

THE STATE OF NEW HAMPSHIRE

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NH-PUC 4JUN21AM9:55

June 4, 2014

Debra A. Howland, Executive Director  
New Hampshire Public Utilities Commission  
21 S. Fruit St., Suite 10  
Concord, New Hampshire 03301

Re: DW 14-075 Aquarion Water Company of New Hampshire, Inc.  
Verified Petition to Credit Customers for Benefit Arising from Change in Tax  
Regulations  
Staff Recommendation to Approve

Dear Ms. Howland:

On March 17, 2014, Aquarion Water Company of New Hampshire, Inc. (Aquarion) filed a Verified Petition to Credit Customers from Benefit Arising from Change in Tax Regulations. Aquarion seeks Commission authority to establish a deferred liability in the amount of an expected tax benefit, net of the deferred asset authorized in Docket No. DW 13-314, and amortize the balance through a credit to customers over the years 2015 through 2017. After review, Staff recommends approval of the proposal to credit customers with the anticipated tax benefit. Staff recommends the Commission approve the establishment of the requested deferred liability. Staff also recommends the Commission defer a decision on the time period over which the tax benefit will be returned to customers until the exact amount of the tax benefit is known.

By way of background, Aquarion's petition indicates that in 2013, the United States Department of the Treasury, Internal Revenue Service (IRS) adopted final regulations that allow taxpayers to expense for tax purposes certain repair and maintenance costs that utilities have historically capitalized for both tax and ratemaking purposes. Consistent with this change in regulations, Aquarion intends to reflect a "catch up adjustment" on its 2013 federal tax return with respect to capital additions dating back to 2007. The company has calculated the benefit it expects to receive to be approximately \$905,000. This amount results from applying the change in tax treatment to replacements of water mains, services, and hydrants installed between 2007 and 2013, subject to the amount of taxes actually paid by Aquarion over the open tax periods of 2011, 2012, and 2013. While the company's calculations of the anticipated benefit are subject to acceptance and potential audit by the IRS, the company indicates that it has a high degree of confidence that its calculations are accurate based on the newly issued regulations.

DW 14-075 Aquarion Water Company of New Hampshire, Inc.  
Verified Petition to Credit Customers from Change in Tax Regulations  
Staff Recommendation to Approve

On May 23, 2014, the Commission issued Order No. 25,668 in Docket No. DW 13-314, Aquarion's Water Infrastructure and Conservation Adjustment (WICA) filing. That order approves a WICA surcharge amount of 1.3657% based on Aquarion's 2013 WICA capital investments, but set the actual surcharge at zero, at Aquarion's request, on a temporary basis for the balance of 2014 in anticipation of the tax benefits that are the subject of the instant docket. Aquarion will calculate but not collect from customers the WICA revenues it would have otherwise received, and Order No. 25,688 authorizes the establishment of a deferred asset for those revenues earned but not collected through customer billings. Aquarion expects it will have its final calculation of the tax benefit after it files its 2013 tax return in September of this year, and will file that information with the Commission to determine the amount of the credit to customers. The company proposes that it establish a regulatory liability once it receives this benefit, and then deduct from that liability the foregone WICA revenues. The balance of the deferred liability will be provided to customers as a surcredit to customer bills, commencing in January of 2015<sup>1</sup>.

Upon receipt of the Verified Petition, Staff began its review and issued discovery requests to Aquarion on April 9, for which responses were received April 18. Those responses are attached to this letter. While Staff recommends approval at this time for the establishment of the requested deferred liability, Staff also recommends that the Commission defer a decision on the time period over which the tax benefit will be returned to customers. Aquarion is requesting a three year time period, and while that seems reasonable at this time, the final determination should be made when Aquarion knows exactly what the amount of the tax benefit is. Based on Aquarion's current estimate, a 3-year surcredit would be about 4%. See Aquarion's Verified Petition at paragraph 4.

In summary, Staff recommends approval of the establishment of a deferred liability for the anticipated tax benefit arising from the change in tax regulations, as described in Aquarion's Verified Petition. Staff also recommends approval for Aquarion to net out the deferred WICA revenues against the deferred liability, prior to calculating the surcredit to be applied to customer bills beginning in January of 2015. Staff recommends deferring a decision on the time period over which the tax benefit be credited to customers until such time as the exact amount of the benefit is known.

On March 26, 2014, the Office of the Consumer Advocate (OCA) filed a letter of participation in this docket. OCA has reviewed Staff's recommendation in this docket and concurs. Because the Town of Hampton and the Town of North Hampton Water Commission have been active in prior Aquarion proceedings, Staff has also shared this letter with them. The Town of Hampton and the North Hampton Water Commission also concur with Staff's recommendation.

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<sup>1</sup> Aquarion intends to request that its 2015 WICA surcharge, to recover both 2013 and 2014 WICA capital investment, be added to customer bills beginning January 1, 2015 in accordance with its current WICA tariff provisions.

DW 14-075 Aquarion Water Company of New Hampshire, Inc.  
Verified Petition to Credit Customers from Change in Tax Regulations  
Staff Recommendation to Approve

If there are any questions regarding Staff's recommendation in this matter, please let me know.

Sincerely,



Mark A. Naylor  
Director, Gas & Water Division

cc: service list  
Attachments

**SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED**

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**Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.**

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Docket #: 14-075-1      Printed: June 04, 2014

**FILING INSTRUCTIONS:**

**a) Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with:**

DEBRA A HOWLAND  
EXECUTIVE DIRECTOR  
NHPUC  
21 S. FRUIT ST, SUITE 10  
CONCORD NH 03301-2429

**b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.**

**c) Serve a written copy on each person on the service list not able to receive electronic mail.**

AQUARION WATER COMPANY OF NEW HAMPSHIRE, INC.  
DW 14-075

Aquarion Water Company's Responses to  
Staff's Data Requests – Set #1

Date Request Received: April 9, 2014  
Request No.: Staff 1-1

Date of Response: April 18, 2014  
Witness: Troy Dixon

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**REQUEST:** Please indicate if there is any impact on the company's current balance of accumulated deferred income tax as a result of the "catch up adjustment".

**RESPONSE:** The catch up adjustment has the effect of increasing the accumulated deferred income tax liability. As the Company has proposed passing the benefit back to customers, "flow through" accounting is used and there is, therefore, a corresponding increase to a deferred asset account, "FAS 109 Unfunded Deferred Tax Asset." Since both the liability and asset accounts are incorporated in the calculation of rate base, there is no net impact to rate base.

AQUARION WATER COMPANY OF NEW HAMPSHIRE, INC.  
DW 14-075

Aquarion Water Company's Responses to  
Staff's Data Requests – Set #1

Date Request Received: April 9, 2014  
Request No.: Staff 1-2

Date of Response: April 18, 2014  
Witness: Troy Dixon

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**REQUEST:** Please indicate if there will be any impact on the calculation of accumulated deferred income tax in future years as a result of this change in tax regulation.

**RESPONSE:** In future years, the eligible expenditures will have an immediate deductibility for tax purposes, creating a timing difference with book depreciation. Under the flow through method, any resulting increases to the deferred tax liability will be equally offset by a deferred tax asset.

AQUARION WATER COMPANY OF NEW HAMPSHIRE, INC.  
DW 14-075

Aquarion Water Company's Responses to  
Staff's Data Requests – Set #1

Date Request Received: April 9, 2014  
Request No.: Staff 1-3

Date of Response: April 18, 2014  
Witness: Troy Dixon

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**REQUEST:** Please indicate why the company has chosen 2007 as the first year to analyze its capital items.

**RESPONSE:** Aquarion choose to reach back to 2007 for eligible capital expenditures under IRC Section 481(a) and IRS Revenue Procedure 2012-19 for the following reasons:

- The Company's SAP system was installed in January 2007. The data in that system provides the best available information to conduct statistical sampling required to compute the "catch up" adjustment. Pre SAP data is not as robust for these purposes.
- The "catch up" adjustment is limited to recapturing an amount no greater than the total taxes paid in the current and prior two years. Evaluating deductions for utility plant before 2007 would have had no impact on the amounts proposed to be returned to customers because of that limit.

AQUARION WATER COMPANY OF NEW HAMPSHIRE, INC.  
DW 14-075

Aquarion Water Company's Responses to  
Staff's Data Requests – Set #1

Date Request Received: April 9, 2014  
Request No.: Staff 1-4

Date of Response: April 18, 2014  
Witness: Troy Dixon

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**REQUEST:** Please explain how the \$905,000 indicated in paragraph 3 is calculated.

**RESPONSE:** The \$905,000 consists of AWC-NH's Federal and State tax liabilities for the years 2011, 2012, and 2013. The Federal amounts for this period are \$223,000, \$99,000 and \$393,000 for 2011, 2012, and 2013, respectively. The New Hampshire amounts are \$59,000, \$26,000, and \$105,000 for 2011, 2012, and 2013, respectively.

AQUARION WATER COMPANY OF NEW HAMPSHIRE, INC.  
DW 14-075

Aquarion Water Company's Responses to  
Staff's Data Requests – Set #1

Date Request Received: April 9, 2014  
Request No.: Staff 1-5

Date of Response: April 18, 2014  
Witness: Troy Dixon

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**REQUEST:** Is it the company's expectation that a WICA surcharge will appear on customer bills beginning in 2015, in addition to the approximate 4% TPRC?

**RESPONSE:** Yes. The expectation is that the WICA surcharge implemented on January 1, 2015 will be more than offset by the TPRC.

AQUARION WATER COMPANY OF NEW HAMPSHIRE, INC.  
DW 14-075

Aquarion Water Company's Responses to  
Staff's Data Requests – Set #1

Date Request Received: April 9, 2014  
Request No.: Staff 1-6

Date of Response: April 18, 2014  
Witness: Troy Dixon

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**REQUEST:** In paragraph 5 of the petition, the company proposes an additional filing with the Commission once it files its tax return on September 15, 2014. The company indicates that this filing will be “to determine the amount of the credit to customers and the deferred liability to be booked by the Company.” Is it the company's expectation that this filing will be made for Commission approval of not only the amount of the credit, but the time period over which it will be returned to customers?

**RESPONSE:** The Company expects that the filing will merely confirm the amount of the credit. Our proposal for a 3 year credit duration is not expected to change.