

**STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION**

ABENAKI WATER COMPANY, INC.

Request for Change in Rates

Docket No. DW 20-112

Motion to Amend Procedural Schedule

NOW COMES the Department of Energy (Department), a party to this docket under RSA 12-P:9, and respectfully requests that the New Hampshire Public Utilities Commission (Commission) approve the proposed amended procedural schedule attached hereto as Attachment A. In support of this request, the Department states as follows:

1. On February 23, 2021, the Commission approved by secretarial letter a proposed procedural in the pending rate case filed by Abenaki Water Company, Inc. (Abenaki or the Company) in Docket No. DW 20-112 (Rate Case). The Commission further modified the procedural schedule by secretarial letter issued on June 9, 2021, in which it suspended the June 24 deadline for filing a settlement on permanent rates and cancelled the hearing scheduled for July 1, while stating that the remainder of the procedural schedule would remain in effect.
2. On April 20, 2021, in Docket No. DW 21-090, the Company filed a joint petition for approval of its acquisition by Aquarion Company (Acquisition Docket). Many of the intervenors in the Rate Case docket are also intervenors in the Acquisition Docket.
3. The ongoing investigation into the Acquisition Docket effectively diverted the attention of the Rate Case parties from the rate investigation because the controlling statute for the proposed acquisition, RSA 369:8, II(b), mandates adherence to strict deadlines and an accelerated investigation timeline.

4. On July 16, 2021, Abenaki filed a notice of contingent withdrawal of its rate filing in both the Rate Case and the Acquisition Docket, predicated upon the Commission's finding of no adverse impact in the Acquisition Docket, which finding would effectively allow the acquisition to proceed.

5. The Company followed with the filing of further rate case filing commitments by the proposed acquirer, Aquarion Company, on July 29, 2021.

6. The Commission issued a preliminary determination of adverse impact in the Acquisition Docket on August 6, 2021.

7. During this time, the remainder of the Rate Case procedural schedule proceeded.

8. In anticipation of the ongoing investigation in the Acquisition Docket, the Company filed a motion to suspend the Rate Case procedural schedule on August 26, 2021. The Department assented to that request, conditioned on the parties' reevaluation of the procedural schedule at a future date. Richard Rudolf also assented, but the Office of the Consumer Advocate and intervenor Village Shore Estate Association opposed the motion. No other intervenors responded.

9. On August 31, 2021, the deadline for the filing of testimony passed without submissions.

10. On September 7, 2021, the Commission denied the motion to suspend the procedural schedule, stating that in "light of the current procedural schedule and the pending issues, it is in the public interest not to suspend." Public Utilities Commission Letter dated September 7, 2021, at 1. The Commission went on to direct Abenaki to file a detailed report on its water system asset inventory and condition, with supporting documentation, detailed system maps, and a capital spending plan for each system over the next five years. *Id.* The Commission directed Abenaki to file that additional information by October 7, 2021. *Id.*

11. In light of the new information to be filed by Abenaki, as required by the Commission, the Department respectfully requests that the Commission approve the modified proposed procedural schedule set forth in Attachment A. The new schedule will provide the opportunity for the parties to review that newly-submitted information, conduct discovery on the unanticipated filing, and provide for the submission of testimony, if necessary, all as due process requires. *See Central Water Company, Inc.*, Order No. 23,386 at 7 (January 7, 2000) (“Due process requires notice reasonably calculated, under all circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections”).

12. Further, the proposed procedural schedule modification should be approved as an extension of time in this proceeding, pursuant to N.H. Admin. R., Puc 202.04, as it will not cause undue hardship or inconvenience nor will it unduly delay the proceeding or adversely affect the rights of any party. To the contrary, not approving the proposed procedural schedule modification would adversely affect the rights of all parties.

13. The current procedural schedule requires a “Hearing on Permanent Rates” on November 2 through November 4, 2021. The Department notes that the concurrent Acquisition Docket may not be finally resolved until mid-November in the event the Commission makes a finding of adverse effect based upon the joint petitioners’ amended filing submitted on August 20, 2021. *See RSA 369:8, II (b)(5)* (“[s]hould the commission find within 30 days after receiving the amended filing, the proposed merger or acquisition has an adverse effect, the commission shall review the transaction under the statute which would have otherwise applied but for this section, and, after an opportunity for a public hearing, issue a ruling based upon the other applicable statute or statutes within *60 days* of its determination of adverse effect” (emphasis added)). Without a modification of the current procedural schedule, the parties may be forced to litigate

the Rate Case merits hearing before a final determination on the proposed acquisition. If the proposed acquisition is approved by the Commission in the Acquisition Docket, the Rate Case will likely be withdrawn, making the current Rate Case investigation moot. Therefore, requiring a merits hearing in the Rate Case before a final determination in the Acquisition Docket would result in additional burden and potentially undue hardship on the parties, as well as administrative inefficiency for the Commission itself.

14. The Department contacted all parties involved in this proceeding and requested that their positions on the relief requested herein be provided by September 14, 2021. As of that date, the following parties assented to the relief: Aquarion; the Office of the Consumer Advocate; recognized intervenors from the Tioga-Belmont system (Mr. Jeff Phillips, Ms. Carolyn Bancroft, Ms. Cathy Collette, Mr. George Woodruff, Mr. Robert Carchia, Mr. James Cook, Mr. Gene Pruel, and Ms. Dawn Tinsely); and the recognized intervenors of the Village Shore Estates in Bow (Ms. Cristy Bresson, Mr. Tyler Speck, Mrs. Jeni Speck, Mr. Alan Burgess, Mrs. Sharon Burgess, Ms. Barbara Hayes, Ms. Diana Staples, Mr. Jared Sadeck, Mrs. Jennifer Sadeck, Mrs. Kristen Lang, Mr. Mike Lang, Mr. Richard Rudolf, Mrs. Susan Rudolf, Mr. Kevin Monahan, and Mrs. Janet Monahan). No objections to the requested procedural schedule modification were made by that time.

WHEREFORE, the Department respectfully requests that this honorable Commission:

- A. Approve the proposed amended procedural schedule, as attached; and
- B. Grant such other and further relief as may be appropriate under the circumstances.

September 17, 2021

N.H. DEPARTMENT OF ENERGY

By: /s/ Christopher R. Tuomala

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this pleading was provided via electronic mail to the individuals included on the Commission's service list for this docket.

/s/ Christopher R. Tuomala

Christopher R. Tuomala, Esq.

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Requested Procedural Schedule Modification

October 5, 2021	Technical Session/Settlement Conference @ 9
October 7, 2021	Company's Plant and CAPEX Submission
October 28, 2021	Data Requests to Company
November 8, 2021	Responses
November 16, 2021	Technical Session/Settlement Conference @ 9
November 17, 2021	Technical Session Data Requests to Company
November 24, 2021	Responses to Technical Session Data Requests
January 18, 2022	Party Testimony
February 1, 2022	Data Requests – Testimony
February 15, 2022	Responses
February 22, 2022	Technical Session/Settlement Conference @ 9
March 22, 2022	File Settlement or Rebuttal Testimony
March 29, 2022	Hearing anytime thereafter