

STATE OF NEW HAMPSHIRE

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**PUBLIC UTILITIES COMMISSION**

21 S. Fruit St., Suite 10  
Concord, N.H. 03301-2429

May 27, 2021

Re: DW 21-090, Abenaki Water Company, Inc. and Aquarion Company  
Petition for Approval of the Acquisition of Abenaki Water Company by Aquarion Company  
Procedural Schedule, Intervention Requests, and Briefing Deadline

To the Parties:

On May 14, 2021, a duly noticed prehearing conference was held in the above-referenced matter before Hearings Examiner David K. Wiesner. Appearances were entered by Abenaki Water Company, Inc. (Abenaki), Aquarion Company (Aquarion), the Office of the Consumer Advocate (OCA), Commission Staff (Staff), and the following petitioners for intervention: Omni Mount Washington Hotel, LLC (Omni); Paul Mueller, on behalf of the Bretton Woods Property Owners Association (BWPOA); and Sharon Burgess. The Village Shores Estates Association and a number of individual Abenaki ratepayers have also requested intervention, but did not appear at the May 14 prehearing conference. There was an opportunity for public comment during the prehearing conference, but no public comments were made.

After the May 14 prehearing conference, additional petitions to intervene were filed by the following Abenaki ratepayers: Matthew Gatzke and Sandra Crystall; Jeffrey Phillips, Robert Carchia, George Woodruff, Gene Pruel, Adam Decato, and Carolyn Bancroft; Paul Mueller, individually; and Omni Mount Washington, LLC. No objections to any of the pending petitions to intervene have been filed. The Hearings Examiner issued a report dated May 18, 2021, in which he recommended that the Commission grant the petitions to intervene pending as of that date, as well as any subsequent petitions to intervene, which state that the petitioner is a ratepayer of the company or a material basis for the petitioner's interest in this proceeding. The Hearings Examiner encouraged intervenors to consider collaborating and organizing to streamline the process.

During the prehearing conference, the OCA argued that the notice provided by the order of notice issued on May 4, 2021, which was posted on Abenaki's, Aquarion's, and the Commission's websites, was insufficient. Omni stated that the order of notice was not posted on the Commission's website until May 10. Staff suggested that the Commission issue a supplemental order of notice to be sent to the service lists in the pending Abenaki and Aquarion rate proceedings, so that interested persons would have an extended period in which to intervene. Finding no objection to Staff's proposal, the Hearings Examiner recommended in his report that the Commission issue a supplemental order of notice to be provided to the service lists of the Abenaki rate case, Docket No. DW 20-112, and the Aquarion rate case, Docket No. DW 20-184, and posted on Abenaki's, Aquarion's, and the Commission's websites.

Two other issues were raised during the prehearing conference, which were noted in the Hearings Examiner's report. First, Staff asserted that the 60-day timeline in RSA 369:8, II should not begin until May 10, 2021, at the earliest, when Abenaki and Aquarion filed supplemental attachments to their joint petition to approve Aquarion's acquisition of Abenaki. As no objection was made to this proposal, the Hearings Examiner recommended that the 60-day timeline applicable under RSA 369:8, II begin no earlier than May 10, 2021. The second issue, raised by the OCA, concerned what standard the Commission should use when reviewing Aquarion's acquisition of Abenaki. The OCA contended it would be improper for the Commission to approve the transaction under RSA 369:8, II, in view of the unique situation where an acquisition is proposed while a utility rate case is pending. Moreover, the OCA argued that the proposed acquisition should be reviewed not under the Commission's traditional "no net harm" standard, but under a more stringent "net benefits" standard, notwithstanding Commission precedent.

Following the prehearing conference, Abenaki, Aquarion, the OCA, Omni, BWPOA, Ms. Burgess, and Staff (the Participants) met in a technical session and agreed upon a schedule, which Staff submitted to the Commission by letter dated May 18, 2021. Due to technical conflicts, the Commission has not scheduled the hearing on the proposed dates. The hearing on this matter will be conducted on June 28 and June 29, 2021.

The Commission has adopted the Hearings Examiner's recommendations as follows: (1) the Commission has granted all petitions to intervene filed by May 19, 2021; (2) the Commission shall issue a supplemental order of notice, which shall be sent to all parties on the service lists for Docket Nos. DW 20-112 and DW 20-184, and posted on Abenaki's, Aquarion's, and the Commission's websites; and (3) the Commission rules that the 60-day timeline under RSA 369:8, II shall begin, at the earliest, on May 10, 2021. Abenaki ratepayer intervenors should attempt to combine their efforts during this proceeding, based on their common interests.

Finally, pursuant to New Hampshire Code of Administrative Rules, Puc 203.32, the Commission has determined that legal briefing on the OCA's argument that a more stringent "net benefits" test should be applied in lieu of the traditional "no net harm" standard would assist the Commission in understanding the OCA's argument and in its determination of the issues presented. The OCA and any other party supporting application of a "net benefits" test may file a legal brief of no more than 5 pages in length no later than June 4, 2021. Any party may file a brief in opposition of no more than 5 pages in length no later than June 11, 2021.

Accordingly, the Commission has adopted the following schedule to govern this proceeding:

Briefs in support of the 'net benefits' test	June 4, 2021
Briefs in opposition to the 'net benefits' test	June 11, 2021
Deadline to Submit Rolling Data Requests to Aquarion/Abenaki	June 14, 2021
Final Deadline for Abenaki/Aquarion to Respond to Data Requests	June 21, 2021
Hearing	June 28 and 29, 2021, at 10:00 am

For administrative efficiency, the Commission has elected to issue this secretarial letter as its prehearing order.

Sincerely,



Debra A. Howland  
Executive Director

cc: Service List (Electronically)  
Docket File

## Service List - Docket Related

Docket#: 21-090

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