

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 20-112

Abenaki Water Company, Inc. Permanent Rate Proceeding

MOTION TO DISMISS CASE DW 20-112

NOW COMES, the Intervenor of Village Shores Estates (VSE) and Tioga, Belmont (TB), pursuant to PUC 203.07, and hereby requests the Commission dismiss this proceeding. In support of this request, we state as follows:

1. On September 15, 2020 and on October 30, 2020, Abenaki filed tariff rate schedules to increase its rates to cover its increased costs and investments in its Lakeland, White Rock, and Tioga water systems. Abenaki also filed full rate case schedules as required by PART PUC 1604. On November 30, 2020, the Commission suspended the taking effect of Abenaki's rate increases and on December 22, 2020 and on December 24, 2020, issued order of notices of its intent to investigate the rate increases pursuant to its authority under RSA 378:5 and 6.
2. Subsequent to a prehearing conference and technical session, the parties filed a proposed procedural schedule, which, on February 23, 2021, the Commission approved. That schedule governed discovery, technical sessions, and hearings for both temporary and permanent rates. The temporary rate was set at the current rate and it was agreed upon that Jan 1, 2021 would be the retroactive date for any approved permanent rate increases.
3. On June 2, 2021, the parties requested the Commission suspend the June 24, 2021 deadline for filing a settlement agreement on permanent rates and cancel the hearing set for July 1, 2021. On June 9, 2021, the Commission approved these changes but left the remainder of the procedural schedule in effect. The remaining procedural schedule includes a litigation track which, among other things, has parties' testimony due August 31, 2021.
4. Since filing for rate relief, Abenaki has become involved in an acquisition proceeding, Docket DW 21-090. As noted in its July 16, 2021 filing in the instant proceeding, Abenaki stated its willingness to withdraw the rate case, without prejudice, contingent upon the Commission approving Aquarion Company's acquisition of Abenaki's parent, New England Service Company, Inc. Abenaki's position was in light of statements made in the acquisition docket by Staff (now the Department Of Energy, DOE), The Office of Consumer Advocate, OCA, and individual intervenors, that it was unusual and difficult to evaluate the proposed acquisition due to the pending rate request and that it was difficult to discern what the rate impacts of the transaction would be if rates were expected to change in the near term. See Docket DW 21-090 June 28, 2021 AM Tr. at 72 and June 28, 2021 PM Tr. at 53-55. This concern was intimated by the Commission (Docket DW 21-090 June 29, 2021 Tr. at 210.)
5. Also, on August 6, 2021, the Commission issued a preliminary determination in the acquisition docket that the proposed acquisition will have an adverse impact. Abenaki Water Company and Aquarion Company, Docket DW 21-090, Order No. 26,506 at 11. The Preliminary Findings of the Commission in DW 21-090 in conjunction with the detailed and compelling testimony and discovery offered by the Intervenor and OCA in both DW 20-112 and DW 21-090 warrants the permanent suspension of the Abenaki rate schedule. Furthermore, the Commission's determination of the acquisition having adverse impact has the effect of extending the investigation in docket DW 21-090

under RSA 369:8. It also delays the condition precedent triggering Abenaki's withdrawal of this rate case.

6. In light of the continued activity in DW 21-090, Abenaki avers that temporarily suspending the remainder of the procedural schedule would promote the orderly and efficient conduct of this proceeding because it would avoid unnecessary time and effort by parties and the Commission. The proposed suspension was without any concrete duration, and as such will ultimately harm the rate payers should there be any rate relief granted which is retroactive to January 1, 2021. This is not the case however if Abenaki ultimately withdraws this rate case. We, the Intervenors, feel strongly that the concurrent timing of these two cases was not co-incidental. It was a procedural tactic, employed to put the Commission and rate payers at a disadvantage, directly mentioned in Item 4., above. Such an unprecedented occurrence (of both a rate case, DW 20-112, and an acquisition case, DW 21-090, running concurrently) puts both the rate payers (with limited monetary, administrative, and legal means) as well as the PUC and DOE (with similarly limited means after reorganization) at a serious disadvantage to come to a reasonable solution on either case, especially in DW 21-090. We feel that dismissal (not suspension) of DW 20-112 would be a demonstration of good faith on the part of the Petitioners, and the proper way to proceed. The Petitioners have already agreed to dismiss DW 20-112 in a quid pro quo dynamic pending a favorable result for them in DW 21-090.

It is clear that what ALL parties want MOST is a favorable resolution of DW-21-090 to be reached, under PUC terms. Thus, dismissal of DW 20-112 is the best way to proceed.

7. On August 16, 2021, Abenaki requested positions of the parties on the relief requested. The DOE assented to the relief requested on the condition that "[i]n the event that the Company does not withdraw its rate filing, the Company expects to propose a revised procedural schedule for Commission approval after collaboration with the parties." Richard Rudolf assented to the relief requested. The OCA opposed the motion. Both the representatives from the VSE and TB water systems opposed the motion as well, as we feel permanent dismissal follows the better path to resolution of DW 21-090, is an agreeable option put forth by multiple parties including the Petitioners, and does not severely disadvantage rate payers by indefinitely postponing DW 20-112 which is retroactive to Jan 1, 2021.

WHEREFORE, we, the Intervenors respectfully requests the Commission:

- A. Dismiss this case, DW 20-112, in the wake of Docket DW 21-090; and
- B. Grant such other relief as is just and equitable.

Respectfully submitted by the Intervenors.