1		STATE OF NEW HAMPSHIRE
5.		PUBLIC UTILITIES COMMISSION
3		
4		6 - 10:03 a.m.
5	Concord, New	Hampshire
6		
7	RE:	DW 16-448 ABENAKI WATER COMPANY AND
8		ROSEBROOK WATER COMPANY: Petition to Transfer Utility Assets
- G		and Franchise and for Related Approvals. (Hearing on the merits)
UT*		approvates. Intering on the merrica,
	DDE CENE.	Chairman Markin D. Honighova Dunaiding
LE	PRESENT:	Chairman Martin P. Honigberg, Presiding Commissioner Robert R. Scott
ے د		Commissioner Kathryn M. Bailey
13		Sandy Deno, Clerk
14		
19	APPEARANCES:	Reptg. Abenaki Water Company: Justin C. Richardson, Esq. (Upton)
2700 237		Reptg. Rosebrook Water Company: Sultana Svirk, Esq. (Devine)
_ ^;		Reptg. Residential Ratepayers:
i 9		Donald M. Kreis, Esq., Consumer Adv. Pradip Chattopadhyay, Asst. Cons. Adv. Office of Consumer Advocate
2.0		
21		Reptg. PUC Staff: John S. Clifford, Esq. Mark A. Naylor, Dir./Gas & Water Div.
22		Robyn J. Descoteau, Gas & Water Div.
2.3	Court Repo	rter: Steven E. Pathaude, LCP No. 52

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Attachment A

2

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2	INDEX	7
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4 5	WITNESS PANEL: DONALD J. E. VAUGHAN DEBORAH O. CARSON ROBYN J. DESCOTEAU	
6	Direct examination by Mr. Richardson	6
7	Direct examination by Mr. Clifford	13
8	Cross-examination by Mr. Kreis	18
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15	CLOSING STATEMENTS BY:	PAGE NO.
	Mr. Kreis	
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{DW 16-448; (07-28-16}

[WITNESS PANEL: Vaughan~Carson~Descoteau]

1 Is that your -- is that what your intention is? 2 (Vaughan) No. We've got to take a good look at Λ 3 this, because, you know, we're on the heels of 4 a rate decision in Bow and Belmont. We 5 recognize that there's an awful lot of capital 6 that has to be spent at Rosebrook. So that, 7 when we come in again, I'm estimating that the focus is going to be on Rosebrook, and perhaps 8 9 there's a way we can level or even reduce some 10 of the rates in Bow and Belmont. I'm kind 11 of that would be my desire, that would be my 1.2 goal. 13 So, it's not your immediate plan to have the Q = Bow and Belmont customers subsidize the 14 15 Rosebrook system that is in so need of capital 16 improvements? 17 A (Vaughan) Not at all. 18 Okay. All right. So, we can talk about that 0. 19 at the rate case? 20 (Vaughan) Yes. Absolutely. A ... 2.1 Q... That's fine. Thank you. Okay. In Exhibit 22 H -- sorry, Exhibit 5, which is the Revised Exhibit H, that's your tariff, on Page 059, 23 24 Original Page 2 of the tariff, but I think it's

(DW 16-448) [07-28-16]

[WITNESS PANEL: Vau]han Carson Descoteau]

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Bates stamped Page 059, I see that there are some revisions from the Rosebrook policy about who has to own, operate and maintain -- or, own and maintain the service line. It looks to me, and I'm not a water company expert, I don't have a lot of experience in this area, but it looks to me like, under Rosebrook, the utility owned the service line from the property line to the customer's house. And you're changing that so that now the dustomer owns the service line from the property line to the house? (Vaughan) It's -- not quite. Conventionally, the Company owns the water service from the water main to the property line or the curb stop. And, hopefully, the curb stop is located at the property line or within the right-of-way. And the reason for that is, it gives the operator, the water company the right to access that curb stop, or it facilitates it. In the case of Rosebrook, through our due diligence, we determined that there are several curb stops that are almost right adjacent to the house. And, so, how this became information available to us was the result of

*{DW 16-448} +37-28-15}

[WITNESS PANEL: Vaughan-Carson-Descoteau]

all the frozen services that have occurred there, and the responsibility of those frozen services. If they are the Company's services, which should be from the main to the property line or to the curb stop, hopefully in a coincidental location, then the Company takes care of the frozen service. And it's conventional also that the owner has to be responsible for thawing the frozen service on their side of the service, which is the property line to the house.

So, when we have an opportunity, we want to move those curb stops to the property line. And there's a lot of good things that can happen out of that, too. Some of them are at enormous depths. Although the frost reaches down five or six feet in that area, we can raise those and perhaps renew those services while we're doing it. So, the revision is to just emphasize that we — that the responsibility of the Company is from the main to the property line or the curb stop.

And you mentioned the word that it's "conventional" a couple of times. Do you mean

{DW 16-448} {07-28 16}

WIINESS PANEL: Vaughan Carson Descoteau

1 that that's the industry norm? That most water 2 companies, the point of demarcation is at the 3 property line, not at the house? 4

- (Vaughan) No, it's at the property line. Ax
- 5 Q ... Okay. Thank you.
- 6 Α. (Vaughan) It's water utility convention.

7 CMSR. BAILEY: Okay. All right. And 8 I think all of my other questions have been 9 answered. So, thank you.

WITNESS VAUGHAN: Thank you.

11 BY CHAIRMAN HONIGBERG:

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- How much bigger a company is Abenaki going to be after the transaction closes?
- 14 (Vaughan) Abenaki is going to leap from 250 to A . 15 650 customers, give or take.
 - Q .. Does anyone on the panel have any concern about the capacity of the Company to manage the much larger number of customers that it will have?
 - A. (Vaughan) We do not. We've made steps to reinforce the local presence at Bretton Woods. There was a staff of four people there. Two have left, seen pretty much the handwriting on the wall, a third is redundant. For perhaps six weeks to two months, there was one person

{DW 16-448} {07-28-15]





Burgess, Stacey

From:

Don Vaughan <dvaughan@newenglandservicecompany.com>

Sent:

Tuesday, May 28, 2019 5:45 PM

To:

Getz, Ihomas

Cc:

'Marcia Brown'; 'Christopher Ellms'; "Pauline Doucette"

Subject:

RE: Invoice 1002162 from AB Excavating Inc.

Hi Tom,

Pauline is absolutely correct in her position stating that Omni is responsible for the repairs to its service line. The basis for her position is expressed clearly in the Company's Terms and Conditions, approved by the PUC. In fact, this is a common customer responsivity with most water utilities.

Don V.

From: Getz, Thomas [mailto:Thomas.Getz@MCLANE.com]

Sent: Tuesday, May 28, 2019 4:35 PM

To: Don Vaughan <dvaughan@newenglandservicecompany.com>

Cc: Marcia Brown <mab@nhbrownlaw.com>; Christopher Ellms <CEllms@omnihotels.com>

Subject: FW: Invoice 1002162 from AB Excavating Inc.

Don,

Below is an email chain that Chris Ellms forwarded to me about the Easter Sunday main break.

In the highlighted portion, Pauline takes the position that Abenaki is not responsible for the repairs made by AB Excavating

Does this accurately represent the Company's position and, If so, what is the basis for saying that Omni, and not Abenaki, is responsible for the repairs?

Thanks

Tom

From: Travis Horan [mailto:travis@abexcavatingini.com]

Sent: Monday, May 06, 2019 12:26 PM

To: Christopher Ellms < CF llms@omnihotels.com>

Subject: [EXTERNAL] FW: Invoice 1002162 from AB Excavating Inc.

Chris,

Please see the email chain below from Pauline.

Let me know if you need anything.

Thank you,

Travis Horan



653 Main Street, Lancaster, NH 03584

L

(603) 616-8678 Cell (603) 788-5110 Office Visit us online at: www.abexcayatingiac.com

From: David Begin <dayid@abexcavatinginc.com>

Sent: Monday, May 6, 2019 12:24 PM

To: Travis Horan < travis@abexcavatinginc.com > Subject: FW: Invoice 1002162 from AB Excavating Inc.

David Begin Controller

david@abexcavatinginc.com



653 Main Street Lancaster, NH 03584 Office - (603) 788-5110

Visit us online at: www.abexcayatinginc.com

From: Pauline Doucette <pdoucette@newenglandservicecompany.com>

Sent: Thursday, May 2, 2019 9:08 AM

To: David Begin david@abexcavatinginc.com
Subject: RE: Invoice 1002162 from AB Excavating Inc.

Good Morning David:

After talking with the field operators for Abenaki Water, the main break was found on Omni's Service Line, which is after the shut off valve. This makes the repair on Omni's side of the service line and is their responsibility of maintenance and repairs. Please bill Omni accordingly.

Thanks, Pauline

From: David Begin <david@abexcavatinginc.com>

Sent: Thursday, May 2, 2019 6:57 AM

To: Pauline Doucette <pdoucette@newenglandservicecompany.com>

Subject: RE: Invoice 1002162 from AB Excavating Inc.

Per Chris Elms at Omni, the bill needs to be sent to you.

David Begin Controller david@abexcavatinginc.com



653 Main Street Lancaster, NH 03584 Office - (603) 788-3110

Visit us online at: www.abescayatinginc.com

From: Pauline Doucette cpdoucette@newenglandservicecompany.com>

Sent: Wednesday, May 1, 2019 7:37 PM

To: David Begin david@abexcavatinginc.com; customerservice@abenakiwatercompany.com

Subject: RE: Invoice 1002162 from AB Excavating Inc.

Hello:

I believe this invoice is for the work that was done for Omni and should be billed directly to Omni.

Thanks,

Pauline Doucette

From: David Begin <david@abexcavatinginc.com>

Sent: Wednesday, May 1, 2019 4:37 PM

To: customerservice@abenakiwatercompany.com Subject: Invoice 1002162 from AB Excavating Inc.

AB Excavating Inc.

Invoice Due 04/26/2019

1002162

Amount Due: \$22,848.74

Dear Customer:

Your invoice-1002162 for 22,848.74 is attached. Please remit payment at your earliest convenience.

Thank you for your business - we appreciate it very much.

Sincerely, AB Excavating Inc.

603-788-5110

Attachment D

ROSEBROOK WATER COMPANY

309 & 331 **ACCOUNTS**

DATE INSTIGL REMOVED

					(METICAL	REMOVED				Asset				
	DATE PUT			LOCATION	COSTS	FROM	REMEMT			Life		A/D	2015	₩ 0
ASSET A	INTO SERVICE	OF ITEMS	DESCRIPTION OF ITEM	OF ITEM	OF ITEM	SERVICE	AMOUNT	Adjustment	BALANCE	in Years	Depr Nate	12/31/2014	Day Exp	Retirements Adjustments 12/31/2015
	1973)6" Q.L, main from well (a tank;		216,700.00				216,700.00	50	2.00%	179,861	4,334	184,195
			16" D.L.nam from well to MWRate,											
			8" D I mains to Fabyans and Drummonds											
		1	16" B. I. Rover Crossing											
		SO LF	6" Water Main											
		1250 LF	6" Water Main											
			- 16" Water Main											
		2	& Gate Vaine											
			· 16" Gate Value											
			- Railroad Grégoing											
	1916		4° 0.1 main extension to Rourbrook Condos Phase I											
			- Cansad of Existing											
		-	- A" WaterMain											
		4	4" Gate Valve											
		1	-12" Gate Value											
	197%		19° D.I. main extension to Resobrook CondoS Phone 2		35,000.00				30,000.00	50	2.09%	27,740	760	28,500
		2	Connect at Enischig System		-									•
			- 4T Water Main											
		400 LF	-IC Was Man											
			- 6" Gaze Valve											
		_	-10" Gate Value											
	1984		8" \$ 10" DJ, main extension to Forest Contagns		44,232,00				46,332.00	100	2,40%	20,732	827	21,659
			- Connect of Emissing		10,002.00				-old to the room	_	4.50%	- Columb	44.	Lapass
			- 6 Water Main											
			- E' Water Main											
			-10" Water Main											
		3	8° Gao: Valve											
			-16" Gate Valve											
	1985		8" D.L. main excession to MW Hotel & Section Arms.											
			- Connect of Editing											
			- 6" Water Main											
		4450 LF	- 8" Water Main											
		1	- 6" Gate Valve											
		- 2	2" Gain Value											
	1586		2" PVC main enfemion to Sid Arga Malatunance											
		1	- Connect of Edizing											
		ASO LF	- 2" Water Main											
			- 2" Gate Valve											
	1587		12" marin extension to Crawlood Ridge											
		1.2	- Connect of Existing											
			- 4" Water Main											
			- 6" Water Main											
			-12" Water Main											
			- +" Gate valve											
			-12" Gate Valve											
	1987	-	8" & 15" main ettersion to MW Place											
	1701	1	- Connect at Existing											
			- 6" Water Main											
			- 8" Water Milin											
			-15" Water Male											
		7	- 8" Gate Valve											
		2	-16" Gate Valve											
	1988		8" & 12" main extension to U-2 (MN/ Horses Subdivision)											
			- Connect or Existing											
			- 3" Water Main											
		1440 LF	-22" Water Mare											
		2	Z" Gate Valve											
		1	-12° Sale Yahre											
	1986		8" main excession to Riverlight Incimes											
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Attachment D

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Close C Water Utility

F-S UTILITY PLANT IN SERVICE (Accounts 101 and 101)

(in addition to Accesse (M., Crainy Physics Spreads, this extended lexically Administrated DM, Crainy Physics for Sales.

Report below the original cost of water plant in survice seconding to premerized accounts.
 Do not include an adjustments, corrections of additions and retirements for the current or preceding year. Such imms should be included in enhance (c) or (d) an appropriate.
 Oracle adjustments of plant occurrent should be enclosed in paratheses? () "to indicate the negative efficie of such amounts.
 Reclassification or transfers which addition property should be indeed in colours of a such amounts.
 Reclassification or transfers which addition or reductions of privately account classification original from distribution of amounts initially recented in Account 164, Utility Plant Purchased or Sold. In showing the desurmon of Autocont 164, include in column (c) the amounts with respect to account later the precision, acquisities adjustments, see, and show in column (f) only the office to the debte or credit distributed in column (f) on privately account classification.

Line #	Acet	Ascount (a)	Belonce at Beginning of Year (b)	Additions (e)	Retirements	Adjustments (c)	Transfers (D	Balance at Ead of Year
1		Organization	\$42,295					\$42,295
2		Franchises		1			1	
3		Land and Land Rights		1			1	
4		Structures and Improvements	243,033	1				243,033
5	305	Collecting and Impounding Reservoirs	- 1	1	- 1			
6	305	Lake, River and Other Innakes	1		1		1	
7	307	Wells and Springs	222,547	- 1		1	1	222_547
8	308	Infiltration Galleries and Tunnels		1				2822741
9	309	Supply Mains		1	- 1			
10	310	Power Generation Equipment						
11	311	Pumping Equipment	149,666	- 1	i		1	140.666
12	120	Water Treatment Equipment	26.611					149,666
13		Distribution Reservoirs and Standpipes	,	1	i			26, 631
14		Tennermission and Distribution Mains	457,134	1				400 104
15	233	Services 1	29.041				1	457,134 29,041
16		Motors and Motor Installations	41,640	393				42,033
17		Hydeants	45,228				1	45,221
18		Other Plant and Miscellesquas Equipment	6,713	1				6,713
19		Office Possiture and Equipment					1	-112
20		Transpertation Equipment	17,173					17,173
21		Stores Equip neat			1			*****
22		Tools, Shop and Gurage Equipment	4,093	1				4.025
23		Emboratory Equipment	- 1		l l			1,023
24		Power Operated Equipment		1	i			
25		Communication Equipment	48,226	1,542			1	49,828
26		Computer Equipment	696	875			- 1	1,571
27	348	Other Tangible Plant						- 1
28		TOTAL UTILITY PLANT IN SERVICE	\$1,334,666	\$2,810	\$3	12	20	\$1,736,806

ATTACHMENT PAGE 3 OF 4

Attachment D

STARF TO ABBURK 1-1 ATTACHMENT - PAGE YOUY

Annual Report of Rosebrook Water Company, Inc.

Year ended December 31, 2013

Class C Water Utility

F-11 ACCUMULATED DEPRECIATION OF UTILITY PLANT IN SERVICE (Account 188.1)

Report below the information concerning accumulated provision depreciation of utility plant in service at and of year and changes during year

2. Explain any important adjustments during the year.

3. Explain any difference between the amount for back cost of plant retired, Line 4, column (b), and that reported in the Schedule F-8 Utility Plant in Service.

column (d), exclusive of retirements of nondepreciable property.

The provisions of Account 108.1 of the Uniform System of Accounts state that retirements of depreciable plant he recorded when such plant is removed from service. There shall also be included in this schedule the amounts of plant retired, removed expanses, and mivage on an estimated basis if necessary with respect to any significant amount of plant actually retired from service, but, for which appropriate entires have not been made to the accumulated provision for depreciation account. The inclusion of these amounts in this schedule shall be made even though it involves a journal entry in the books of account of the and of the year recorded subsequent to alosing of respondent's books

Balances and Changes During the Year

Line	(tem (a)	In Service (Acet 108.1) (b)
1	Balance at beginning of year	\$ 484,50
2	Depreciation pravision for year, charged to Account 403, Depreciation Expense	\$51,59
	Net charges for plant retired	
4	Book cost of plant retired	
5	Cost of removal	
6	Salvage (credit)	
7	Net charges for plant retired	\$
8	Other (debit) or credit items	
9	Adjustment	
10		
11		\$ 536,0
12	Bafance at end of year	3,30,0

Attachment E

From: RGallo@Newenglandsarvicecompany.com <RGallo@Newenglandservicecompany.com>

Sent: Wednesday, January 22, 2020 11:55 AM

To: Josh DeBottis < josh debottis@omnihotels.com>; NLaChance@NewEnglandServiceCompany.com

Cc: 'Don Vaughan' < dvaughan@newenglandservicecompany.com'>; Christopher Ellms < CEllms@amnihotels.com >

Subject: [EXTERNAL] RE: Abenaki Water Company - Rosebrook Pressure Reduction

Good Morning Mr. DeBottis,

Thank you for your reply. We would certainly like to meet regarding the pressure reduction project, and to discuss other potential improvements to the Rosebrook System. As you mentioned below, we are going through the process to resolve the Easter break issue and Step II increase. We are presently involved with the PUC discovery phase for the Easter break, Step II increase and rate case expenditures, so I think we should plan to meet once the phase is concluded.

In an effort to focus on the pressure reduction work, and discussions of other potential improvements, we would prefer to have a more informal meeting between us. We can collectively discuss both AWC and OMNI needs, and perhaps find a way forward that will benefit both companies. Would you be amenable to a meeting at the Hotel?

I think there is an opportunity for AWC and OMNI to work collaboratively to address the system and hotel needs, and establish ongoing meetings moving forward. I will be sure to contact you once we move beyond current issues to schedule a meeting at your convenience. Again, thank you for your reply, and I look forward to meeting with you.

Kind Regards,

Bob

Robert Gallo, PE
New England Service Company
37 Northwest Drive
Plainville, CT 06062
Ph. (860) 747 1665

Ph: (860) 747-1665 Fax: (860) 747-2536

From: Josh DeBottis < iosh debottis@omnihotels.com>

Sent: Tuesday, January 21, 2020 12:55 PM

To: 'RGallo@Newenglandservicecompany.com' < RGallo@Newenglandservicecompany.com>;
'NLaChance@NewEnglandServiceCompany.com' < NLaChance@NewEnglandServiceCompany.com>

Cc: 'Don Vaughan' <dvaughan@newenglandservicecompany.com>; Christopher Ellms <CEllms@omnihotels.com>

Subject: RE: Abenaki Water Company - Rosebrook Pressure Reduction

Good Afternoon Mr. Gallo and Mr. LaChance,

Attachment E

Thank you for your emails. I would be very interested in meeting to learn the current status and scope of Abenaki's proposed engineering designs, which I understand would cover general system improvements and pressure-related issues. As for permission to provide access to Abenaki's engineering consultant regarding the location of potential facilities, Omni has no objection to such access, but it would be helpful to coordinate on the details.

In addition, in light of the recent prehearing conference at the Public Utilities Commission concerning the Easter Sunday water main break and the unresolved issues as to the Step II rate increase and rate case expenses, I think this might be an opportune time to start a conversation about all of the outstanding issues between Omni and Abenaki. Finally, I understand that at that recent meeting Abenaki had a number of mistaken impressions about Omni's expansion plans, which we would like to address.

Please let me know if you would be available to meet in Concord at the McLane Middleton offices on, Friday 1/24, Wednesday 1/29, or Thursday 1/30.

I look forward to meeting with you.

All the best,

Josh

Josh DeBottis

General Manager Omni Mount Washington Resort

603-278-8801 direct Josh debottis@omnihotels.com

Book Direct. Feed a Family. SayGoodnightToHunger.com

From: RGallo@Newenglandservicecompany.com <RGallo@Newenglandservicecompany.com>

Sent: Wednesday, January 15, 2020 5:01 PM

To: Josh DeBottis <josh.debottis@omnihotels.com>

Subject: [EXTERNAL] Abenaki Water Company - Rosebrook Pressure Reduction

Good Afternoon Mr. DeBottis,

I would like to introduce myself in hopes of working collaboratively in the future, to address OMNI's needs as it relates to the Rosebrook water system.

As you know, Abenaki Water Company (AWC) is in the process of evaluating a prospective engineering design to reduce extreme pressures in the Rosebrook Water System. The high pressure has been significantly problematic, and has had damaging consequences over the years. The cause of the pressure issue is the high elevation of the 650,000-gallon storage tank on the ski resort property. As a result, the New Hampshire Department of Environmental Services has described this condition as a significant deficiency, and has ordered the AWC to take the necessary steps to achieve compliance. The project will include approximately three small, architecturally compatible, pump stations to convey water once the pressure is reduced from the storage tank via pressure reduction valves. Once we engage a design firm, they will explore areas most suited to serve the system.

Attachment E

The reason for my email is that we need permission to explore potential sites for pump stations, possible main installations and pressure reducing valves, and some of these locations will undoubtedly be on OMNI property. We would like the opportunity to investigate areas identified by our consultant that may be on OMNI property.

Please advise if AWC and its engineering consultant may have access to OMNI property for investigations, per the above information. I would be happy to discuss obtaining permission for access, as well as how the proposed project can benefit OMNI properties that currently exist, and how our efforts to improve the system will allow OMNI the opportunity to reduce risk, improve dependability, fire protection and minimize future maintenance costs. I can be reached per the information shown below, or by response to this email. Thank you, and I hope to hear from you soon.

Respectfully,

Robert Gallo, PE New England Service Company 37 Northwest Drive Plainville, CT 06062 Ph: (860) 747-1665

Fax: (860) 747-2536

DW 19-131 OMNI MOUNT WASHINGTON, LLC. COMPLAINT AGAINST ABENAKI WATER COMPANY, INC. STAFF DATA REQUESTS TO OMNI – SET 2

Date Request Received: 3/6/20

Staff to OMNI 2-1:

Date of Response: 3/23/20

Douglas Brogan

REQUEST:

Page 1 of the Complaint Filing identifies a break that occurred in an 8-inch water main serving the Mount Washington Hotel (Hotel). The 8-inch main was identified as running approximately 1,600 feet southeasterly from Base Road terminating at the Hotel. How many linear feet of 8-inch water main identified in the complaint as 1,600 feet is on Hotel property? Is any additional footage of this main located on Omni Mount Washington, LLC (Omni) property that is not located on Hotel property? If so, please describe the total footage on Omni property.

RESPONSE:

The 8-inch water main identified in the Omni Complaint runs approximately 1,600 feet on Omni property from Base Road to the Hotel. However, as shown on the attachment to this response (a portion of 1995 Provan & Lorber plans of the water system), that 8-inch main (blue) actually begins at the intersection of Base Road and Hannah Loop (entrance to Mt. Washington Place); travels along Base Road for some 2,050 feet to a gate valve near the 6-inch branch to the Bretton Arms Hotel (green); and continues an additional 270 feet within the Base Road right-of-way before crossing onto Omni property for the final 1,600 feet to the Hotel. See response to Omni 2-3 for further clarification of the 1,600 foot length.

The total length of 8-inch main is approximately 3,920 feet. The total length of 6-inch main shown on the plans is approximately 1,040 feet. These lengths are slightly less than those in the 1985 accounting entry referenced in Staff's Data Request to Abenaki 2-3 (4,450 feet of 8-inch and 1,300 feet of 6-inch main). The latter numbers may have included other extraneous lengths in the totals. The 1995 plans show two 8-inch gate valves and one 6-inch gate valve on the respective mains, again in agreement with the accounting entry.

DW 19-131 OMNI MOUNT WASHINGTON, LLC. COMPLAINT AGAINST ABENAKI WATER COMPANY, INC. STAFF DATA REQUESTS TO OMNI – SET 2

Date Request Received: 3/6/20 Date of Response: 3/23/20

Staff to OMNI 2-3: Douglas Brogan

REQUEST:

A portion of Abenaki Water Company, Inc.'s (Abenaki) response to ABENAKI 1-20 states, "The Provan & Lorber, Inc. system mapping, dated January of 1995, shows the 8" line entering the building." Would Omni Mount Washington, LLC. (Omni) agree that the 8-inch main discussed in the response to ABENAKI 1-20 is the same 8-inch main identified in Filing Attachment A? If not, please explain, and identify the 8-inch main that document describes.

RESPONSE:

The 8-inch water main discussed in the response to ABENAKI 1-20 is essentially the same as the 8-inch water main identified in Attachment A to the Complaint, but the Provan & Lorber plans dated January 1995 are not entirely accurate. The 1995 plans show the water main continuing to an eastern wing of the Hotel. However, what is not shown on those plans is the "Dorm Wing" that extends northerly generally in line with the main body of the Hotel and in between the Hotel's two 'V' (easterly and westerly) wings, as shown on Attachment A to the Complaint. The "Carpenter Shop" denoted as the main's point of entry on the eastern wing on the 1995 plans (see Attachment to Staff to Omni 2-1, p. 3) is in fact located at the northern end of the Dorm Wing.

The Dorm Wing existed before the 8-inch main was installed, and the main has always terminated there, not in the eastern wing as shown on the 1995 plans. The Hotel did not relocate the main, nor does the 8-inch water main go underneath the Hotel, as suggested by Abenaki at the January 6, 2020 hearing (transcript pp. 39-41). The 1,600 feet referenced in the Complaint is measured from the Base Road/ Omni property boundary to the actual point of termination at the Hotel, not to the erroneous point of termination shown on the 1995 plans.

DW 19-131 OMNI MOUNT WASHINGTON, LLC. COMPLAINT AGAINST ABENAKI WATER COMPANY, INC. STAFF REQUESTS TO OMNI – TECHNICAL SESSION 2

Date Request Received: 4/13/20 Staff Tech 2-2 to OMNI:

Date of Response: 4/27/20 Christopher Ellms Douglas Brogan

REQUEST:

Please summarize Omni's position as to why ownership of the pipe rests with Abenaki, including the evidence to make such determination in light of the Commission's burden and standard of proof (Puc 203.25).

RESPONSE:

As explained in Omni's Complaint filed with the Commission on July 24, 2019, Abenaki owns the 8-inch water main serving the Mount Washington Hotel because it was part of the water system, and among the assets, acquired by Abenaki pursuant to Docket No. DW 16-448. Among other things, the Complaint includes a list of deeds and easements appended to the Asset Purchase Agreement (among Abenaki, Roscbrook Water Company, and REDUS Water Co.) that was the subject of Docket DW 16-448. The list of deeds and easements contained in Section 1.1(b) to Schedulc 1.1, Purchased Assets, sets forth the real property rights and interests acquired by Abenaki, which documents show that the ownership of the 8-inch water main rests with Abenaki.

Uncontroverted evidence supporting the determination that ownership of the 8-inch water main rests with Abenaki is found in Abenaki's continuing property records. See Attachment 1-1 provided by Abenaki in response to Staff Data Request 1-1. Furthermore, evidence of Abenaki's ownership responsibility is evidenced by its attempt to shift its responsibility to Omni and other customers by changing its tariff, which would have been unnecessary if it did not own the water main, as well as past practice and course of dealing as referred to in Omni's Complaint.

In addition, Omni notes the following:

Omni's Complaint involves a break on the 8-inch main to the Hotel. However, a water main branching off from that main, and running behind the Hotel to serve various Omni facilities, including the Nordic/Golf Building, is also referenced on page 1 of the Complaint and shown on Complaint Attachment A (labeled "MAIN BEHIND HOTEL"). Ownership of this main has also been in dispute. However, the same listing showing a 1985 accounting entry for "main extension to MW Hotel & Bretton Arms" (third and fourth pages of Staff to Abenaki 1-1 attachment), also includes a 2001 entry for:

8" main extension to Nordic Center.

This is referring to the main behind the Hotel. The length is shown as 1790 LF. No plans or records of this main have been found by Omni. While the Complaint indicates a length of 2,200 feet, the routing of the main (see Attachment 1, Staff to Omni Tech 2-2, described further below), although generally known, is not entirely certain. Given that fact, and the overall level of accuracy of the accounting records in that regard, the 2,200 feet correlates reasonably with the 1,790 feet listed in the entry. Similarly, although the main was initially thought to be a smaller diameter, an 8-inch main makes sense given its length and the number of hydrants it supplies. There is one and only main to the Nordic Center, and it was installed in this time frame. The fact that both this main behind the Hotel, and the main to the Hotel, are listed in the accounting attachment strongly suggests Abenaki ownership of both.

Similarly, a 1989 entry lists:

16" main extension to Fairway Village.

A good portion of the latter is visible (although not highlighted) in Attachment A to the Complaint, running along Fairway Drive. The listed lengths of the Fairway Village extension (2880 LF of 16", 890 LF of 8") agree (within less than 10 percent) with the distances shown on the 1995 Provan & Lorber plans, measured as an extension from Mt Washington Place. Abenaki appears to admit ownership of this and similar mains inside the various developments. However, there is no difference between this listing and the two described above as far as implication of ownership by the water company.

The diameter of the Fairway Village main is much larger than needed to serve Fairway Village alone. This suggests that future looping of this main was fully anticipated. Any such looping would clearly benefit more than just the Hotel; it would, at a minimum, turn the Fairway Village dead end main into a looped main. It is noteworthy that, even though the plans show the Fairway Village main ending less than 200 feet from the end of the 6-inch main to the Bretton Arms (the latter having been installed only four years before), no loop was completed with that main. It is also noteworthy that the Fairway Village main was extended some 150 feet past the end of Fairway Village property and onto Omni property. While various options exist for looping, a plausible loop would be to connect Fairway Village to the main behind the Hotel (see Attachment 1, Staff to Omni Tech 2-2).

The unique nature of the Rosebrook system; the way it evolved to serve the overall resort, including the Hotel and surrounding developable land as developments were carved out over time; and the long interplay between Hotel and water system owners, which were often one and the same; does not support the typical property boundary convention for demarcation between water company and customer ownership of mains and services. This is evident in Attachment 2, Staff to Omni Tech 2-2, showing the portion of the Rosebrook system west of Rte 302 (only mains within Omni property are highlighted). Even the central 16-inch backbone of the system, running from the tank in Bethlehem to Base Road, lies within Omni property. It is clear that the entire "service line starts at the property boundary" convention falls apart in this area. For similar, historic reasons in the development of this resort community, the convention falls apart in relation to the infrastructure in the vicinity of the Hotel as well. All of these mains, both east and west of Rte 302, have always belonged to the water company.

DW 19-131 Omni Mount Washington Hotel, LLC

Attachment 1, Staff Tech 2-2 to Omni

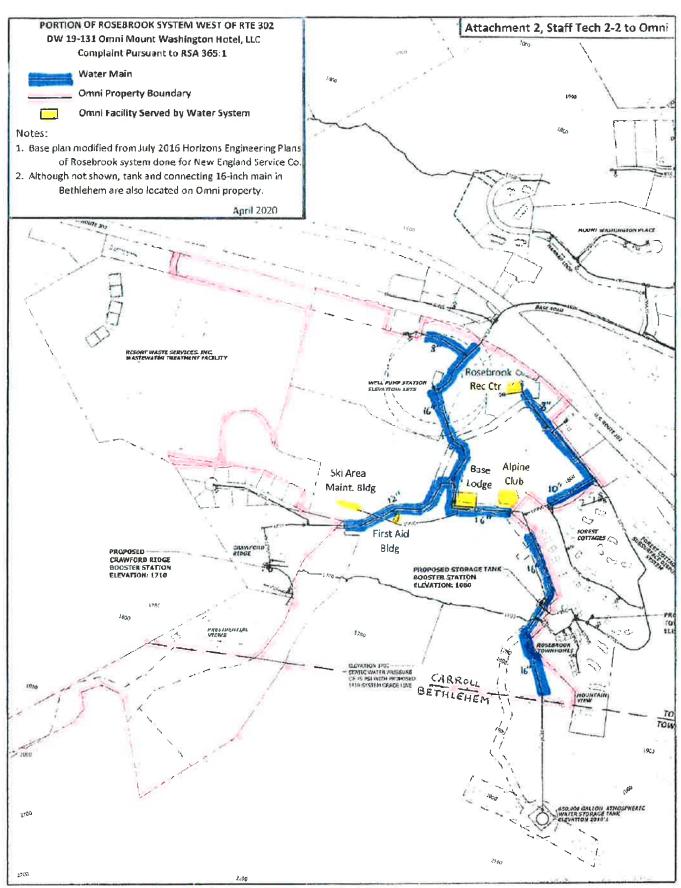


Base plan prepared using GRANIT View (NH GRANIT)

April 2020

CONFIDENTIAL

Attachment F



CONFIDENTIAL