

HAMPTON WATER WORKS COMPANY

Petition for General Rate Increase

Order Approving Procedural Schedule

O R D E R N O. 23,281

August 12, 1999

APPEARANCES: Ransmeier & Spellman, P.C. by Dom D'Ambruso, Esq. representing Hampton Water Works Company; Shaines & McEachern, P.A. by John McEachern, Esq. for Town of Hampton; Casassa & Ryan by John Ryan, Esq. for Town of North Hampton; H. Fuller, Chairman, Town of North Hampton Water Commission; and Larry S. Eckhaus, Esq., for the Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

On May 19, 1999, Hampton Water Works Company (Hampton or the Petitioner), a New Hampshire public utility, filed with the New Hampshire Public Utilities Commission (Commission) a petition for an increase in annual revenues of \$978,500, or a total annual increase of 28.9%. By Order No. 23,236 (June 17, 1999), the Commission suspended the proposed rates and scheduled a prehearing conference for July 15, 1999. A duly noticed prehearing conference was held on July 15, 1999.

II. INTERVENTIONS

The Commission received requests for intervention from Mr. John H. McEachern on behalf of the Town Hampton, Mr. John J. Ryan on behalf of the Town of North Hampton and Mr. Henry Fuller on behalf of the North Hampton Water Commission. On July 15,

1999, an objection to the motion to intervene filed by Mr. Fuller was submitted by the Petitioner. On July 19, 1999, the Office of Selectmen of the Town of North Hampton submitted a letter to the Executive Director indicating their support for granting Mr. Fuller intervenor status. There were no other objections to the request of Mr. Fuller to intervention nor were there any objections to the intervention of the aforementioned representatives from the towns of Hampton or North Hampton.

In support of his motion to intervene, Mr. Fuller states that he has been Chairman of the Water Commission of the Town of North Hampton for at least eight years, that it is an elected position, and that in his capacity of Chairman he represents the interests of his constituents. He explained that his responsibilities specifically include intervening before the Commission in matters such as the rate increase sought by Petitioners in this docket, and that he has been granted intervention in the past by the Commission.

Petitioner objects to Mr. Fuller's intervention, arguing that Mr. Fuller's request for intervention is in his capacity as Chairman of the Town of North Hampton Water Commission, and that the Water Commission lacks standing to intervene. Petitioner argues that while there is statutory authority for the establishment of a water commission at RSA 38:18, such commission may be established only for the management, ownership and control of a municipal water system.

Since North Hampton does not have a municipal water system, the basis that is alleged for the Water Commission to appear before the Commission does not exist. Petitioner does note, however, that the Water Commission may currently act in an advisory capacity to the Town Selectmen. Petitioner also alleges that Mr. Fuller's letter to the Commission of May 24, 1999, does not meet the statutory requirements for intervention pursuant to RSA 541-A:32, I(b) and the Commission rule Puc 203.02(a). Petitioner states further that the Water Commission itself is not a customer of Hampton Water Works and cannot claim that they represent customers in this proceeding, because that is not the purpose of their existence. Because the Town of North Hampton is represented directly through its intervention by Mr. Ryan, the Petitioner argues that the intervention would be duplicative. Finally, Petitioner notes that Mr. Fuller is not a customer of the Company.

The Town of North Hampton states that Mr. Fuller has been involved in water issues with respect to the Town for quite some time, and does not believe his intervention on behalf of the Water Commission will add any burden to the proceedings. As a practical matter the Town of North Hampton expects to coordinate its position with the Town of Hampton and the Water Commission, and that its petition to intervene was not intended to override, take the place of or supersede the ability of Mr. Fuller to participate. Mr. Ryan, on behalf of the Town of North Hampton,

clarified the role of the Water Commission, explaining that it is made up of seven members: three Selectmen and four other members, and that it has been involved for some time with many water issues, such as decisions regarding new wells, management of resources, physical placement of wells, and the impact upon the environment of various actions. He noted that the Water Commission has been involved with meeting with the Company on behalf of customers, monitoring water issues and advising the Town Selectmen on a regular basis.

The Town of Hampton indicated its agreement with the Town of North Hampton and supported having Mr. Fuller participate in this proceeding.

Staff does not believe it would be a burden on the proceeding to have the Water Commission granted intervention status and has no objection to their intervention.

Based upon the arguments presented, the Commission will grant full intervention status to the Town of North Hampton Water Commission as represented by Mr. Fuller. The Commission finds that the Water Commission, though it does not own, manage or operate a municipal water system, is an elected body, serves as an advisor to the Town of North Hampton Selectmen, and has and continues to represent the Selectmen and the Town of North Hampton's customers on various water issues. The Commission also finds that though the Water Commission's original request for intervention may have been deficient with respect to meeting the

statutory requirements for intervention, any deficiency was cured by the subsequent submittals of the Water Commission and its oral presentation during the prehearing conference.

III. POSITIONS OF THE PARTIES

The Petitioner summarized the significant items supporting its request for a rate increase. It asserts that since the Company's last rate order in 1992, it has invested approximately \$6.2 million in additional plant. Of this amount, approximately one-half is for new sources of supply required by growth in demand and the mandate of the Department of Environmental Services for a certain level of safe yield. In the last rate order the Company was allowed a cost of capital of 10.42 percent and an overall rate of return of 10.04 percent. Hampton states that it is currently earning less than its allowed rate of return and less than its cost of capital, which it claims is now approximately 11.7 percent, corresponding to an overall rate of return of 9.69 percent. To achieve this level of return, the Company states that annual revenues must increase by \$978,500 or 28.9 percent. Because the Company is currently earning less than its allowed rate of return and less than its overall cost of capital, it has requested the fixing of temporary rates to yield additional revenue of \$529,098 or a 15.6 percent increase over currently authorized rates. The Company asserts that allowing this temporary rate increase is supported by the concept of gradualism.

The Town of North Hampton is concerned about the impact of an almost 30 percent increase in permanent rates. The Town is particularly concerned about certain one-time costs, such as \$600,000 in highway relocation costs, and whether the state or federal government should share some of that cost. The Town of North Hampton also questioned whether the 1998 test year was typical of the average conditions facing the Company and questions the Company's conclusions about the impairment of its ability to maintain its credit and attract capital on reasonable terms. North Hampton stated that it has begun exploring the acquisition of the water company, perhaps as a collaborative effort with the Town of Hampton.

The Town of Hampton expressed similar concerns as North Hampton, and noted that if the Company was a municipal utility, by statute it would be restricted to an increase of only a fraction of what it is requested in this docket. The Town of Hampton recognizes that the Company may be entitled to some level of increase to account for certain improvements, but seriously questions whether the increase need be as large as requested.

Commission Staff stated that it will review all of the information contained in the filing and conduct an audit of the Company, as it typically performs in most base rate proceedings. The Staff is very concerned about the request for the implementation of temporary rates at a level above current rates.

Staff notes that there is a new cost of service study in this proceeding which may change rate design to some degree, and therefore the imposition of an across-the-board rate increase now may work against the concept of gradualism as some customers may ultimately see a rate decrease under the new permanent rate structure. Staff would rather see rates adjusted only once rather than twice, particularly if there is risk that the adjustments may go in different directions.

IV. PROPOSED SCHEDULE

Staff requested permission at the prehearing conference to meet with representatives of Hampton and the Intervenors following the conference to prepare a proposed procedural schedule and submit in writing a schedule governing the remainder of the investigation. On July 28, 1999, the Staff and parties submitted the following proposed schedule:

Temporary Rate Hearing on Stipulation	August 4, 1999
Data Requests to Hampton	August 30, 1999
Data Responses from Hampton	Sept. 14, 1999
Public Hearing in Hampton Winnacunnet High School, 7:00 p.m.	Sept. 28, 1999
Second Set of Data Requests to Hampton	Sept. 28, 1999
Data Responses from Hampton	Oct. 12, 1999
Tech Session/Settlement	Oct. 22, 1999
Testimony - Staff & Intervenors	Nov. 17, 1999
Data Requests to Staff & Intervenors	Nov. 30, 1999
Data Responses from Staff & Intervenors	Dec. 14, 1999
Settlement Conference	Jan. 5, 2000
Rebuttal Testimony from Hampton	Jan. 12, 2000
Data Requests on Rebuttal Testimony	Jan. 19, 2000

Submit Settlement, if any	Jan. 21, 2000
Data Responses on Rebuttal Testimony	Jan. 26, 2000
Hearing on the Merits	Feb. 1-3, 2000

V. COMMISSION ANALYSIS

We believe that the proposed schedule is reasonable and consistent with the time frames provided by law and will therefore approve it. Insofar as the interventions are concerned, we will grant all requested interventions because we believe the intervenors have stated a basis for intervention under our rules and granting such interventions will not interfere with the orderly handling of the docket.

Based upon the foregoing, it is hereby

ORDERED, that the procedural schedule delineated above is APPROVED; and it is

FURTHER ORDERED, that the Town of North Hampton, the Town of Hampton, and the Town of North Hampton Water Commission are granted intervenor status; and it is

FURTHER ORDERED, that the Petitioner, Hampton Water Works Company, cause a copy of this Order to be published no later than August 23, 1999 in a newspaper with statewide circulation or of general circulation in those portions of the state in which operations are conducted, publication to be documented by affidavit filed with the Commission on or before September 21, 1999.

By order of the Public Utilities Commission of New
Hampshire this twelfth day of August, 1999.

Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary