

**BEFORE THE STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

In the matter of:)
Pittsfield Aqueduct Company, Inc.)
DW 10-090)
Request for Permanent Rate Increase)

Direct Prefiled Testimony

of

**Stephen R. Eckberg
Utility Analyst**

**on behalf of
the Office of the Consumer Advocate**

Dated: **March 4, 2011**

1 **Q. Please state your name, business address and position.**

2 A. My name is Stephen R. Eckberg. I am employed by the Office of the Consumer
3 Advocate (OCA) as a Utility Analyst. I include as Attachment SRE-1 to my testimony a
4 statement of my education and experience.

5
6 **Q. Have you previously testified before the Commission?**

7 A. Yes, I have testified on behalf of the OCA in a number of dockets. A listing of those
8 dockets and testimonies is included in Attachment SRE-1.

9
10 **Q. Please describe the purpose of your testimony.**

11 A. The purpose of my testimony is to provide the OCA's position on the Company's proposed Water
12 Infrastructure and Conservation Adjustment (WICA).

13
14 **Q. Please summarize the Company's WICA proposal.**

15 A. The Company seeks approval of the WICA as a mechanism for the replacement or
16 rehabilitation of 13,650 lineal feet of unlined cast iron water main. *See* Ware Testimony,
17 pp. 4-5. The Company contends that this main "should be replaced or rehabilitated
18 because it restricts fire flows and impacts water quality by releasing iron into the water
19 during high flows resulting in colored water and by potentially allowing for bacterial
20 regrowth." *Id.* at p. 4, lines 5-9. The Company proposes "to replace this water main over
21 a 20 to 25 year time frame[.]" *Id.* at p. 4, lines 10-11, and p. 5, lines 21-23, "with projects
22 being completed every other year." *Id.* at p. 5, line 23. The Company proposes to
23 recover the costs of, and a return on, this investment through a WICA process and
24 surcharge on customer bills.

25

1 **Q. What does the Company claim would be the benefits of the WICA?**

2 A. In support of its WICA proposal, the Company claims the following benefits:

3 A WICA would allow the Company to carry out a modest water main
4 replacement/rehabilitation program and reduce the frequency of filing rate
5 cases thereby reducing the costs passed through to its customers. It would
6 also reduce regulatory lag that occurs between the installation of a water
7 main (which is a non-revenue producing asset) and the capturing of that
8 investment and the associated expenses (depreciation and property tax
9 expenses) in rates.
10

11 *See Ware Testimony, p. 5, lines 3-9. Generally, the Company contends that the proposed*
12 WICA will result in benefits to its customers in the form of lower costs (*i.e.*, fewer rate
13 cases means less rate case expenses), as well as benefits to the Company through more
14 timely recovery of investment.
15

16 **Q. What is the OCA's position on the WICA proposal?**

17 A. The OCA opposes the Company's WICA proposal for the following reasons:

- 18 1. The Company has not shown that the WICA, if approved, will result in the benefits that
19 the Company purports will flow to its customers. Specifically, there is not sufficient
20 evidence to support the contention that, as a result of the WICA, customers will enjoy
21 lower costs from less frequent rate cases or improved service quality.
- 22 2. The WICA program that the Commission approved for the Aquarion Water Company of
23 New Hampshire (Aquarion) was based upon a unique set of circumstances, and is not a
24 rate mechanism of general applicability to all water utilities. In fact, the Aquarion WICA
25 was approved by the Commission in Order No. 25,019 as a *pilot* program for a limited
26 period of time.
27

28 **Q. Please explain your position that the Company has not shown that the WICA, if**
29 **approved, will result in the benefits that it purports will flow to its customers.**

1 A. Neither the Company's filing nor its responses to data requests support the Company's
2 contention that the frequency of its rate cases will change if the Commission approves the
3 proposed WICA. Additionally, as I discuss below, the Company's responses to
4 discovery call into question the Company's claimed objective of improving service
5 quality.

6
7 In its filing, the Company proposed "an annual limit on WICA rate increases between 5%
8 and 7.5%." Ware Testimony, p. 8, lines 15-17. In discovery, when asked to clarify this
9 testimony, the Company stated that the annual limit proposed is 5% and that the
10 cumulative limit between rate cases proposed is 7.5%. *See* Company's Response to OCA
11 1-16 (Attachment SRE-2).

12
13 According to the Company's filing, a 5% annual rate increase "would allow
14 approximately 1200 to 1300 L[inear] F[et] of water main to be replaced in any one
15 year[.]" Ware Testimony, p. 8, lines 15-17. A 7.5% cumulative limit would allow
16 "approximately 2000 LF of water main to be replaced before a rate case is required." *Id.*
17 at p. 8, lines 17-19; *but see* Company's Response to Staff 1-4 (b) (only 1,800 LF could be
18 done for the 7.5% increase "allowed between rate cases"). The Company "plans for the
19 first water main/replacement project to occur in 2012 or 2013" and this project "would
20 involve the cleaning and relining of about 2,000 LF of the 12" unlined cast iron water
21 main along Catamount Road that is closest the water treatment plant." *Id.* at p. 8, lines 9-
22 12.

23
24 If, as the Company indicates, it can replace 1,800 to 2000 linear feet of water main within
25 the 7.5% cumulative cap of its proposed WICA, and the Company's first proposed

1 project is to replace about 2000 linear feet of main beginning in 2012, the Company will
2 reach (or exceed) the cumulative cap limit of the WICA with the first project. Further, if
3 WICA projects occur at a pace of every other year, the proposed cumulative cap would
4 likely be reached by 2014. If and when it reaches the WICA cumulative cap, the
5 Company would be required to file a base rate case in order to recover the costs of any
6 additional WICA projects.

7

8 If the Company cannot accomplish more than one WICA project before it needs to file its
9 next rate case, the OCA questions whether the Company's claims of less frequent rate
10 cases will come to fruition. The filing of a rate case in or around 2014 would diminish
11 this claimed benefit as well as the benefit of reduced regulatory costs. A rate case in or
12 around 2014 would not be materially different from the Company's typical period
13 between rate cases (*i.e.*, roughly every two years).

14

15 In addition, the Company has not established a basis for finding that any need exists to
16 require the Commission to look outside existing ratemaking mechanisms for the recovery
17 of its capital investment. The Company has been regularly investing in the system, and
18 according to the Company, customers have been enjoying safe, reliable service.

19

20 As presented, any benefits to customers in the form of reduced rate cases are minimal and
21 are outweighed by the risks associated with permitting recovery of increases to rate base
22 outside the context of a rate case. The Commission's ratemaking process involves a
23 matching of revenues, expenses, investment, return, customers and consumption. The
24 proposed WICA, which is focused on investment, may result in a mismatching of these
25 variables. Therefore, under the circumstances presented by the Company, the proposed

1 WICA is not a justified departure from traditional rate making.

2
3 **Q. Do you have any other examples of purported benefits which the OCA questions?**

4 A. Yes. The Company's proposed WICA is focused solely on replacing cast iron mains.
5 The Company refers in testimony to the need for the WICA to reduce colored water
6 occurrences and bacterial regrowth. Ware Testimony, p. 4, lines 5-9. The Company's
7 responses to discovery, however, indicate that the WICA is not driven by water quality
8 complaints, *see* PAC's response to Staff 2-7 (Attachment SRE-3), or concerns about
9 unaccounted-for water. *See* PAC's response to Staff 2-9 (Attachment SRE- 4). With no
10 service quality issues to remedy, the OCA questions whether the Company's customers
11 will benefit from improved service quality if the Commission approves the proposed
12 WICA.

13
14 **Q. Does the OCA believe that the Aquarion WICA model is an appropriate for PAC at**
15 **this time?**

16 A. No. The Company suggests that "it would be appropriate [for the Commission] to
17 establish" a WICA "similar to the pilot WICA recently granted to Aquarion Water
18 Company in DW 08-098." Ware Testimony, p. 4, line 22 (referring to, Order No. 25,019,
19 September 25, 2009). The OCA disagrees. As the Commission is aware, the Aquarion
20 WICA was the product of a settlement agreement and was developed as a "pilot" project.
21 Specifically, the Aquarion settlement agreement provided:

22 The Settling Parties have agreed to implementation of the WICA on the
23 understanding that it may be modified in the future by the Commission,
24 either on its own motion or at the request of Staff or any party, and that
25 because the WICA is to be implemented on a pilot basis only, it is not
26 intended to constitute precedent for a future proceeding involving the
27 Company or any other utility.

28
29 Re Aquarion Water Company of New Hampshire, Inc., Settlement Agreement,

1 Permanent Rates, July 10, 2009 (Aquarion Settlement), at p. 5. In addition, the Aquarion
2 WICA was supported by a diverse group of stakeholders, including the OCA, the Town
3 of North Hampton and the Town of Hampton¹.

4
5 Also, the term of Aquarion's pilot WICA was of limited duration. Specifically, the
6 "WICA process shall automatically terminate at the time of a final order in the
7 Company's next general rate case, unless it is extended by the Commission in such order
8 or prior to such order." Aquarion Settlement, p. 8; *see also* Order No. 25,019, at p. 9.

9
10 In contrast, the Company's proposed WICA is not before the Commission as a
11 recommendation of all the parties in this docket. Also, the Company's proposed WICA,
12 if approved, would span a period of at least 20 years.

13
14 In addition to these differences between the Aquarion WICA and the Company's
15 proposal, the Commission has yet to evaluate the effectiveness of the Aquarion pilot
16 WICA, including verifying the achievement of promised benefits to customers. As a
17 party to the Aquarion Settlement, the OCA expected that there would be some evaluation
18 by the Commission of this pilot before the rate mechanism was authorized either for an
19 extended period for Aquarion or for other water utilities.

20
21 **Q. Does the OCA have any other concerns about the Company's proposed WICA?**

22 **A.** Yes. The OCA has one additional concern at this time.

23

¹ "The Town of Hampton stated that while it did not sign the settlement agreement, it does not object to the agreement in light of the extensive data requests and audits of the company and its understanding of Aquarion's need to realize a better rate of return. Hampton stated it has been concerned about the frequency and magnitude of rate increases and that it believed the WICA program could help decrease the magnitude and frequency of rate cases and alleviate rate shock. Hampton stated that it is not a signatory to the settlement agreement largely out of concern for the magnitude of the rate increases." *See Re Aquarion Water Company of New Hampshire, Inc.*, Order 25,019 at p. 5.

1 As the Commission is aware, the Company (along with its affiliates and parent,
2 Pennichuck Corporation) is the subject of a pending acquisition by the City of Nashua
3 (DW 11-026). The OCA is concerned about the impact that a transfer of ownership –
4 even if indirect – would have on the operations (*e.g.*, expenses) and service to the
5 Company's customers. Based upon its Order of Notice in the acquisition case, the
6 Commission will investigate this and other issues in that docket. See Re Acquisition of
7 Pennichuck by the City of Nashua, Order of Notice dated February 9, 2011, at p. 2
8 (Commission will consider "whether Nashua's indirect ownership and operation of
9 PWW, PAC and PEU results in Nashua's provision of water service within those
10 franchises and if so whether such indirect ownership and operation will be for the public
11 good"). Given these circumstances and the associated uncertainty, the OCA does not
12 believe that it is appropriate at this time for the Commission to approve a new type of rate
13 mechanism for the Company, particularly one that is proposed to span the course of at
14 least 20 years.

15
16 **Q. What action does the OCA recommend that the Commission take with regard to the**
17 **Company's proposed WICA?**

18 A. The OCA recommends that the Commission deny the Company's request for a WICA.
19

20 **Q. If the Commission disagrees with the OCA's recommendation and approves a**
21 **WICA for the Company, does the OCA have elements that it believes should be**
22 **included in any WICA approved by the Commission?**

23 A. Yes. At a minimum, the OCA believes that any WICA approved by the Commission
24 should:

- 25 1. Be a pilot program, meaning that it be of specified limited duration, with automatic

- 1 termination and with explicit opportunity and process for an evaluation of program
2 successes and/or shortcomings in the Company's next base rate case;
- 3 2. Include a formal process for an advance review, as well as Commission approval, of
4 proposed WICA projects, which spans a reasonable time period and includes the OCA
5 and other stakeholders such as representatives of the Town of Pittsfield;
- 6 3. Include a formal process for the review, and Commission approval of, the actual costs
7 that the Company seeks to recovery through the WICA charge, which spans a reasonable
8 time period, includes the OCA and other stakeholders, and includes an audit by the
9 Commission;
- 10 4. Include an equi-proportional allocation – between and within customer classes - of
11 approved WICA recovery;
- 12 5. Include explicit annual and cumulative spending limits;
- 13 6. Include only certain types of replacement or rehabilitation projects associated with water
14 mains and which are part of a long-term capital asset management plan;
- 15 7. Include only repair or rehabilitation projects that are truly non-revenue producing; and
16 8. Require customer education and outreach as well as clear and simple presentation and
17 explanation of the WICA charge on customer bills.

18
19 **Q. Does this conclude your testimony?**

20 **A. Yes.**