does not review and approve Aquarion's earnings in WICA proceedings.

6. Our two towns have been very concerned as Aquarion has shown no interest in another rate case; rather, they prefer to continue with the WICA process, which the Commission will recall was a pilot study. We look at the excess earnings and wonder if the "pilot" WICA will allow Aquarion to continue overearning without redress for years to come?

7. In its earlier Order No. 25,977 dated January 13, 2017, the Commission stated that it retains the right to review the earnings of utilities for reasonableness, referencing RSA 365:5 and 6, and directed Aquarion to file a calculation of its achieved ROE at the same time it files its Annual Reports.

8. Aquarion's Annual Report for the year 2017, filed with the Commission on April 2, 2018, reported that Aquarion had achieved a return on equity of 10.29%, or .68% above the allowed return on equity.

9. The Town of Hampton again complained about these excessive earnings in

DW 17-154, but the Commission ordered on p. 6 of its Order No. 26, 094 dated December 29, 2017 that "matters related to Aquarion's earnings position would be addressed as part of Aquarion's next rate proceeding." The Commission continued the reporting requirement from Order Nos. 25, 977, which it noted was "designed to give the Commission and Staff the ability to monitor Aquarion's achieved rate of return and its achieved return on equity."

10. Regarding this year's WICA surcharge Petition by Aquarion (DW 18-161), the Commission Staff performed an audit dated November 16, 2018 in which Staff for the first time analyzed the rate of return, cost of capital, and return on equity achieved by Aquarion since the most recently approved rate case DW 12-085, 6 years ago, in Order 25,539 issued June 28, 2013.

11. This Staff Audit concluded that "The Company appears to have overearnings, based on the Rate of Return calculations below, since 2013" and the achieved return on equity exceeds by at least 1.5% higher each year, and by as much as 7.75% higher, the 9.6% return on equity allowed by the Commission in Order No. 25,539 in DW 12-085.

12. The audit is ample proof that Aquarion's excessive ROE has resulted in the Company's retaining hundreds of thousands of dollars in excessive earnings from its customers spanning at least 5 years. The 2018 annual report filed by the Company on March 29, 2019 reports that again, the allowed rate of return on equity has been exceeded, this time by 1.4%.

13. The Company's excessive earnings ought to be returned and rebated to Aquarion customers in order for this Commission's rulings in DW 12-085 to have any real meaning.

14. Intervention by the North Hampton Water Commission on behalf of the Town of North Hampton is needed now in order for the Town 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.

15. NHWC has participated in all the general rate cases before this Commission that have been filed by Aquarion and its predecessor.

14. The NHWC is petitioning to intervene in this case at this time in order to avoid any claim that the Commission's ability to provide redress is somehow time barred.

WHEREFORE, the North Hampton Water Commission on behalf of the Town of North Hampton and its residents requests that this Commission:

- A. Order Aquarion rebate to its customers the earnings, with interest thereon, that Aquarion has received and retained from and including 2013, that exceed the rates of return on equity and allowed rate of return ordered by the Commission after the contested hearing in DW 12-085 and
- B. Grant such other and further relief as may be just.

Count 2: Clearing Snow From Fire Hydrants, pursuant to NH RSA 365.1

1. In DW 18-161, the Town of Hampton complained to the Commission that Aquarion Water Company of New Hampshire relies upon the fire departments of the towns where its 268 private fire hydrants costing annually approximately \$500,000, are located to clear snow from those hydrants.

2. Aquarion's private fire hydrants serve a critical public safety function in that, when properly maintained and cleared of snow, ensure that water is available to fight fires within their vicinity. Having to search for and clear a fire hydrant covered with snow can slow down response time greatly.

3. In the Town of North Hampton are 150 of Aquarion's private fire hydrants that

they insist must be cleared by the Town's fire department, for which expenditures for FY 2020 will be \$277,681 (\$1,851.21 per hydrant).

4. The NHWC has found the following typical example for private fire hydrants:

In Seabrook, NH in Section 7.1-a (9) "Private fire hydrants shall be kept free of snow, ice or other materials and protected against mechanical damage so that free access is ensured."

5. Aquarion neglects and refuses to clear snow from around its private fire hydrants.

6. As has happened in the Town of Hampton., the Town of North Hampton's taxpayers are being forced to pay their firefighters to maintain private property of Aquarion.

WHEREFORE, the North Hampton Water Commission on behalf of the Town of North Hampton and it's residents requests that this Commission:

A. Order Aquarion to perform clearing of snow from the fire hydrants that it owns in the Town of North Hampton using Aquarion's own employees or Aquarion paid contractors;

B. Order Aquarion to include the cost of such snow clearing in the cost of service study for the next rate case; and

C. Grant such other and further relief as may be just.

Respectfully submitted,

By:  Dated: MAY 23, 2019

Bob Landman
Co-Chair
North Hampton Water Commission
(603) 502-0587

CC: North Hampton Select Board
Town Administrator
Service List (electronically)

CERTIFICATE OF SERVICE