

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

July 28, 2016 - 10:03 a.m.
Concord, New Hampshire

RE: DW 16-448
ABENAKI WATER COMPANY AND
ROSEBROOK WATER COMPANY:
Petition to Transfer Utility Assets
and Franchise and for Related
Approvals. *(Hearing on the merits)*

PRESENT: Chairman Martin P. Honigberg, Presiding
Commissioner Robert R. Scott
Commissioner Kathryn M. Bailey
Sandy Deno, Clerk

APPEARANCES: **Reptg. Abenaki Water Company:**
Justin C. Richardson, Esq. (Upton...)

Reptg. Rosebrook Water Company:
Sultana Svirk, Esq. (Devine...)

Reptg. Residential Ratepayers:
Donald M. Kreis, Esq., Consumer Adv.
Pradip Chattopadhyay, Asst. Cons. Adv.
Office of Consumer Advocate

Reptg. PUC Staff:
John S. Clifford, Esq.
Mark A. Naylor, Dir./Gas & Water Div.
Robyn J. Descoteau, Gas & Water Div.

Court Reporter: Steven E. Patnaude, LCP No. 52

 ORIGINAL

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WITNESS PANEL: **DONALD J. E. VAUGHAN**
 DEBORAH O. CARSON
 ROBYN J. DESCOTEAU

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[WITNESS PANEL: Vaughan~Carson~Descoteau]

1 Is that your -- is that what your intention is?

2 A. (Vaughan) No. We've got to take a good look at
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
8 focus is going to be on Rosebrook, and perhaps
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
12 goal.

13 Q. So, it's not your immediate plan to have the
14 Bow and Belmont customers subsidize the
15 Rosebrook system that is in so need of capital
16 improvements?

17 A. (Vaughan) Not at all.

18 Q. Okay. All right. So, we can talk about that
19 at the rate case?

20 A. (Vaughan) Yes. Absolutely.

21 Q. That's fine. Thank you. Okay. In Exhibit
22 H -- sorry, Exhibit 5, which is the Revised
23 Exhibit H, that's your tariff, on Page 059,
24 Original Page 2 of the tariff, but I think it's

[WITNESS PANEL: Vaughan-Carson-Descoteau]

1 Bates stamped Page 059, I see that there are
2 some revisions from the Rosebrook policy about
3 who has to own, operate and maintain -- or, own
4 and maintain the service line. It looks to me,
5 and I'm not a water company expert, I don't
6 have a lot of experience in this area, but it
7 looks to me like, under Rosebrook, the utility
8 owned the service line from the property line
9 to the customer's house. And you're changing
10 that so that now the customer owns the service
11 line from the property line to the house?

12 A. (Vaughan) It's -- not quite. Conventionally,
13 the Company owns the water service from the
14 water main to the property line or the curb
15 stop. And, hopefully, the curb stop is located
16 at the property line or within the
17 right-of-way. And the reason for that is, it
18 gives the operator, the water company the right
19 to access that curb stop, or it facilitates it.

20 In the case of Rosebrook, through our due
21 diligence, we determined that there are several
22 curb stops that are almost right adjacent to
23 the house. And, so, how this became
24 information available to us was the result of

[WITNESS PANEL: Vaughan-Carson-Descoteau]

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

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

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

WITNESS 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 A. (Vaughan) No, it's at the property line.

5 Q. Okay. Thank you.

6 A. (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.

10 WITNESS VAUGHAN: Thank you.

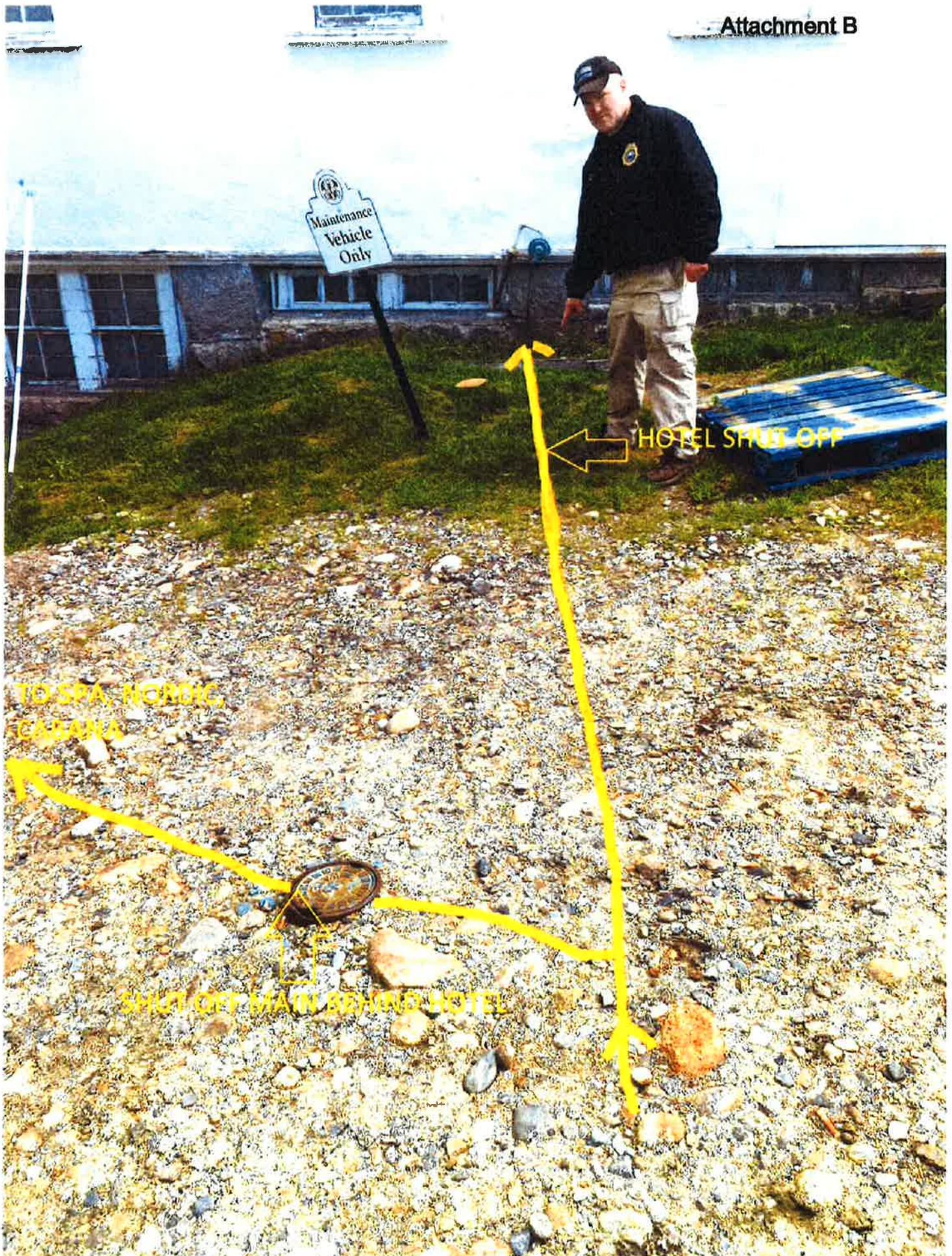
11 BY CHAIRMAN HONIGBERG:

12 Q. How much bigger a company is Abenaki going to
13 be after the transaction closes?

14 A. (Vaughan) Abenaki is going to leap from 250 to
15 650 customers, give or take.

16 Q. Does anyone on the panel have any concern about
17 the capacity of the Company to manage the much
18 larger number of customers that it will have?

19 A. (Vaughan) We do not. We've made steps to
20 reinforce the local presence at Bretton Woods.
21 There was a staff of four people there. Two
22 have left, seen pretty much the handwriting on
23 the wall, a third is redundant. For perhaps
24 six weeks to two months, there was one person





Burgess, Stacey

From: Don Vaughan <dvaughan@newenglandservicecompany.com>
Sent: Tuesday, May 28, 2019 5:45 PM
To: Getz, Thomas
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 responsibility 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@abexcavatinginc.com]
Sent: Monday, May 06, 2019 12:26 PM
To: Christopher Ellms <CEllms@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



663 Main Street, Lancaster, NH 03584

Attachment C

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

From: David Begin <david@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.abexcavatinginc.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) 788-5110
Visit us online at: www.abexcavatinginc.com

From: Pauline Doucette <pdoucette@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

MAINS

ACCOUNTS

309 & 331

ASSET #	DATE PUT INTO SERVICE	NUMBER OF ITEMS	DESCRIPTION OF ITEM	LOCATION OF ITEM	INITIAL COSTS OF ITEM	DATE REMOVED FROM SERVICE	RETIREMENT AMOUNT	Adjustments	BALANCE	Asset Life in Years	Dep'n Rate	A/D 12/31/2014	2015 Dep'n Exp	Retirements Adjustments	A/D 12/31/2015
1973	VARIOUS		16" D.I. main from well to tank; 16" D.I. main from well to HWY Place; 8" D.I. mains to Fabryns and Drummonds; 16" B.I. River Crossing 50 LF - 6" Water Main 1250 LF - 6" Water Main 4820 LF - 16" Water Main 2 - 8" Gate Valve 5 - 16" Gate Valve 1 - Railroad Crossing		216,700.00				216,700.00	50	2.00%	179,861	4,334		184,195
1976			4" D.I. main extension to Rosebrook Condos Phase 1 3 - Connect or Existing 300 LF - 4" Water Main 4 - 4" Gate Valve 1 - 12" Gate Valve												
1978			16" D.I. main extension to Rosebrook Condos Phase 2 2 - Connect or Existing Systems 400 LF - 4" Water Main 800 LF - 16" Water Main 1 - 6" Gate Valve 2 - 10" Gate Valve		26,000.00				34,000.00	50	2.00%	27,740	760		28,500
1984			8" & 10" D.I. main extension to Forest Cottages 2 - Connect or Existing 100 LF - 6" Water Main 1530 LF - 8" Water Main 2500 LF - 10" Water Main 3 - 8" Gate Valve 4 - 16" Gate Valve		46,332.00				46,332.00	50	2.00%	20,732	627		21,659
1985			8" D.I. main extension to MW Hotel & Station Area 1 - Connect or Existing 7300 LF - 6" Water Main 4450 LF - 8" Water Main 1 - 6" Gate Valve 2 - 8" Gate Valve												
1986			2" PVC main extension to Silo Area Maintenance 1 - Connect or Existing 880 LF - 2" Water Main 1 - 2" Gate Valve												
1987			12" main extension to Crawford Ridge 1 - Connect or Existing 350 LF - 4" Water Main 30 LF - 6" Water Main 2260 LF - 12" Water Main 3 - 4" Gate Valve 3 - 12" Gate Valve												
1987			8" & 16" main extension to MW Place 1 - Connect or Existing 100 LF - 6" Water Main 1200 LF - 8" Water Main 1450 LF - 16" Water Main 7 - 8" Gate Valve 2 - 16" Gate Valve												
1988			8" & 12" main extension to L-2 (MW Homes Subdivision) 1 - Connect or Existing 1730 LF - 8" Water Main 1680 LF - 12" Water Main 2 - 8" Gate Valve 1 - 12" Gate Valve												
1988			8" main extension to Riverfront Homes 1 - Connect or Existing												

Transfer to Account 1-1
Attachment
1-1-1

Attachment D

[illegible]

10

Annual Report of Rosebrook Water Company, Inc.

Year ended December 31, 2013

Class C Water Utility

P-3 UTILITY PLANT IN SERVICE (Accounts 101 and 104)

On balance to Account 104, Utility Plant in Service, this schedule includes Account 104, Utility Plant Purchased or Sold.

1. Report below the original cost of water plant in service according to prescribed accounts.
2. Do not include an adjustment, corrections of additions and retirements for the current or preceding year. Such items should be included in column (c) or (d) as appropriate.
3. Credit adjustments of plant accounts should be enclosed in parentheses "()" to indicate the negative effect of such amounts.
4. Reclassification or transfers within utility plant accounts should be shown in column (f). Also include in column (f) the addition or reduction of primary account classification arising from distribution of amounts initially recorded in Account 104, Utility Plant Purchased or Sold. In showing the elements of Account 104, include in column (c) the amounts with respect to accumulated depreciation, acquisition adjustments, etc., and show in column (f) only the offset to the debits or credits distributed in column (f) to primary account classification.

Line #	Acct #	Account (a)	Balance at Beginning of Year (b)	Additions (c)	Retirements (d)	Adjustments (e)	Transfers (f)	Balance at End of Year (g)
1	301	Organization	\$42,295					\$42,295
2	302	Franchises						
3	303	Land and Land Rights						
4	304	Structures and Improvements	243,033					243,033
5	305	Collecting and Impounding Reservoirs						
6	306	Lake, River and Other Intakes						
7	307	Wells and Springs	222,547					222,547
8	308	Infiltration Galleries and Tunnels						
9	309	Supply Mains						
10	310	Power Generation Equipment						
11	311	Pumping Equipment	149,666					149,666
12	320	Water Treatment Equipment	26,631					26,631
13	330	Distribution Reservoirs and Standpipes						
14	331	Transmission and Distribution Mains	457,134					457,134
15	333	Services	29,041					29,041
16	334	Meters and Meter Installations	41,640	393				42,033
17	335	Hydants	45,228					45,228
18	339	Other Plant and Miscellaneous Equipment	6,713					6,713
19	340	Office Furniture and Equipment						
20	341	Transportation Equipment	17,173					17,173
21	342	Street Equipment						
22	343	Tools, Shop and Garage Equipment	4,083					4,083
23	344	Laboratory Equipment						
24	345	Power Operated Equipment						
25	346	Communication Equipment	48,226	1,542				49,768
26	347	Computer Equipment	696	875				1,571
27	348	Other Tangible Plant						
28		TOTAL UTILITY PLANT IN SERVICE	\$1,314,886	\$2,810	\$0	\$0	\$0	\$1,317,696

STAFF TO ABBAS 1-1
ATTACHMENT Page 3 of 4

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 108.1)

1. Repeat below the information concerning accumulated provision depreciation of utility plant in service at end of year and changes during year.
2. Explain any important adjustments during the year.
3. Explain any difference between the amount for book 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.
4. The provisions of Account 108.1 of the Uniform System of Accounts state that retirements of depreciable plant be recorded when such plant is removed from service. There shall also be included in this schedule the amounts of plant retired, removal expenses, and salvage on an estimated basis if necessary with respect to any significant amount of plant actually retired from service, but for which appropriate entries 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 at the end of the year recorded subsequent to closing of respondent's books.

Balances and Changes During the Year

Line #	Item (a)	In Service (Acct 108.1) (b)
1	Balance at beginning of year	\$ 484,507
2	Depreciation provision for year, charged to Account 403, Depreciation Expense	\$51,592
3	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		
12	Balance at end of year	\$ 536,099

Attachment E

From: RGallo@Newenglandservicecompany.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@omnihotels.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
Fax: (860) 747-2536

From: Josh DeBottis <josh.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
Staff to OMNI 2-3:

Date of Response: 3/23/20
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, Rosebrook 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 Schedule 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)

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