

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 16-828

AQUARION WATER COMPANY OF NEW HAMPSHIRE, INC.

**Water Infrastructure and Conservation Adjustments (WICA)
2017 Surcharge and Project Approvals**

Order Denying Request for Hearing

ORDER NO. 25,982

January 27, 2017

In this order we deny the Town of Hampton and the Town of North Hampton Water Commission's requests for a hearing and permit the approved 2017 Water Infrastructure and Conservation Adjustment surcharge of 5.69 percent, to go into effect on January 27, 2017, as outlined in our Order No. 25,977 (January 13, 2017).

I. BACKGROUND

Aquarion Water Company of New Hampshire (Aquarion or the Company) is a regulated public utility as defined by RSA 362:2 and 362:4. The Company provides water service to approximately 9,000 customers in the Towns of Hampton, North Hampton, and Rye. In DW 08-098, the Commission approved a pilot Water Infrastructure and Conservation Adjustment (WICA) program, intended to accelerate the replacement of aging infrastructure and allow Aquarion to recover the fixed costs of non-revenue producing capital improvements completed and placed in service through surcharges on customers' bills following approval by the Commission. *See Aquarion Water Company of New Hampshire, Inc.*, Order No. 25,019 (September 15, 2009). The WICA program was extended and modified in Aquarion's last rate

case. *Aquarion Water Company of New Hampshire, Inc.*, Order No. 25,539 (June 28, 2013). The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted to the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2016/16-828.html>.

On January 13, 2017, the Commission issued an Order *Nisi* (Order No. 25,977) approving a WICA surcharge of 5.69 percent above Aquarion's tariffed rate on file with the Commission finding Aquarion's 2016 completed projects to be prudently incurred and used and useful pursuant to RSA 378:28. A description of the procedural history of the WICA filing in this case is contained in Order *Nisi* No. 25,977. In that order, the Commission required Aquarion to publish a summary of the order in a statewide newspaper of general circulation or of circulation in those portions of the state where its operations are conducted by no later than January 18 and to file an affidavit documenting such publication with the Commission no later than January 23. We also ordered all interested persons to submit comments or file requests for a hearing stating the reasons therefor by no later than January 23, and that any party responding to such comments do so by January 26. The Company filed an affidavit of publication on January 23 certifying that legal notice was published in the Portsmouth Herald on January 18 and in both the Hampton Union and Exeter News Letter on January 20.¹

On January 20, 2017, the Town of Hampton filed written comments and a request for a hearing. Hampton requests a copy of Aquarion's independent audit information and also takes issue with the possibility that Aquarion may be achieving a greater return on equity than the

¹ While the Hampton Union and Exeter News Letter notices were not published until two days after the date noticed in our order, notice was properly published in the Portsmouth Herald on January 18 in compliance with our order.

9.6 percent rate approved in the Company's last rate case. Hampton again requests a deeper inquiry into how Aquarian finances its WICA projects and a deeper probe of the Company's payment of interest-only on certain debt. Hampton also takes the position that the town is paying over and over again for the same WICA expenditures. Hampton requests production of the additional information requested in its December 19, 2016, filing, and requests a hearing before the Commission.

The Town of North Hampton's Water Commission also filed a response to the Order *Nisi* on January 23 wherein it supports delaying the WICA surcharge and construction of the 2017 proposed WICA projects, pending receipt of the additional information requested in Hampton's December 19, 2016, filing. The North Hampton Water Commission also disagrees with a delay of review of the Aquarion WICA program until the next rate case, and requests a hearing as well as the production of the additional audit information that has been requested by Hampton. On January 26, 2017, both the Town of Hampton and the North Hampton Water Commission submitted letters via e-mail repeating the same issues they had raised in their previous submissions.

On January 25, Aquarion filed a response to the January 20 & 23 requests. The Company argues that much of the information being sought is not relevant to the WICA proceeding and characterizes the Town's comments as irrelevant pursuant to RSA 541-A. The Company points out that the reasonableness of the rate increase was not an issue included in this docket; and that while Aquarion is not required to provide a copy of its independent audit to the Town, it is offering to meet with Hampton again and to provide a copy of its independent audit at that time. Aquarion requests that the Commission's Order *Nisi* take effect on January 27 as ordered, and

the Company states that it is prepared to make itself and information available to all interested parties outside of this docket.

II. COMMISSION ANALYSIS

The WICA is a Commission-created pilot rate mechanism arising out of our ratemaking authority. It is primarily intended to provide an incentive to replace or rehabilitate certain aging, non-revenue producing infrastructure, by reducing the regulatory lag related to the recovery of the costs associated with installing such improvements. The relatively small, incremental rate increases associated with the WICA are intended to lessen the rate shock that can occur absent such a mechanism, as a result of a full distribution rate case. The same amount of revenue would ultimately be collected from customers in rates after a rate case proceeding, but with a larger rate increase. The purpose of a WICA proceeding is limited to a review of Aquarion's execution of the WICA program under the terms of its tariff.

We addressed the issues raised by Hampton in our Order *Nisi*. The intervening filings of the Town of Hampton and the North Hampton Water Commission revisit those same issues. We note that we are not bound by the technical rules of evidence (RSA 365:9) and that the Commission may "exclude irrelevant, immaterial or unduly repetitious evidence."

RSA 541-A:33, II. & N. H. Admin. Rule PUC 203.23(c). We take the submissions of Hampton and the North Hampton Water Commission as equivalent to an offer of proof. *See Re: Southern NH Water Co.*, 73 NH PUC 133, 135 (April 8, 1988). The issue before us is whether the parties who have asked for a hearing have stated a good reason.

The Town of Hampton and the North Hampton Water Commission's request for additional information and discovery are outside of the scope of this docketed proceeding. The

settlement agreement filed in DW 08-098 and incorporated in our order in *Aquarion Water Co. of New Hampshire, Inc.*, Order No. 25,019 (September 25, 2009), states the scope and methodology to be applied in the operation of the WICA pilot program. That process is incorporated into Aquarion's tariff. The Company has submitted its 2016 completed projects, proposed 2017 projects, and proposed 2018 projects. Staff and an outside expert have reviewed and recommended approval of the 2016 completed projects finding them prudent and used and useful, as did we in our Order *Nisi*. See *Staff Recommendation* dated December 19, 2016, and attached staff memoranda and engineering memo. Docket Entry 6.

The request for additional audit information is irrelevant to this proceeding, though if the Company wishes to provide such data to Hampton and the North Hampton Water Commission outside of this docket it is free to do so. The source and type of funding the Company uses to fund its WICA projects is also irrelevant to a determination of whether the WICA expenditures are reasonable, and so too is the question of whether the Company should be making payments of principal on certain of its long-term debt. Further, this is not the proper proceeding for Hampton and the North Hampton Water Commission to investigate allegations that Aquarion is exceeding its last Commission approved rate of return on equity of 9.6 percent. While Aquarion's WICA tariff provisions do not contain an earnings test, we did require Aquarion to file an evaluation of its 2016 earnings with its annual report for our review. Nonetheless, we do not review and approve the Company's earnings in WICA proceedings.

Hampton again asserts that the Town is paying over and over again for WICA installed improvements. Based upon the record before us, that is not the case. At the conclusion of Aquarion's next rate case, such assets will be incorporated into rate base at their then asset value

net of depreciation. With respect to Hampton's attachment labeled "History of Water Company Rate Increases" included with its January 20 request for hearing, we note numerous errors and omissions from this table. Hampton fails to recognize that each year's approved WICA surcharge incorporates the surcharge of each prior year. For example, Hampton indicates an increase in rates took place for the 2013 WICA in the amount of 5.273 percent. That is factually incorrect and results in a flawed conclusion. The actual WICA increase for 2013, based on 2012 capital expenditures, was 1.5461 percent, the difference between 5.273 percent and the 3.7269 percent in effect for the previous year. Hampton repeats this error in its analysis of WICA surcharge increases in the years subsequent to Aquarion's 2012 rate case. The actual surcharge increases are 1.1729 percent for 2015 (compared to the Town's understanding that the increase was 2.5386 percent), 1.4514 percent for 2016 (compared to the Town's understanding that the increase was 3.99 percent), and 1.7000 percent for 2017 (compared to the Town's understanding that the increase was 5.69 percent). *See Aquarion Water Company of New Hampshire Inc.*, Docket Nos. DW 14-300 (2015); DW 15-476 (2016) and DW 16-828 (2017), and the recommendations filed therein.

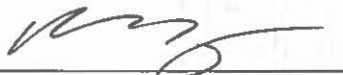
We also note that Hampton has omitted the 4 percent credit applied to Aquarion customer bills for the three calendar years 2015-2017. This credit, arising from a change in federal tax regulations, was approved in our Order No. 25,750 issued January 12, 2015, in Docket No. DW 14-075, and it is reflected yet again in our Order *Nisi* dated January 13, 2017. An accurate picture of the changes in Aquarion's customer water rates, as Hampton's attachment purports to illustrate, should not exclude the impact of this 4 percent credit. Thus, we do not find the attachment to be an accurate portrayal of Aquarion's rate increase history.

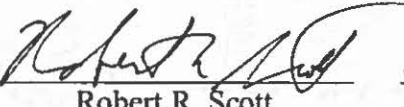
Based on our review and analysis, we find no relevant issue has been raised that would require a hearing to determine whether Aquarion's filing complies with the terms of its tariff or that the projects are prudent, used and useful. Accordingly, the hearing requests filed by the Town of Hampton and the North Hampton Water Commission are denied and the Order *Nisi* issued January 13, 2017, shall take effect on January 27, 2017, as provided therein.

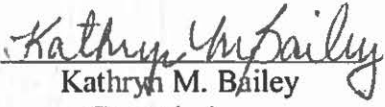
Based upon the foregoing, it is hereby

ORDERED, that subject to the effective date below, the Town of Hampton and the North Hampton Water Commission's request for a hearing is **DENIED**.

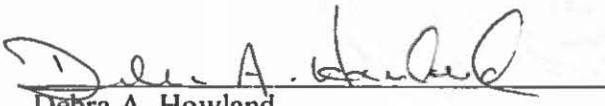
By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of January, 2017.


Martin P. Honigberg
Chairman


Robert R. Scott
Commissioner


Kathryn M. Bailey
Commissioner

Attested by:


Debra A. Howland
Executive Director

SERVICE LIST - EMAIL ADDRESSES- DOCKET RELATED

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

Executive.Director@puc.nh.gov
amanda.noonan@puc.nh.gov
jayson.laflamme@puc.nh.gov
john.clifford@puc.nh.gov
jratigan@dtclawyers.com
mab@nhbrownlaw.com
mark.naylor@puc.nh.gov
mgearreald@town.hampton.nh.us
mmagnant@town.rye.nh.us
ocalitigation@oca.nh.gov
papple@northhampton-nh.gov
rlandman@hlinstruments.com
rlandman@hlinstruments.com
steve.frink@puc.nh.gov

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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
EXEC 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.**