

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 13-314

AQUARION WATER COMPANY OF NEW HAMPSHIRE, INC.

**Petition for Approval of 2014 Water Infrastructure and Conservation Adjustment
Surcharge and Deferral of Revenues**

Order *Nisi* Approving Petition

ORDER NO. 25,668

May 23, 2014

In this order, the Commission approves the collection of \$734,050 in costs that Aquarion incurred in 2013 making capital improvements to replace aging infrastructure, even though Aquarion's actual 2013 projects were different from what the Commission had previously approved, and establishes a deferred regulatory asset by which the rate impact of the improvements will be offset by a tax benefit yet to be realized. This order is being issued on a *nisi* basis to ensure that all interested parties receive notice of the Commission's determination and have the opportunity to request a hearing prior to the effective date of the order.

I. PROCEDURAL BACKGROUND

Aquarion Water Company of New Hampshire, Inc. (Aquarion's) provides water service to approximately 9,056 customers in the Towns of Hampton, North Hampton, and Rye. In Order No. 25,019 (Sept. 25, 2009), the Commission approved a Water Infrastructure and Conservation Adjustment (WICA) pilot program for Aquarion. The purpose of the WICA program is to accelerate the replacement of Aquarion's aging infrastructure. The Commission approved Aquarion's schedule of WICA-related replacement projects for the year 2013 in Order

No. 25,455 (Jan. 17, 2013). On September 6, 2013, Aquarion filed a motion (Motion) requesting approval of modifications to its 2013 schedule of projects. The Commission deferred ruling on the motion until Aquarion sought to include the cost of 2013 WICA projects into rates. *See* Order No. 25,584 (Oct. 21, 2013). On January 31, 2014, Aquarion filed a supplemental petition (Supplemental Petition) in this docket requesting authority to impose a WICA surcharge of 1.3788%, effective for service rendered on and after April 1, 2014. The purpose of the surcharge was to allow Aquarion to collect the WICA projects completed in 2013, including those on Aquarion's modified schedule. Aquarion subsequently made adjustments to its 2013 project costs, lowering them to \$734,050. Commission Staff (Staff) filed a recommendation on April 4, 2014. (Staff Recommendation). According to Staff, Aquarion's adjustments lowered the requested surcharge to 1.3657%. Staff Recommendation at 4 and 28. Aquarion requested that instead of increasing rates to recover the project costs, the company would like to establish a deferred asset equal to the revenues that it would have collected under the 1.3657% surcharge. Aquarion proposed that the deferred asset then be netted against an income tax benefit to be determined in Docket No. DW 14-075. Motion at 2.

There are three sets of issues before the Commission in this docket: (1) whether Aquarion is allowed to change the projects it performs under the WICA program and, if so, what process it must follow, (2) whether Aquarion's 2013 WICA project costs were reasonable, and (3) how those costs they should be recovered. Those issues are discussed below.

The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, is posted to the New Hampshire Public Utilities Commission website at

<http://www.puc.nh.gov/Regulatory/Docketbk/2013/13-314.html>. The Motion is posted at <http://www.puc.nh.gov/Regulatory/Docketbk/2013/12-325.htm>.

II. MODIFICATION OF AQUARION'S 2013 SCHEDULE OF PROJECTS

A. Positions of the Parties

1. Aquarion

In February 2013, after the Commission approved Aquarion's schedule of 2013 WICA-related projects, Aquarion learned of three new sewer projects to be undertaken by the Town of Hampton on Auburn Avenue, Auburn Avenue Extension, and Perkins Avenue. Motion at 2. Although replacement projects at these locations were not among those approved in Order No. 25,445, Aquarion replaced the water mains to take advantage of efficiencies and cost savings that would result from coordinating with the Town of Hampton's sewer projects. *Id.* at 2. For example, Aquarion saved approximately 50% in paving expense. *Id.* at 4. Aquarion stated that, even though the water main projects were not on the 2013-2015 WICA project lists provided to the Commission, the mains had a history of multiple breaks due to their age and were WICA-eligible. *Id.* at 2. Additionally, the Town of Hampton's five-year moratorium on road excavation projects following final paving would have prevented Aquarion from undertaking these projects until 2019. *Id.* at 4.

In order to undertake the three additional water-main replacements, Aquarion postponed several projects that were approved in Order No. 25,455: Well 7 transmission main, Well 9 transmission main, Meadow Pond/Gentian/Green Street mains, Great Boar's Head main, and Route 101 (Glade Path to Tide Mill Road) main.

2. Staff

Staff's consulting engineer reviewed the 2013 projects and opined that Aquarion's modifications to its 2013 WICA projects were prudent. Staff Recommendation at 41. Even though Aquarion learned of the Town of Hampton's planned sewer work at a relatively late date, Aquarion's rationale for modifying the 2013 WICA project schedule was reasonable. *Id.* at 40. The Town of Hampton told Aquarion in 2012 that it had no plans for sewer replacement work on Auburn and Perkins Avenues. *Id.* Staff conjectured that if Aquarion had known of the Town of Hampton's intentions beforehand, the three projects would have appeared on the list of 2013 projects. *Id.* Staff observed that communications between Aquarion and municipal personnel involved in planning sewer work and road paving appeared to be adequate. *Id.* at 4. Staff stated that even though the actual cost of the substituted projects exceeded the budgeted cost of the projects they replaced, the cost was mitigated by one of the projects coming in below budget. *Id.* Thus, the actual budget exceeded the original estimate by only \$55,255. *Id.*

Notwithstanding its support of the 2013 projects, Staff stated that such modifications have the potential of undermining the WICA program. To address this concern, Aquarion submitted a proposed tariff provision that would provide for prior notice relating to subsequent changes to the list of approved WICA projects. Staff supported this additional language and recommended that the Commission approve it. *Id.* at 5.

3. OCA

The Office of the Consumer Advocate (OCA) took no position on the technical aspects of Aquarion's filing but did not agree with the process Aquarion followed in making post-approval modifications to its 2013 WICA projects. Staff Recommendation at 5. The OCA appreciated

the economies achieved for customers as well as Aquarion's willingness to formalize a more timely notification process when future post-approval modifications occur. *Id.* at 5.

4. Town of Hampton

The Town of Hampton also supported the modifications that occurred during 2013 and the proposed notification provision. Staff Recommendation at 5.

B. Commission Analysis

We approve the modifications to Aquarion's schedule of WICA projects for 2013 discussed above. We are satisfied that the replacement of three aging water mains with a history of multiple breaks was reasonable and necessary, and find that the replacement fulfills the objective of the WICA program to accelerate the replacement of aging infrastructure. We also find that the budget for the projects was reasonable due to the cost savings associated with coordinating with municipal sewer projects.

We find that the recommendation of the parties to amend Aquarion's tariff to provide additional notice of such modifications is reasonable. Such notice will permit various parties to engage Aquarion in discussions about the substitution decisions at the time those decisions are made, and we find this will be an improvement to the WICA pilot. Accordingly, we approve amendment of Aquarion's tariff to require additional notice.

III. PROJECT COSTS AND SURCHARGE

A. Positions of the Parties

1. Aquarion

Aquarion originally claimed a total cost of \$736,876 for WICA projects constructed in 2013, including the projects on Aquarion's modified schedule. That total included \$16,466 for production meters; \$27,728 for hydrants, services, and valves; and \$692,682 for four main

replacement projects. During discovery, Aquarion made two adjustments to its 2013 project costs which lowered the project total to \$734,050 and lowered the surcharge to 1.3657%. Staff Recommendation at 4 and 28.

2. Staff

Staff recommended that the Commission approve \$734,050 in 2013 WICA project costs and a WICA surcharge of 1.3657% effective for service rendered on and after April 1, 2014. Staff Recommendation at 1. Staff based its recommendation on discovery that it and the OCA had propounded and on an evaluation done by Staff's consulting engineer.

3. Towns of Hampton and North Hampton and the OCA

The Towns of Hampton, North Hampton, and the OCA concurred with Staff's recommendations. *Id.* at 5-6. However, the Town of Hampton expressed concern whether the WICA program was helping to reduce rate shock or the number of rate cases. The Town also expressed concern regarding straight-line depreciation. *Id.* at 5.

B. Commission Analysis

Pursuant to RSA 378:7, the Commission is authorized to determine the just and reasonable rates to be charged by a regulated utility. In addition, the Commission shall not include in rates any return on any plant which has not first been found by the Commission to be prudent, used, and useful. *See* RSA 378:28. Accordingly, we will determine whether the 2013 projects are prudent, used, and useful pursuant to RSA 378:28 and whether the surcharge is just and reasonable pursuant to RSA 378:7.

Aquarion requested a surcharge of 1.3657% to recover \$734,050 in WICA-related costs. Staff, the OCA, Town of Hampton, and Town of North Hampton concurred with this rate and either concurred in, or do not contest the total cost. We approved Aquarion's schedule of 2013

projects as WICA eligible in Order No. 25,455, and we approved the remainder above. We now find the total cost of \$734,050, and Aquarion's investment decisions to be prudent, in particular Aquarion's decision to coordinate necessary water main replacements with municipal sewer projects. We find that the projects are used and useful pursuant to RSA 378:28. In addition, we find that the resulting surcharge of 1.3657% is just and reasonable and we approve it for effect for service rendered on and after April 1, 2014.

IV. TEMPORARY SURCHARGE AND CREATION OF DEFERRED ASSET

A. Positions of the Parties

1. Aquarion

Aquarion proposed that the Commission set the WICA surcharge at zero (0.0000%) on a temporary basis and allow Aquarion to record a deferred regulatory asset in an amount equivalent to what it would have collected if the surcharge were immediately set at 1.3657%. In addition, on March 31, 2014, Aquarion filed for approval of a mechanism that would establish a credit to customers resulting from an anticipated tax benefit. The Commission docketed that filing as DW 14-075. Aquarion stated that recent changes in federal tax regulations allow Aquarion to expense, for tax accounting purposes, certain repair and maintenance expenditures that it had previously capitalized in the years 2007 through 2013. Supplemental Petition at 5. Aquarion proposed the creation of a regulatory liability in an amount equal to the calculated tax benefit credited to customers over a three-year period commencing January 1, 2015. *Id.* To promote rate stabilization, Aquarion proposed that the deferred regulatory asset be netted against the regulatory liability, that is, against the calculated income tax benefit to be determined in Docket No. DW 14-075. *Id.*

2. Staff

Staff recommended that the Commission approve a WICA surcharge of 1.3657% effective for service rendered on and after April 1, 2014, but that it be set at zero (0.0000%) on a temporary basis for service rendered during April 1 through December 31, 2014. Staff Recommendation at 1. Staff further recommended that the Commission authorize Aquarion to record a deferred regulatory asset equal to the revenue that it would have collected during that period based on a WICA surcharge of 1.3657%. *Id.* Finally, Staff stated it would offer its opinion on the tax refund proposal after it has reviewed Aquarion's proposal in Docket No. DW 14-075. *Id.*

3. Towns of Hampton and North Hampton and the OCA

The Towns of Hampton and North Hampton and the OCA concurred with Staff's recommendations to defer collection of the surcharge until the anticipated tax benefits begin to flow to customers. Staff Recommendation at 5-6.

B. Commission Analysis

We approve Aquarion's request to set the surcharge rate to zero (0.0000%) on a temporary basis and to create a deferred asset in the amount Aquarion would have collected if the surcharge were immediately set at 1.3657% for service rendered on or after April 1, 2014. Aquarion filed a separate request in Docket No. DW 14-075 for approval of a mechanism to credit the proceeds of a tax credit back to customers. The Commission has yet to approve that mechanism. Staff, the OCA, Town of Hampton, and Town of North Hampton support this proposal. We find that delaying the imposition of the WICA surcharge until the credit is determined will promote rate stability and benefit customers. We find further that establishing a

deferred asset is prudent and reasonable, pending resolution of Docket No. DW 14-075, and we approve Aquarion's request.

We will issue this order on a *nisi* basis to ensure that all interested parties receive notice of our determination and have the opportunity to request a hearing.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that subject to the effective date below, Aquarion's request to substitute projects in 2013 is GRANTED and Aquarion's 2013 WICA projects are hereby APPROVED, and it is

FURTHER ORDERED, that Aquarion's 2014 WICA surcharge of 1.3657% is APPROVED for service rendered on and after April 1, 2014, and it is

FURTHER ORDERED, that Aquarion's request to temporarily set the surcharge at a rate of zero percent (0.0000%) is APPROVED for service rendered from April 1, 2014, through December 31, 2014, subject to reconciliation through a deferral mechanism to be established in Docket No. DW 14-075, and it is

FURTHER ORDERED, that Aquarion is authorized to establish and record a deferred regulatory asset equal to the revenues it would have collected based on a 1.3657% WICA surcharge for service rendered during the period from April 1 through December 31, 2014, and it is

FURTHER ORDERED, that Aquarion shall file proposed tariff language regarding providing notice in the event of substitutions involving Commission-approved WICA project lists, and it is

FURTHER ORDERED, that Aquarion shall cause a summary of this Order *Nisi* to be published once in a statewide newspaper of general circulation or of circulation in those portions

of the state where operations are conducted, such publication to be no later than June 2, 2014 and to be documented by affidavit filed with this office on or before June 12, 2014; and it is

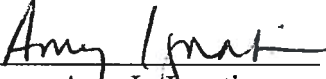
FURTHER ORDERED, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than June 6, 2014, for the Commission's consideration; and it is

FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than June 10, 2014; and it is

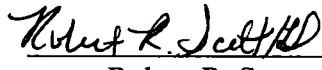
FURTHER ORDERED, that this Order *Nisi* shall be effective June 12, 2014, unless Aquarion fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

FURTHER ORDERED, that Aquarion shall file a compliance tariff with the Commission on or before June 6, 2014, in accordance with N.H. Code Admin. Rules Puc 1603.02(b).

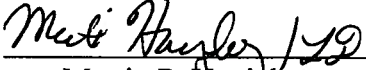
By order of the Public Utilities Commission of New Hampshire this twenty-third day of May, 2014.



Amy L. Ignatius
Chairman




Robert R. Scott
Commissioner



Martin P. Honigberg
Commissioner

Attested by:



Lori A. Davis
Assistant Secretary