

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DW 14-075

AQUARION WATER COMPANY OF NEW HAMPSHIRE, INC.

Verified Petition to Credit Customers for Benefit Arising from Change in Tax Regulations

Order *Nisi* Establishing a Deferred Liability

ORDER NO. 25,692

July 10, 2014

In this order, the Commission approves the creation of a deferred liability and a credit designed to pass through an anticipated federal tax benefit of \$905,000 to Aquarion's customers. The Commission defers consideration of the time period over which the credit shall be applied to customer bills.

I. **BACKGROUND**

Aquarion Water Company of New Hampshire, Inc. (Aquarion), seeks approval of a mechanism to pass through to customers an anticipated tax benefit in the approximate amount of \$905,000 dollars. Petition at 1. Aquarion proposes to create a deferred liability in the amount of the tax benefit and to apply a credit to customer bills beginning January 1, 2015, and continuing for a three-year period. The proposed credit would be net of deferred revenues from delayed application of Aquarion's 2014 Water Infrastructure and Conservation Adjustment (WICA) surcharge. *Id.* at 2. The petition and subsequent docket filings, other than information for which confidential treatment is requested of or granted by the Commission, is posted to the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2014/14-075.html>.

In September 2013, the United States Department of the Treasury, Internal Revenue Service (IRS) adopted regulations that allow taxpayers to expense certain repair and maintenance costs that Aquarion has historically capitalized. *Id.* at 1. Consistent with this change in IRS regulation, Aquarion intends to reflect a catch-up adjustment on its 2013 federal tax return for capital additions dating back to 2007. *Id.* Because the adjustment is limited to the amount of actual state and federal taxes paid by Aquarion over the open tax periods of 2011, 2012, and 2013, Aquarion calculates that the tax benefit will be \$905,000, the full amount of taxes paid by Aquarion during this three-year period. *See* Staff Recommendation at Request Nos. Staff 1-3 and Staff 1-4. Aquarion proposes to establish a regulatory liability in the amount of this tax benefit and to return it to ratepayers over a three-year period beginning January 1, 2015. Petition at 2. Aquarion also proposes to offset this deferred regulatory liability with the deferred revenues from Aquarion's 2014 WICA, which have been accruing since April 1, 2014, but which have not yet been collected from customers. *Id.*

Aquarion intends to file its 2013 federal tax return on or before September 15, 2014. At that time, the company will have its final calculation of the tax benefit and will file that information with the Commission. While Aquarion's calculation is subject to acceptance and potential audit by the IRS, the company has a high level of confidence that its calculation of the benefit is accurate based on the newly issued regulations. *Id.* at 2.

Commission Staff (Staff) recommends approval of Aquarion's request to establish a deferred liability. Staff Recommendation at 2. Staff also recommends that the Commission defer approval of the three-year period of the credit until after the company files its final calculation of the benefit amount in September. Staff notes that since Aquarion filed its petition

in this docket, the Commission approved a WICA surcharge of 1.3657% but set the actual surcharge at 0.0% on a temporary basis in anticipation of off-setting the tax benefit under consideration here. *See Aquarion Water Co. of NH, Inc.*, Order No. 25,668 (May 23, 2014) (approving WICA surcharge of 1.3657% effective for service rendered on and after April 1, 2014, approving a temporary surcharge 0.0% and creation of a deferred asset). The Office of the Consumer Advocate concurs in Staff's recommendations. *Id.* at 2. Although they did not intervene, the Town of Hampton and the North Hampton Water Company informed Staff that they concur with Staff's recommendation. *Id.*

II. COMMISSION ANALYSIS

The Commission approves Aquarion's request in part. Aquarion has indicated it will reflect a "catch up adjustment" on its 2013 federal tax return with respect to capital additions dating back to 2007, consistent with the regulations promulgated by the IRS, and will receive a tax benefit of approximately \$905,000. Aquarion will establish a regulatory liability on its books for the amount of the tax benefit. Aquarion will then amortize this liability by first subtracting the amount of a deferred asset accrued as a result of temporarily setting its 2014 WICA surcharge at 0.0000%. *See generally* Order No. 25,668. Aquarion estimates that the deferred WICA revenues for 2014 will total \$71,766. Attachment to Petition at 1. Aquarion will return the net balance of approximately \$833,234 through the credit beginning January 1, 2015. Beginning January 1, 2015, customer bills will once again reflect an approved WICA surcharge for both 2013 and 2014 WICA expenditures as well as a credit of approximately 4%. Petition at 2. The 2015 WICA surcharge will consist of the deferred 1.3657% (based on 2013 spending) as well as an additional amount anticipated to be approved this fall (based on 2014 spending).

The amount by which this new combined WICA surcharge will offset the 4% will depend on the final audited 2014 WICA spending. This offsetting of a regulatory asset and a regulatory liability is a reasonable approach that promotes rate stability. Otherwise, overall rates would have increased in 2014 to reflect the approved WICA surcharge, then decreased in 2015 as a result of the credit.

As for the company's proposal to credit customers over a three-year period, Staff has recommended that we defer ruling on the time period until the exact amount of the benefit is known. Because Aquarion has committed to providing an update to the Commission in September, when Aquarion will file its 2013 tax return, the Commission will defer ruling on the amortization period.

We will issue this order on a *nisi* basis to ensure that all interest 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 establish a regulatory liability to record the tax benefits expected to be received resulting from changes in IRS regulations relating to the tax treatment of certain repair and maintenance expenses is hereby APPROVED; and it is

FURTHER ORDERED, that we will defer ruling on the time period of the amortization of those tax benefits to customers until Aquarion has filed its 2013 tax return and has provided an update to the Commission with the exact amount of the benefits to be received; and it is

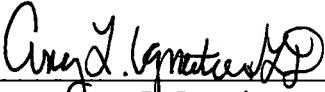
FURTHER ORDERED, that the Petitioner shall cause a summary of this Order *Nisi* to be published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to be no later than July 18, 2014 and to be documented by affidavit filed with this office on or before August 5, 2014; and it is

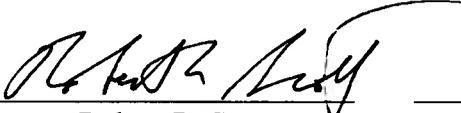
FURTHER ORDERED, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than July 25, 2014 for the Commission's consideration; and it is

FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than August 1, 2014; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective August 8, 2014, unless the Petitioner fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the Public Utilities Commission of New Hampshire this tenth day of July, 2014.


 Amy L. Ignatius
 Chairman


 Robert R. Scott
 Commissioner


 Martin P. Honigberg
 Commissioner

Attested by:


 Debra A. Howland
 Executive Director