

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

July 11, 2012 - 10:07 a.m.
Concord, New Hampshire



RE: DW 12-085
AQUARION WATER COMPANY OF NEW HAMPSHIRE, INC.
HAMPSHIRE, INC.
(Notice of Intent to File Rate Schedules)
PREHEARING CONFERENCE

PRESENT:

Chairman Amy L. Ignatius
Commissioner Michael D. Harrington
Commissioner Robert R. Scott
Sandy Deno - Clerk

APPEARANCES:

Representing Aquarion Water Co. of N.H.,
Patrick H. Taylor (McLane, Graf...)
Steven Camerino (McLane, Graf...)

Representing Office of Consumer Advocate:
Rorie E. P. Hollenberg, Esq.
Donna McFarland

NHPUC JUL19'12 PM 2:32

COURT REPORTER: Susan J. Robidas, LCR/RPR No. 44

1 APPEARANCES (CONT'D)

2

3 Representing Town of Hampton:
4 Mark S. Gerreald, Esq.

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6 Representing PUC Staff:

7 Marcia A.B. Thunberg, Esq.
8 Douglas Brogan
9 Mark Naylor
10 Jayson LaFlamme

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I N D E X

STATEMENTS OF PRELIMINARY POSITION	PAGE
By Mr. Taylor	7
By Ms. McFarland	10
By Mr. Gerreald	10
By Ms. Thunberg	14
Request to Intervene by Town of Hampton granted	6

P R O C E E D I N G S

1
2 CHAIRMAN IGNATIUS: I'd like
3 to open the hearing in Docket DW 12-085,
4 which is Aquarion Water Company of New
5 Hampshire's request for permanent increase
6 in its rates, with an increase of
7 18.3 percent if approved as filed. Aquarion
8 has also asked for a change of its Water
9 Infrastructure and Conservation Adjustment
10 Pilot Program to become a permanent program,
11 and it asked for authorization to recover a
12 new right-of-way tax in the town of Hampton.
13 There's also a request for temporary rates,
14 but that won't be taken up today. And by
15 order dated July 12, 2012, the Commission
16 scheduled this prehearing conference and
17 required publication of notice of the
18 request.

19 So let's begin with
20 appearances, please.

21 MR. TAYLOR: Thank you.
22 Patrick Taylor from McLane, Graf, Raulerson
23 & Middleton, representing Aquarion Water
24 Company. With me today is Harry Hibbard

1 from the Company, Troy Dixon, Carl McMorran
2 and Cam Knowlton, as well as Steve Camerino
3 from my firm.

4 CHAIRMAN IGNATIUS: Good
5 morning. Welcome.

6 MS. HOLLENBERG: Good morning.
7 Rorie Hollenberg and Donna McFarland here
8 for the Office of Consumer Advocate.

9 CHAIRMAN IGNATIUS: Good
10 morning.

11 MR. GERREALD: Good morning.
12 Mark Gerreald. I'm the town attorney for
13 the Town of Hampton. And with me is
14 Selectman Michael Pierce.

15 CHAIRMAN IGNATIUS: Welcome.

16 MS. THUNBERG: Good morning,
17 Commissioners. Marcia Thunberg on behalf of
18 Staff. With me today is Mark Naylor, Jayson
19 LaFlamme and Jim Lenihan.

20 I'd also like to take this
21 moment to recognize Doug Brogan is with us
22 for a few more weeks until he retires, and
23 want to publicly thank him for all his years
24 of service.

1 CHAIRMAN IGNATIUS: We don't
2 usually start out our prehearing conferences
3 with a tear in our eye. But it's a sad
4 piece of news, but we're glad for you, Doug.

5 All right. I think -- do we
6 have procedural matters before we take up
7 notices of -- I mean, excuse me, statements
8 of position? I know we have one request to
9 intervene from the Town. Do we have any
10 objections to the request to intervene?

11 MS. THUNBERG: No objection
12 from Staff.

13 MS. HOLLENBERG: No objection.

14 MR. TAYLOR: No objection.

15 CHAIRMAN IGNATIUS: The
16 Commissioners have reviewed the request and
17 find it appropriate, meets the standards of
18 541-A, and we will grant the request to
19 intervene.

20 MR. GERREALD: Thank you.

21 CHAIRMAN IGNATIUS: Are there
22 any other procedural issues? Do we have an
23 affidavit of publication on the notice?

24 MR. TAYLOR: Yes, that's been

1 submitted.

2 CHAIRMAN IGNATIUS: Great.

3 Thank you.

4 All right. Then I think it's
5 just an opportunity for people to give their
6 preliminary positions on the filing itself
7 and then anything that you think you need
8 Commission's assistance on. If not, then we
9 will send you off to work on a technical
10 conference to work up a schedule and begin
11 the process of discovery on the materials.

12 So, Mr. Taylor.

13 MR. TAYLOR: Thank you. On
14 May 14th, 2012, Aquarion filed a request for
15 permanent rate increase of \$1,113,931 in
16 annual revenues based on December 31st, 2011
17 test year. This is approximately an overall
18 increase of 18.3 percent. Aquarion is also
19 seeking temporary rates, providing an
20 increase of \$732,078 in annual revenues,
21 which is an overall increase of
22 approximately 12.03 percent. The Company is
23 proposing that the increase requested in
24 this case be applied on an across-the-board

1 basis, so the percentage increase will be
2 the same for all classes of customers.

3 Aquarion filed this case
4 because it is achieving a rate of return on
5 equity well below what the Commission
6 authorized in the Company's last general
7 rate case. Specifically, the Company's
8 return on equity for the test year ending
9 December 31st, 2011, was 3.86 percent,
10 almost 600 basis points below the currently
11 allowed return of 9.75 percent. I would
12 also note that for the 12 months ending
13 June 30th, 2012, the ROE is down to 2.5
14 percent. And I just offer that for
15 illustrative purposes. The Company is
16 requesting an overall rate of return of
17 7.87 percent in this case, with a 10.25
18 return on equity.

19 Numerous factors contribute to
20 the Company's need to file this rate case.
21 Most notably, the Company's experienced a
22 steady increase in maintenance and operating
23 expenses, as well as dramatically increased
24 property and right-of-way taxes assessed by

1 the communities that it services. Taxes
2 alone represent approximately 16 percent of
3 the increase being sought in this case.

4 Aquarion is also seeing a
5 general decline in consumption by its
6 customers, and actual consumption has been
7 consistently below the level of sales volume
8 used to calculate the rates established in
9 the Company's last general rate case. This
10 is largely attributable to the prevalence of
11 efficient appliances and conservation
12 awareness and is a trend that is likely to
13 continue. As a result, the Company has
14 experienced a sustained reduction in
15 revenues.

16 Aquarion is also making
17 proposals relative to its Water
18 Infrastructure and Conservation Adjustment
19 or WICA Program, which this Commission
20 approved on a pilot basis in the Company's
21 last rate case. This program was
22 implemented to allow the Company to replace
23 aging infrastructure in a timely and
24 cost-effective manner and recover the cost

1 via a surcharge. Aquarion believes the WICA
2 Program has provided a significant benefit
3 to the Company and its customers and
4 requests that it be continued on an
5 indefinite basis so that the Company can
6 continue to improve its infrastructure on an
7 accelerated basis. Thank you.

8 CHAIRMAN IGNATIUS: Thank you.
9 Ms. Hollenberg or Ms. McFarland.

10 MS. MCFARLAND: Ms. Hollenberg
11 had to step out for a moment.

12 The Office of Consumer
13 Advocate takes no position at this time on
14 any of the issues, and we would look forward
15 to working with the parties.

16 CHAIRMAN IGNATIUS: Thank you.
17 Mr. Gerreald.

18 MR. GERREALD: Thank you.
19 This is a matter in which not only a
20 double-digit permanent rate increase is
21 sought, but also a double-digit temporary
22 increase. The Town of Hampton has been
23 involved in a number of these matters over
24 the years as an intervenor and noted the

1 history of rate increases before this
2 Commission. The frequency of the rate cases
3 is increasing. This particular rate
4 increase in 2012 had been preceded by one
5 that was granted for double digits back in
6 2009 of 17.44 percent; prior to that, in the
7 year 2006, 18.64 percent. So, it looks like
8 a pattern is being sought to be established
9 of a three-year increment; whereas, prior to
10 that, prior to the 2006 increase, the prior
11 one was in the year 2000, six years before,
12 in DW 99-057; prior to that, the previous
13 rate increase was in 1992, eight years, in
14 DR 91-0123.

15 So we now are experiencing a
16 frequency -- a greater frequency in rate
17 increases. And the WICA charge, which was
18 supposed to decrease -- was designed as a
19 pilot program to decrease the frequency of
20 rate increases and to ameliorate rate shock
21 is not accomplishing that purpose. We have
22 seen, since the 2009-ordered rate increase,
23 every year a WICA charge, first of
24 1.57 percent in 2010, which is DW 10-293,

12-085} [Prehearing Conference] {07-11-12}

1 and 3.7269 percent in 2011, in DW 11-238.
2 So we are now, despite having those
3 increases since the last rate case in 2006,
4 seeing yet another attempt to get a
5 double-digit rate increase, approaching
6 20 percent. This is in a climate where
7 our -- the consumers, 76 percent of whom are
8 in Hampton, are suffering to keep jobs and
9 keep property, much less to provide a rate
10 of return of 10-plus percent.

11 The Company, in its temporary
12 rate increase petition, on Page 2, says that
13 the continuation of current rates will
14 result in the confiscation of the Company's
15 property. I would suggest to you that the
16 rate of return -- the increased rate of
17 return that's being sought would be
18 confiscatory of the consumers involved who
19 have already paid rate increases in each of
20 the last two years. There is an attempt at
21 justification here, that the biggest driver
22 of this is the taxes that are being paid to
23 all the communities. I would suggest to you
24 that the documents being submitted belie

1 that, and the biggest percentage of the
2 increase being sought is the 66 percent in
3 operating expenses. I would submit to you
4 that those should be very closely examined
5 in the coming weeks to see what is the
6 driver behind those and as to whether the
7 consumer should be tagged to pay for them.

8 Finally, regarding the WICA
9 charge, that was a pilot program, and that's
10 being sought to be implemented on a
11 permanent basis. Again, the purposes for
12 which that was sought, decreasing the
13 frequency of rate increases and ameliorating
14 rate shock, are not doing what they were
15 supposed to do. And we would suggest that
16 before that program is ever thought to be
17 made permanent, that it be re-examined to
18 see if such a program is fulfilling its
19 purposes. And on behalf of the Town of
20 Hampton Board of Selectmen, one of whom is
21 here, I'm authorized to vigorously oppose
22 these rate increases. Thank you so much.

23 CHAIRMAN IGNATIUS: Thank you.

24 Ms. Thunberg.

1 MS. THUNBERG: Good morning,
2 Commissioners. Staff just wanted to note
3 that in the past rate cases, Town of Rye and
4 the Town of North Hampton and the North
5 Hampton Water Precinct have participated. I
6 note that they have not formally intervened
7 here today. But in talking with the
8 Company, I'm aware that they have spoken to
9 the Town of North Hampton Selectmen, and
10 they've spoken to the North Hampton Water
11 Commission. So, even though those past
12 intervenors are not present today, they are
13 still aware of the case and have another way
14 of contacting the Company. So I just wanted
15 to put that on the record.

16 Yes, there are some nuances
17 with this particular rate case, such as
18 WICA, that Staff will need to review. But
19 other than that, Staff will be conducting
20 its usual rate case review, and it will be
21 prepared to make its recommendations on the
22 issues at the time it files testimony in a
23 procedural schedule that it hopes to work
24 out with the Company and intervenors during

1 the technical session.

2 As usual, Staff will be
3 conducting an audit of the Company's books
4 for the test year. As the record -- or as
5 the filing indicated, there were \$4.5
6 million worth of plant additions that will
7 need to be audited to make sure they are
8 used and useful and in service. There are
9 pro forma adjustments that were made in the
10 filing, and Staff will be scrutinizing those
11 as well.

12 The Company has asked for a
13 10.25 percent on equity, and Staff will be
14 reviewing that. We note that there is no
15 cost-of-equity expert, which is good for
16 rate case expenses, but it makes it a little
17 difficult for Staff to look at the reasoning
18 behind the 10.25 request. However, Staff
19 feels comfortable that during discovery
20 we'll be able to suss out documentation to
21 establish why the Company's requesting that.

22 Staff will be reviewing the
23 new Town of Hampton right-of-way tax. This
24 is something we're not familiar with, and

1 we'll be inquiring of the Company, as well
2 as the Town, as to the justification, the
3 legal justification for that tax.

4 Aquarion has requested special
5 accounting treatment. It requests that the
6 expense associated with the right-of-way tax
7 be considered a deferred asset, along with
8 the amount for the 2012 portion of the tax,
9 until temporary rates are granted. Aquarion
10 seeks to amortize this expense over three
11 years, and so Staff will be paying special
12 attention to that treatment and will offer
13 an opinion at a later date.

14 Aquarion has conducted a
15 customer-service satisfaction survey. Staff
16 will be conducting discovery into that
17 survey. We're pleased that, according to
18 the filing, that it reported good results.

19 Now as to the WICA. In
20 looking back at the past order approving the
21 WICA -- that was Order 25,019, and that was
22 in Aquarion's last rate case back in 2008 --
23 there were some threshold criteria to review
24 the WICA by, and Staff will be looking at

1 that criteria. What Staff culled out of the
2 prior order were the goals were to promote
3 the investment of infrastructure
4 replacement. So we'll be looking at that.
5 It was to have a goal of mitigating rate
6 shock, and Staff will be looking at whether
7 WICA has reduced rate shock. Of course,
8 there are other variables, other pressures
9 driving rate increases. So it may be a
10 little difficult to cull those out. But
11 we'll be looking at whether it was effective
12 at reducing rate shock. We will be looking
13 at whether the program helped reduce lost
14 water and unaccounted-for water, and whether
15 it addressed needed non-revenue-producing
16 assets, asset additions on a timely basis.

17 In the last rate case, the
18 Company had directed Staff to the
19 Connecticut WICA model, and Staff will be
20 checking in with Connecticut just to see how
21 WICA worked for that state, just to
22 thoroughly look at all information available
23 to us as we render an opinion on the
24 usefulness of WICA.

1 Lastly, with respect to the
2 temporary rate relief, Staff has reviewed
3 the filing. We don't have a position on
4 temporary rates yet. But we know that there
5 are some holes in the filing that we are
6 certain will be cured with some discovery
7 responses. So we will be sitting down with
8 the Company during the technical session to
9 discuss some of the discovery questions that
10 we have.

11 And other than that, we expect
12 to coordinate with the Company and the
13 intervenors in a proposed procedural
14 schedule and a technical session, and we
15 will file that shortly. Thank you.

16 CHAIRMAN IGNATIUS: Thank you.
17 Commissioner Harrington.

18 CMSR. HARRINGTON: Yes, just a
19 comment that I would hope people would look
20 into during the discovery and tech session,
21 is that it appears that what the Company has
22 stated is sort of in a downward spiral here.
23 You're seeing your consumption of water go
24 down due to energy efficiency -- or water

1 efficiency or more efficient appliance, and
2 also because of people being more aware of,
3 you know, using less natural resources. But
4 now you're asking for another increase,
5 which, of course, is only going to make
6 people more aware of their need to use less
7 water, which will drive down the amount they
8 use, and you're sort of in a downward spiral
9 there.

10 So, rather than just go
11 forward and say continue the same ole, same
12 ole, I really think it's time to start
13 looking at this and say: What do we need to
14 do differently? Does the Company need to
15 change the way they look at things? I think
16 this is a -- and I put this challenge to all
17 parties, that continuing granting a rate
18 increase based on revenue needs, based on
19 how things were done in the past, is only
20 going to head us down that downward spiral,
21 and you'll be back here in a couple of years
22 saying usage has continued to go down even
23 more, so we need to raise our rates even
24 more. And there's got to be some

1 alternative to that. So I hope all parties
2 will look into that. And also, realizing
3 that the tax issue is not the major part of
4 it, but 16 percent of it being attributed to
5 taxes is also a thing that I think the Town
6 needs to look at a little bit and saying if
7 you're going to put a lot of taxes on the
8 Company, you've got to expect them to pass
9 those through in the rates.

10 So, just some issues I hope
11 people will look at during the discovery.

12 CHAIRMAN IGNATIUS: All right.
13 Ms. Thunberg, yes.

14 MS. THUNBERG: May Staff just
15 respond to one of the points that
16 Commissioner Harrington --

17 CHAIRMAN IGNATIUS: Certainly.

18 MS. THUNBERG: -- made about
19 water usage or consumption declining?

20 Staff is aware that this is an
21 issue that not only Aquarion is facing, but
22 it's a issue that the Pennichuck Companies
23 are facing and other water utilities are
24 facing. So, yes, it's definitely on our

1 radar screen. And thank you for making note
2 of that.

3 CMSR. HARRINGTON: Good.

4 CHAIRMAN IGNATIUS: All right.
5 Anything further?

6 (No verbal response)

7 CHAIRMAN IGNATIUS: Nothing
8 else from the Commissioners.


9 I think the next thing, then,
10 will be we will close the formal part of
11 this proceeding and ask you to stay and work
12 on initial discovery, discussion of the
13 issues and development of a procedural
14 schedule. If Staff can notify us of the
15 results of that, we'd appreciate that. And
16 otherwise, we will adjourn this session and
17 wait to hear from you on the outcome of the
18 technical session. Thank you.

19 (Hearing adjourned at 10:27 a.m.)
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C E R T I F I C A T E

1
2 I, Susan J. Robidas, a Licensed
3 Shorthand Court Reporter and Notary Public
4 of the State of New Hampshire, do hereby
5 certify that the foregoing is a true and
6 accurate transcript of my stenographic
7 notes of these proceedings taken at the
8 place and on the date hereinbefore set
9 forth, to the best of my skill and ability
10 under the conditions present at the time.

11 I further certify that I am neither
12 attorney or counsel for, nor related to or
13 employed by any of the parties to the
14 action; and further, that I am not a
15 relative or employee of any attorney or
16 counsel employed in this case, nor am I
17 financially interested in this action.

18
19 

Susan J. Robidas, LCR/RPR

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