

THE STATE OF NEW HAMPSHIRE

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October 13, 2017

Re: DW 17-114, Public Service Company of New Hampshire d/b/a Eversource Energy
Acquisition of Aquarion Water Company of New Hampshire, Inc.
Joint Petition for Approval of Acquisition

To the Parties:

On June 29, 2017, Eversource Energy and Aquarion Water Company of New Hampshire (Eversource and Aquarion, respectively, or collectively, the Companies) filed a joint petition for approval pursuant to RSA 369:8, II and 374:33 to approve the indirect acquisition of Aquarion by Eversource. Eversource is the parent company of Public Service Company of New Hampshire. Eversource entered into a purchase and sale agreement with Macquarie Utilities Holdings, GP by which Eversource would acquire all of the issued and outstanding stock of Macquarie Utilities, Inc. (MUI). The transaction would result in Eversource having ownership and control of MUI and its subsidiaries which include, Aquarion Company, Aquarion Water Company, and Aquarion. In their petition, the Companies provided a detailed representation that the transaction would not have an adverse effect on the rates, terms, service, or operation of Aquarion.

The Commission held a prehearing conference on August 17, 2017. The Commission granted petitions to intervene filed by the Towns of Hampton, North Hampton, the Town of North Hampton Water Commission, and Representatives Philip Bean, Renny Cushing, and Mike Edgar. The Commission denied intervention to Representatives Mindi Messmer and Jim McConnell. The Office of the Consumer Advocate filed a notice of participation pursuant to RSA 363:28. At the hearing, the Companies agreed to waive the time periods under RSA 369:8, II (b) but not the “protections” of the “adverse effect” standard, so long as the petitioners receive an order fully deciding their petition no later than October 25, 2017. The parties agreed to a proposed procedural schedule which called for document requests and a technical session. The parties met in technical session on September 19.

On October 5, the Commission held a final hearing to determine whether the transaction would have an adverse effect on the rates, terms, service, or operation of Aquarion within the State under RSA 369:8, II(b)(1), and only if so, whether the transaction would meet the “lawful, proper, and in the public interest” standard for acquisitions under RSA 374:33. Eversource restated that there would be no substantial changes to employee levels. Eversource also noted that there will be no transaction premium and no related costs to Aquarion customers associated

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with the merger. The Towns of Hampton and North Hampton and its water commission withdrew their opposition to the proposed transaction. The OCA had no opinion on the application of RSA 369:8 and had no objection were the transaction viewed through the prism of RSA 374:33. Commission Staff stated its position that the transaction meets the requirements of RSA 369:8.

Representative Cushing continued to voice his opposition to the transaction, but he did not articulate how the proposed acquisition would have an adverse effect on rates, terms, service, or operation of the utility. At the hearing, Representative Cushing presented no testimony or documentary evidence, but argued that the acquisition would run afoul of the State's restructuring law, RSA 374-F, and the provision of the New Hampshire Constitution regarding commerce and monopolies, Part II, Article 83. In a filing received after the hearing, Representative Cushing stated that Eversource is the parent company of PSNH and that PSNH is a responsible party to the clean-up of the Coakley Landfill Superfund site. The Coakley Landfill is located in North Hampton, and in Aquarion's service area. The papers allege that the proposed transaction, if approved, would result in a conflict of interest, with one of the "polluters" of the site (Eversource/PSNH), owning an entity (Aquarion) which maintains wells in the area that are likely contaminated by Eversource and others. Representative Cushing suggested that Eversource is using this acquisition to shortcut its clean-up obligations. PSNH's clean-up responsibilities are controlled by the terms of the consent decree filed in Civil Action No. 92-123-D in the United States District Court for the District of New Hampshire. See <https://cumulis.epa.gov/supercpad/SiteProfiles/index.cfm?fuseaction=second.scs&id=0101107&doc=Y&colid=34997®ion=01&type=SC>. The Commission took administrative notice of the consent decree under N.H. Admin. Rule Puc 203.27(a)(1). That consent decree binds the parties to the agreement to contributing to the costs of clean-up or remediation. Thus, the Commission determined that Representative Cushing failed to show how this acquisition will have an adverse effect on the rates, terms, service, or operation of Aquarion in this state.

Having heard from the parties and Staff and having independently reviewed the petition and the record herein, the Commission determined that it has no basis to find that Eversource's acquisition of Aquarion's parent company will have an adverse effect on rates, terms, service, or operation of Aquarion within the state. Consequently, Commission approval is not required under RSA 369:8, II(b)(1). The Commission has continuing jurisdiction over the subsidiaries and will monitor the effects of the merger in accord with its statutory responsibilities.

Sincerely,



Debra A. Howland
Executive Director

cc: Service List/Docket File