

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

June 1, 2016 - 10:06 a.m.
Concord, New Hampshire

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RE: DW 16-448
ABENAKI WATER COMPANY AND
ROSEBROOK WATER COMPANY:
Petition to Transfer Utility Assets
and Franchise and for Related
Approvals. (Prehearing conference)

PRESENT: Chairman Martin P. Honigberg, Presiding
Commissioner Robert R. Scott
Commissioner Kathryn M. Bailey

Sandy Deno, Clerk

APPEARANCES: Reptg. Abenaki Water Company:
Justin C. Richardson, Esq. (Upton..)

Reptg. Rosebrook Water Company:
Harper R. Marshall, Esq. (Devine...)

Reptg. Residential Ratepayers:
Nicholas Cicale, Esq.
Pradip Chattopadhyay, Asst. Cons. Adv.
Office of Consumer Advocate

Reptg. PUC Staff:
Mark A. Naylor, Dir./Gas & Water Div.
Robyn Descoteau, Gas & Water Division

Court Reporter: Steven E. Patnaude, LCR No. 52

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ORIGINAL

P R O C E E D I N G

CHAIRMAN HONIGBERG: We're here this morning in Docket DW 16-448, which is a Petition for Transfer of Utility Assets and Other Relief. And, it's Abenaki Water seeking to acquire Rosebrook Water Company. There's a number of other requests. It's the permission for Rosebrook to cease operating as a public utility, approval for Abenaki to issue \$400,000 in long-term debt, and permission for Abenaki to modify its existing tariff to provide for monthly billing.

Before we go any further, let's take appearances.

MR. RICHARDSON: Good morning, Mr. Chairman, members of the Commission. Justin Richardson, with Upton & Hatfield, here on behalf of Abenaki Water Company. With me at counsel table I have Board President, Donald Vaughan.

MR. MARSHALL: Good morning, Mr. Chairman. This is Harper Marshall, from Devine, Millimet, here representing Rosebrook Water Company.

1 MR. CICALÉ: Good morning, Mr.
2 Chairman and Commissioners. Nicholas Cicale,
3 here for the Office of Consumer Advocate, on
4 behalf of residential ratepayers. Along with
5 me is the Assistant Consumer Advocate,
6 Dr. Pradip Chattopadhyay.

7 MR. NAYLOR: Good morning,
8 Commissioners. Mark Naylor, the Director of
9 the Gas and Water Division. And with me today,
10 Robyn Descoteau, an Analyst in the Gas and
11 Water Division.

12 CHAIRMAN HONIGBERG: All right. Are
13 there any preliminary matters before we hear
14 the parties' initial positions?

15 *[No verbal response.]*

16 CHAIRMAN HONIGBERG: All right.
17 Seeing none. We're here for a prehearing
18 conference. I know that there's a technical
19 session scheduled immediately after the
20 prehearing. And the primary purpose of this is
21 to hear from the parties their initial
22 positions on what we're going to be doing in
23 this proceeding.

24 So, Mr. Richardson, why don't you

1 start us off.

2 MR. RICHARDSON: Thank you, Mr.

3 Chairman. So, there's kind of four components,
4 as I see this, or four, you know, kind of
5 high-level topics. You know, first is,
6 obviously, the asset purchase. The purchase
7 price is basically rate base, plus 10 percent.
8 We provided Staff and the OCA last week a
9 calculation of that price as of year-end 2015,
10 which was \$422,303. Which is a little bit
11 different than what the figure was that was in
12 the Order of Notice. But that's -- obviously,
13 the final price will be determined as of
14 closing.

15 The standard is one of public good,
16 we believe. Abenaki will improve operations
17 and management. It's a growing company. It
18 has engineers, accountants, and resources,
19 operating water systems in three states.

20 The Company's proposal to finance
21 will improve the capital structure that
22 currently exists, from 100 percent equity in
23 Rosebrook, to as near as possible to 50/50
24 percent in Abenaki post acquisition. The

1 interest rates for financing the \$400,000 we're
2 expecting between 3.00 and 3.75 percent, and
3 that will be very positive in terms of
4 mitigating rate pressure going forward.

5 There are plans to make improvements
6 to the system. This is alluded to in
7 testimony, there were some operational issues
8 in the last year, with some parts of the
9 pressure causing meters to blow out in a couple
10 of residences. There's been some ongoing
11 insurance claims as a result of that. We've
12 got plans to mitigate that in the short-term,
13 and then evaluate it, and do some other things
14 that will really improve performance,
15 installation of remote read meters, which will
16 reduce operating costs. So, we think that
17 there's a lot on the positive side, and really
18 no negatives that we've been able to discover
19 so far.

20 We have -- Abenaki has met with the
21 homeowners association within the Bretton Woods
22 area, and the proposal has been very well
23 received. And we understand that the customers
24 are supportive of the plan. There's also been

1 a similar meeting with the hotel that's served
2 by the system, Omni, I've forgotten the name of
3 the official corporation. Omni.

4 So, what we're really hoping to do is
5 to move this project forward as quickly as
6 possible. And part of the reason for that or
7 we feel that's important is, right now,
8 Rosebrook is in a difficult situation without
9 access to capital. They need some help on
10 management and things like that. And where
11 concern is is that, if something were to
12 happen, like incidents similar to the meters
13 getting blown out, and that resulted in those
14 liability claims, it could potentially affect
15 the balance of consideration that's in the
16 current deal.

17 So, we're hoping that, you know, it
18 will be in the best interest of customers to
19 kind of find a way to close this as
20 expeditiously as possible. And we'll look
21 forward to, you know, getting whatever
22 information we can out to help move this along.

23 CHAIRMAN HONIGBERG: You said there
24 were "four high-level things", and I was trying

1 to note one, two, three, four.

2 MR. RICHARDSON: Oh, sure.

3 CHAIRMAN HONIGBERG: And I think I
4 didn't get past one.

5 MR. RICHARDSON: Yes. No, no, no.
6 So, well, and I -- I had them organized so they
7 flowed together seamlessly.

8 CHAIRMAN HONIGBERG: And it was a
9 little too subtle for me.

10 MR. RICHARDSON: Yes. So, the asset
11 purchase is the public good standard; the
12 financing component; and then the meeting with
13 the homeowners association; and I had actually
14 broken the transfer and financing, the two
15 pieces. So, that's really the summary of the
16 whole thing. It's all in the Petition and in
17 the pleadings as well. So...

18 CHAIRMAN HONIGBERG: All right.
19 Thank you. Mr. Marshall.

20 MR. MARSHALL: Thank you. From
21 Rosebrook's perspective, there's not much to
22 add, other than, you know, I think we're in
23 full agreement with all things that Attorney
24 Richardson just had to say.

1 We are, you know, concerned about
2 just the ongoing operations of the utility, and
3 deem it would be in the best interest to be in
4 an operation like Abenaki's, and that we would
5 petition for request from the Commissioners
6 that Rosebrook is able to discontinue its
7 operations and -- as a public utility, once the
8 transfer has been completed, if it's allowed.

9 CHAIRMAN HONIGBERG: Mr. Cicale.

10 MR. CICALÉ: The Office of Consumer
11 Advocate generally supports the Company's
12 application for the asset purchase and
13 acquisition. There are a lot of great
14 synergies that can become relevant with this
15 consolidation, and recognize that the customers
16 of Rosebrook may significantly benefit from the
17 capital and the support and operation structure
18 that Abenaki has to offer the smaller system.

19 The consolidation and merger of the
20 two companies improves the capital structure,
21 and that does benefit residential ratepayers.
22 And, so, we look at that as a good aspect. We
23 will be looking at the proposal carefully, to
24 ensure that current customers at Abenaki are

1 protected and insulated from any adverse or
2 excessive merger-related costs.

3 And we look forward to working hard
4 with the Commission on this, on this docket.
5 Thank you.

6 CHAIRMAN HONIGBERG: Mr. Naylor.

7 MR. NAYLOR: Staff has already begun
8 its review of this filing. And we do expect to
9 support Abenaki's acquisition of this utility.
10 From a review of Rosebrook's annual reports, it
11 is clear that this utility has been neglected,
12 in terms of capital improvements, under the
13 existing ownership.

14 In Order Number 25,685, issued about
15 two years ago in Docket DW 12-299, REDUS New
16 Hampshire Water Company, LLC, an entity formed
17 by Wells Fargo Bank to hold Rosebrook's stock,
18 was authorized to acquire that stock by the
19 Commission. Since that time, Wells Fargo has
20 been controlling the operations of this
21 utility, even though its subsidiary, REDUS New
22 Hampshire Water, has never taken actual
23 ownership. In fact, Wells Fargo negotiated
24 this proposed sale and transfer with Abenaki

1 directly, asserting its rights under the order
2 issued in DW 12-299.

3 Wells Fargo's *de facto* control of
4 this utility has been to the detriment of this
5 utility and its ratepayers. A situation that
6 Staff finds untenable, and a situation that
7 Staff believes must change as soon as possible.

8 Based on our knowledge of Abenaki's
9 capabilities in owning and operating public
10 utilities in this state and others, Staff
11 expects to support this proposed acquisition.
12 We will be proposing a procedural schedule that
13 will provide opportunity for discovery, and
14 that anticipates a hearing date in late July.

15 CHAIRMAN HONIGBERG: Thank you, Mr.
16 Naylor. You actually answered the question I
17 was going to ask.

18 Anybody have questions? Commissioner
19 Scott.

20 CMSR. SCOTT: Thank you. Mr.
21 Richardson, you mentioned meeting with the
22 homeowners association. I was just curious, we
23 don't have anything in our file here from the
24 customers themselves. Has there been outreach

1 so far or is that to come?

2 MR. RICHARDSON: I believe the
3 meeting has already taken place. Mr. Vaughan
4 was there. And, if I may, I'd rather turn to
5 him, because I wasn't in the room. I think he
6 could characterize how it happened.

7 CHAIRMAN HONIGBERG: Sure. Why don't
8 you briefly -- briefly tell us about that,
9 Mr. Vaughan.

10 MR. VAUGHAN: Yes, sir. The meeting
11 was held approximately five or six weeks ago.
12 Mr. Crawshaw, who will be in oversight of
13 Abenaki and Rosebrook, met with me and the
14 Board of Resort Waste. And the purpose of the
15 meeting was, first of all, to let them know who
16 we were, also discuss their concerns.

17 There was a very productive and
18 constructive meeting. We went through the
19 exercise essentially of telling them who we
20 were, in other words, you know, what our
21 experience was and where we were located, how
22 we would pretty much staff the operation. They
23 seemed very, very receptive to our arrival and
24 supportive. And we've been invited, I believe,

1 to attend a meeting of theirs in October.

2 So, I thought it was a meeting,
3 really, pretty much a getting-to-know-you
4 meeting. And I think that it was a precursor
5 of a fairly smooth transition.

6 CMSR. SCOTT: Thank you.

7 CHAIRMAN HONIGBERG: Commissioner
8 Bailey.

9 CMSR. BAILEY: Did you say the
10 meeting was with the Resort Waste Board?

11 MR. VAUGHAN: Yes.

12 CMSR. BAILEY: So, were residential
13 customers invited to that or was this just
14 having to do with the hotel?

15 MR. VAUGHAN: No. This was not with
16 the hotel, it was with the homeowners. There
17 are two wastewater systems there. One is the
18 hotel's, and the other one is Resort Waste.
19 That is the homeowners, approximately 400
20 homeowners there. They're represented by a
21 Board. The Board was the only group there that
22 was in attendance. And, as I recall, there
23 were about six or seven Board members.

24 CMSR. BAILEY: So, it was the Board

1 of the homeowners association for the condo --

2 MR. VAUGHAN: Yes.

3 CMSR. BAILEY: -- the condos that are
4 there. And there aren't any other customers
5 other than the ones in the condo -- condos and
6 the Omni Hotel.

7 MR. VAUGHAN: Yes.

8 CMSR. BAILEY: Okay. Thank you.

9 MR. RICHARDSON: If I may just help
10 to clarify, I believe the Resort Waste owns the
11 wastewater system that serves the condominiums
12 that are in the area. All of the customers of
13 that system are also water customers. So, it
14 was a way to kind of go in, and there's a
15 contract for operation of the sewer system, to
16 basically meet with the owners at the same
17 time. So, I was anticipating that question as
18 soon as heard it was Resort Waste. But that
19 is -- so, that's how the meeting was set up to
20 contact the homeowners association at the same
21 time.

22 CHAIRMAN HONIGBERG: All right. If
23 there's nothing else, then we'll leave you to
24 your technical session, and look forward to

1 seeing what schedule you can put together and
2 when we'll bring this matter to final hearing.

3 And, with that, we'll adjourn.

4 Thanks.

5 MR. MARSHALL: Thank you.

6 *(Whereupon the prehearing*
7 *conference was adjourned at*
8 *10:20 a.m., and a technical*
9 *session was held thereafter.)*