

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DW 12-085**

**AQUARION WATER COMPANY OF NEW HAMPSHIRE, INC.**

**Notice of Intent to File Rate Schedules**

**Order Approving Temporary Rates Settlement Agreement**

**ORDER NO. 25,412**

**September 18, 2012**

**APPEARANCES:** McLane, Graf, Raulerson & Middleton, P.A., by Patrick Taylor, Esq., for Aquarion Water Company of New Hampshire; Town of Hampton by Mark S. Gearreald, Esq.; Office of the Consumer Advocate by Rorie E.P. Hollenberg, Esq. on behalf of residential ratepayers; and Staff of the Public Utilities Commission by Marcia A.B. Thunberg, Esq.

**I. PROCEDURAL HISTORY**

Aquarion Water Company of New Hampshire, Inc. (Aquarion) provides water service to approximately 9,100 customers in the towns of Hampton, North Hampton, and Rye. On April 4, 2012, Aquarion filed a notice of intent to increase its rates and file rate schedules. On May 14, 2012, Aquarion filed its schedules, testimony, and supporting materials for a permanent increase to its revenue requirement of \$1,113,931. Aquarion also filed a petition for temporary rates to increase its revenue requirement by \$732,078 pending the review of its proposed permanent rates.

Aquarion requested that the proposed temporary rates be made effective for service rendered on or after July 1, 2012. In support of its temporary rate request, Aquarion stated that its overall rate of return (including both debt and equity) for the test year ending December 31, 2011, had declined to 5.23%, and was 249 basis points lower than its last authorized overall return of 7.72%. Aquarion attributed the deterioration in its overall rate of return to increases in

its operation and maintenance expenses, increases in property and similar taxes, and reductions in sales revenues. The Commission granted the Town of Hampton's request to intervene and noted the Office of Consumer Advocate's intention to participate pursuant to RSA 363:28.

On May 24, 2012, the Office of the Consumer Advocate (OCA) filed a letter of participation in this docket on behalf of residential ratepayers pursuant to RSA 363:28. The Town of Hampton petitioned to intervene on July 5, 2012. On June 12, 2012, the Commission issued Order No. 25,373 suspending the proposed tariffs and scheduling a prehearing conference for July 11, 2012, to be followed by a technical session. The Commission granted the Town of Hampton's intervention request at the prehearing conference.

On June 14, 2012, Aquarion filed a motion to wave Puc 1203.02(d) requiring that notice be distributed to Aquarion customers no later than 30 calendar days from the date of filing. Aquarion stated that it was working with Staff regarding approval and method of delivery of the proposed statement to its customers, and requested an extension until July 1, 2012 to finalize the notice. The Commission granted Aquarion's request for an extension by Secretarial Letter dated July 3, 2012.

On July 12, 2012, Staff filed a proposed procedural schedule that included an August 30, 2012 hearing on temporary rates, which the Commission approved on July 16, 2012. The hearing on temporary rates was rescheduled to August 28, 2012. On August 20, 2012, Aquarion filed a settlement agreement reached with the Staff regarding temporary rates. On August 28, 2012, the Commission held a hearing on temporary rates at which Staff and the parties presented testimony and exhibits in support of the settlement agreement.

On August 31, 2012, the Town of North Hampton filed a Partially-Assented to Motion to Intervene. The Town stated that because Aquarion provides water service in the Town of North

Hampton, the proceeding will affect the rights, duties, privileges, immunities, and substantial interests of its citizenry. Aquarion assented to the motion and the Commission did not receive any objections to the request.

## **II. POSITIONS OF THE PARTIES AND STAFF**

### **A. Aquarion Water Company of New Hampshire, Inc., the Office of the Consumer Advocate, and Staff**

The positions of Aquarion, the OCA, and Staff are embodied in the terms of the settlement agreement set forth below.

### **B. Town of Hampton**

Though not a signatory, the Town of Hampton did not oppose the proposed temporary rates.

## **III. SETTLEMENT AGREEMENT – TEMPORARY RATES**

The terms of the settlement agreement are as follows:

### **A. Revenue Requirement**

Aquarion, the OCA, and Staff recommend that the Commission authorize Aquarion to implement temporary rates, in accordance with RSA 378:27, sufficient to yield an increase of \$535,709, or 8.8%, in annual revenues.

### **B. Rate Design**

Aquarion, the OCA, and Staff recommend that the Commission approve implementation of the proposed 8.8% increase in overall annual revenues and authorize Aquarion to increase the existing volumetric and customer charges in rates for all customers by 9.0% on an equi-proportional basis. At hearing, Aquarion explained that customer rates will increase 9.0% because revenues from items such as late fees, turn on and turn off charges, and antenna leases will not be increased as a result of temporary rates. Exh. 2 at 15.

### **C. Effective Date and Recoupment**

Aquarion, the OCA, and Staff recommend that the temporary rates proposed in the agreement be effective for service rendered on or after July 1, 2012. Aquarion testified at hearing that all customers had notice of the rate request by then, and that July 1<sup>st</sup> coincides with a billing cycle, thereby making the rate change convenient to implement. Staff testified that any difference between any approved temporary and permanent rates will be subject to reconciliation pursuant to RSA 378:29 back to July 1, 2012 upon the implementation of new permanent rates.

### **IV. COMMISSION ANALYSIS**

Pursuant to RSA 378:27, the Commission may approve temporary rates for the duration of the proceeding if, in its opinion, the public interest so requires, and the reports of the public utility filed with the Commission indicate it is not earning a reasonable return on its property used and useful in the public service. The standard for approving temporary rates is less stringent than that for permanent rates. *Appeal of the Office of the Consumer Advocate*, 134 N.H. 651, 660 (1991). RSA 378:27 also contemplates that, in fixing temporary rates, the necessary allocation of costs shall be made by reasonably practical and expeditious means, without such investigation as might be deemed necessary to a determination of permanent rates. *New England Telephone & Telegraph Co. v. State*, 95 N.H. 515, 518 (1949). Neither the method of allocation nor its result needs to be adopted in the final establishment of permanent rates. *Id.*

The temporary rate request before us includes a proposal for an increase in Aquarion's revenue requirement by a total of \$535,709, or 8.8%. The purpose of this temporary increase is to allow Aquarion to earn a reasonable rate of return until permanent rates are set. Staff testified that the temporary increase would not cause Aquarion to over-earn. Hearing Transcript of August 28, 2012 (8/28/12 Tr.) at 18 lines 18-20. Aquarion's temporary rate filing supports the

conclusion that it is not earning a reasonable return on its property used and useful in the public service. According to Aquarion's most recently filed annual report, for the year ending December 31, 2011, its overall rate of return was 5.23% and its return on equity was 3.86% as compared to its last allowed overall rate of return of 7.72% and return on equity of 9.75%. Exh. 1 at 3. We understand that much of the decline in the rate of return is due to a steady increase in operating expenses resulting, in particular, from increases in property taxes assessed by the communities it serves, and due to a decline in sales volumes. Exh. 1 at 3. Having reviewed the evidence presented, we find that a temporary increase in Aquarion's revenue requirement is warranted and in the public interest.

If temporary rates are approved as proposed in the agreement, Aquarion calculates that the bill for an average residential customer consuming 53,300 gallons, or 7,100 hundred cubic feet (ccf) of water annually, would rise by \$3.26, if billed monthly, and by \$9.78, if billed quarterly. We note that this bill impact can vary depending on whether the residential customer uses more or less than the estimated amount. Temporary rates serve to mitigate potential rate shock to customers, and to reduce the magnitude of any recoupment between temporary rates and permanent rates at the conclusion of a proceeding. Here, the proposed temporary increase is 8.8%, which compares to Aquarion's original permanent increase request of 18.3%. Furthermore, Aquarion and its customers are protected because, pursuant to RSA 378:29, the temporary and permanent revenue requirements and rates will be fully reconciled upon final disposition of the issues involved in this proceeding. This reconciliation provision protects both Aquarion and its customers, because Aquarion will only recover the revenue requirement finally determined and customers will pay net rates no higher than those authorized. We find, therefore, that the proposed temporary rate increase is appropriate, just, and reasonable.

Aquarion, the OCA, and Staff recommend that the temporary rates go into effect for service taken on or after July 1, 2012. The record shows that Aquarion published notices of its proposed rate increases in area newspapers on June 22, 2012 and mailed notices directly to all towns and water commissions within its service territory on that same day. Aquarion notified customers directly, pursuant to N.H. Code Admin. Rule Puc 1203.02(d), by July 1, 2012. Thus, customers have been put on notice of the proposed changes in rates and have had an opportunity to adjust their consumption, or adjust to the proposed increased rate. We find the July 1, 2012 effective date to be reasonable and consistent with *Appeal of Pennichuck Water Works*, 120 NH 562, 567 (1980) in which the Court held that the earliest date on which temporary rates may take effect is, on a service-rendered basis, the date on which the utility files its underlying request for a change in its permanent rates. Also, the effective date for temporary rates shall be the same for all customers and will not depend upon the utility's billing procedures.

In conclusion, having reviewed the proposed revenue requirement, customer rates, and positions of the parties relative to those issues, we find it in the public interest to approve an increase of \$535,709, or 8.8%, to Aquarion's revenue requirement on a temporary basis for a total test year revenue requirement of \$6,622,397. We also find it just and reasonable to raise customer rates by 9% on a temporary basis. We will approve these changes in customer rates effective for service taken on or after July 1, 2012.

Lastly, having reviewed the Town of North Hampton's intervention request, we find that North Hampton has demonstrated, pursuant to RSA 541-A:32, that its rights, duties, or privileges will be affected by this proceeding, that the interests of justice would be served by its intervention, and that the orderly and prompt conduct of this proceeding will not be impaired by the intervention. We, therefore, grant the Town's request.

**Based upon the foregoing, it is hereby**

**ORDERED**, Aquarion's request to increase its revenue requirement by \$535,709, or 8.8%, to \$6,622,397 on a temporary basis is GRANTED; and it is

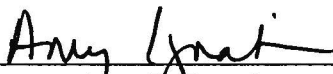
**FURTHER ORDERED**, that Aquarion is authorized to raise customer rates, on a temporary basis, by 9% as indicated in the attachments to the settlement agreement presented at hearing; and it is

**FURTHER ORDERED**, that this temporary increase in Aquarion's revenue requirement and customer rates is effective for service rendered on or after July 1, 2012; and it is


**FURTHER ORDERED**, that Aquarion shall submit tariff pages in compliance with this order within 15 days of the date of this order; and it is

**FURTHER ORDERED**, that the Town of North Hampton's request to intervene is hereby GRANTED.


By order of the Public Utilities Commission of New Hampshire this eighteenth day of September, 2012.

  
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Amy Ignatius  
Chairman

  
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Michael D. Harrington  
Commissioner

  
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Robert R. Scott  
Commissioner

Attested by:

  
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Kimberly Nolin Smith  
Assistant Secretary