STATE OF NEW HAMPSHIRE

BEFORE THE

NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

DOCKET NO. DW 21-090

JOINT PETITION TO APPROVE ACQUISTION OF ABENAKI WATER COMPANY BY AQUARION COMPANY

DIRECT TESTIMONY OF
DONALD J. MORRISSEY AND DONALD J.E. VAUGHAN

On behalf of Aquarion Company and Abenaki Water Company

August 20, 2021

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I. INTRODUCTION

Q. Mr. Morrissey, please state your name and business address.

A. My name is Donald J. Morrissey. My business address is 835 Main Street, Bridgeport, Connecticut 06604.

Q. By whom are you employed and in what capacity?

A. I am the President and Chief Operating Officer of Aquarion Company ("Aquarion" or the "Company") and its subsidiaries, including Aquarion Water Company ("AWC"), Aquarion Water Company of New Hampshire ("AWC-NH"), Aquarion Water Company of Massachusetts and Aquarion Water Company of Connecticut ("AWC-CT").

Q. What are your principal responsibilities as the President and Chief Operating Officer of Aquarion?

A. In this position, I am responsible for all aspects of the delivery of safe and reliable water service by Aquarion, including operations, construction, human resources, regulatory compliance, strategic planning, treasury, business development, accounting, governance, financial regulation compliance, debt financing, audit and risk management, and insurance matters. My duties also include directing and supervising the raising of the capital necessary to meet Aquarion's long-term and short-term financing requirements. Aquarion's operating subsidiaries treat and deliver water to approximately 220,000 customer accounts and a population of more than 700,000 in 57 cities and towns in Massachusetts, Connecticut and New Hampshire.

Q. Please describe your educational background and professional experience.

A. I earned a Master of Business Administration from the Stern School of Business at New York University and a Bachelor of Science degree in Accounting from the University of Connecticut. I am also a graduate of the Harvard Business School Advanced Management Program. I joined AWC-CT in 1995. I led the Finance function of Aquarion starting in 2003 and served as the Executive Vice President and Chief Financial Officer of Aquarion Company from 2012 to 2020. I assumed my current position in January of 2020.

I am a member of the American Institute of Certified Public Accountants and the Connecticut Society of Certified Public Accountants. I currently serve on the board of directors of the National Association of Water Companies ("NAWC") and am an active member of the customer experience committee of NAWC. I am also on the board of directors of the Bridgeport Regional Business Council and the board of directors of a local land trust organization.

Q. Have you testified previously before the Public Utilities Commission or any other regulatory agencies?

A. Yes, I testified before the New Hampshire Public Utilities Commission (the "Commission") in this docket on June 28 and 29, 2021. I also testified before the Commission in prior matters, and the Massachusetts Department of Public Utilities ("MDPU") and the Connecticut Public Utilities Regulatory Authority ("CTPURA") in support of Aquarion rate applications and financing dockets and in connection with the proposed transaction.

Q. Mr. Vaughan, please state your name and business address.

A. My name is Donald J.E. Vaughan. My business address is 37 Northwest Drive, Plainville, Connecticut.

Q. By whom are you employed and in what position?

A. I am the Chairman of the Board and Vice President of Operations at New England Service Company ("NESC"), Abenaki Water Company ("Abenaki"), and other NESC subsidiaries.

Q. What are your principal responsibilities in this position?

A. As Vice President of Operations, I am responsible for management oversight of all aspects of the operations of NESC and its regulated water distribution subsidiaries, including Abenaki and NESC's subsidiaries in Massachusetts and Connecticut.

Q. Please describe your educational background and professional experience.

A. I earned a Bachelor of Science degree in Civil Engineering from Northeastern University and a Master of Business Administration from Nichols College. From 1976 to 1980, I served as the Director of Water Operations for the City of Worcester, Massachusetts. In that capacity, I was involved in all phases of supply and distribution activities. Subsequently, I was employed by Citizen's Utilities as Assistant General Manager for California Water Properties. I also served as President and General Manager of Southbridge Water Supply and as the Superintendent of Supply Operations for Aquarion Water Company with responsibilities primarily in Connecticut. In 1992, I joined Plainville Water Company (now Valley Water Systems). In 1996, I managed the formation of NESC, which now holds the aforementioned operating subsidiaries. I held the position of President and CEO of NESC from 1995 to 2020.

Q. Have you testified previously before the Commission or any other regulatory agencies?

A. Yes, I testified before the Commission in this docket on June 28 and 29, 2021. I also testified before the Commission, the MDPU and the CTPURA on several prior occasions.

II. PURPOSE AND OVERVIEW OF TESTIMONY

Q. What is the purpose of this testimony?

A. This testimony supports the April 30, 2021 joint petition of Abenaki and Aquarion (together, the "Joint Petitioners") requesting approval by the Commission, pursuant to the provisions of RSA 369:8, II and RSA 374:33, of the indirect acquisition of Abenaki by Aquarion, or, alternatively, to determine that approval is not required because the acquisition will not have an adverse effect on rates, terms, service, or operation of Abenaki. Our testimony is provided as part of the Joint Petitioners' amended filing dated August 20, 2021 addressing the Commission's concerns in its Order No. 26,506 issued in this docket on August 6, 2021. The Order made a preliminary written determination pursuant to RSA 369:8, II (b)(3) that the acquisition of Abenaki by Aquarion will have an adverse effect on rates. Our testimony responds to the Order and provides supplemental evidence amending the detailed statement contained in the April 30, 2021 joint petition.

Q. What are the Commission's stated concerns in the Order?

A. In the Order, the Commission made a preliminary determination that the acquisition as proposed "will have an adverse effect on Abenaki's rates and would unfairly burden the rate payers."[1] The Commission stated that "Abenaki's assets were not in an acceptable condition in the aggregate" and "that the current state of the assets are below standard and in disrepair."[2] The Commission also stated that the proposed post-acquisition structure in New Hampshire, which does not include an immediate merger of Abenaki into AWC-NH, "appears to be a reflection of the asset impairment and liability issues."[3] Based on these preliminary determinations, the Commission found that the acquisition:

> [w]ill have an adverse effect on rates because the proposed carry forward of existing Abenaki rate base for purposes of the transaction *does not take into account the impaired state of the rate base assets*. Any resulting recovery of rates based upon the pre-acquisition book value of those assets as proposed in this Acquisition will have an adverse effect as the utility's rates would unfairly burden rate payers. Thus, we find, as a preliminary matter

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[1] Order at 10.

[2] Id.

[3] Id.

> pursuant to RSA 369:8, II (b), this Acquisition will have an adverse effect on Abenaki rates.[4]

The Commission stated that it shares the concerns of the intervenors about water supply and water quality issues and that the water-pressure issues in the Rosebrook system, and the arsenic and other water-quality issues in the Abenaki systems, raise safety and service quality concerns and must be remedied immediately.[5] However, the Order concluded that the Commission "wishes to be clear *that memorializing Abenaki assets appropriately in the acquisition for purposes of rate recovery* is at the core of the finding and must be addressed before the acquisition can be approved."[6]

Q. Did the Commission also recognize there are benefits from the proposed transaction?

A. Yes. The Commission found that Aquarion, through its current ownership of New Hampshire utilities, "has demonstrated its managerial, financial, and technical capabilities to operate a utility in New Hampshire;" that its "superior financial resources will be useful to the Abenaki water companies;" and that "Aquarion's willingness to defer a rate case until a full test year of data under Aquarion's ownership and operation eliminates other potential adverse impacts presented by the pending Abenaki rate case."[7]

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4 Id. (emphasis added).

5 Id. at 11.

6 Id. (emphasis added).

7 Id.

Q. What is the critical flaw in the Commission's finding?

A. The Commission's finding that the transaction "will have an adverse effect on rates because the proposed carry forward of existing Abenaki rate base for purposes of the transaction does not take into account the impaired state of the rate base assets" is problematic because the fact is that the "rate base assets" in question were already reviewed by the Commission and declared eligible for recovery through rates and will "carry forward" with or without the transaction. Once the costs of assets are included in rate base, there is no point where recovery *is retracted* due to the condition of the assets, unless and until the assets are deemed to no longer be used and useful to customers. Once "rate base assets" are allowed for recovery through rates, recovery continues until the assets are no longer used and useful to customers or the assets are fully depreciated and rates are reset excluding those fully depreciated assets. If Abenaki does not sell its operations, it will go forward obtaining recovery of its rate-base assets through customer rates and customers will continue to pay for those assets into the future. Conversely, customers are better off *with the transaction* because all of the benefits expressly cited by the Commission in its Order are attainable with approval of the transaction, whereas -- in the absence of the transaction -- there is continued recovery of the rate-base assets *without* the cited benefits of the transaction.

The key to the Commission's concern is that the value of rate base and the associated ratemaking treatment ***do not change with a change in ownership.*** The net book value of the assets on the books of the Company, and being recovered through rates, simply transfers from the old owner to the new owner *without any change*. As explained herein, the value of rate base arises from accounting practices and the Commission's approval of rates that are designed to recover the net book value of those assets. As a result, the statement that "any resulting recovery of rates based upon the pre-acquisition book value of those assets as proposed in this Acquisition will have an adverse effect as the utility's rates would unfairly burden rate payers," *is not correct – in fact, it's impossible*. Customers are ***already*** paying for these assets, regardless of condition, and customers will ***continue to pay the same cost of the assets*** whether or not Abenaki sells the assets, and whether or not Abenaki sells the assets to Aquarion or some other purchaser.

The "pre-acquisition book value" of the assets cannot be validly modified by the Commission because of the sale. Nothing about the sale changes the book value of the assets or the amount of cost recovered through rates for assets. Abenaki's assets are already appropriately memorialized in rates and there is no adverse impact created by the transaction.

Q. Are you presenting any attachments with your testimony?

A. In addition to this testimony, we are presenting the following attachments:

Attachment	Description
Attachment AQ-AWC-6	2020 Annual Report of Abenaki Water Company (Water Systems)
Attachment AQ-AWC-7	2020 Annual Report of AWC Lakeland Sewer

III. VALUE OF ABENAKI RATE BASE

Q. How is the value of rate base determined?

A. Simply stated, the value of rate base assets is derived as original cost of the asset less accumulated depreciation, equaling "net book value." In a rate proceeding, customer rates are designed to recover the "net book value" of the rate-base assets at the time rates are set. Consistent with utility accounting and ratemaking practice, Abenaki's Utility Plant in Service is accounted for using the actual original cost, less depreciation. For rate base assets, depreciation is recorded as an expense each year with the "accumulated depreciation" acting as a deduction to the total original cost of utility plant. The plant accounts include the original cost of all assets owned and used by the utility in its utility operations that have an expected life in service of more than one year from date of installation. The original cost and build-up of accumulated depreciation remains the same throughout the plant's life, regardless of the owner of the asset.

Abenaki depreciates assets using a straight-line depreciation method and each asset is depreciated individually using rates based on the useful asset life and consistent with industry standards. As assets are retired, the assets are removed from utility plant accounts and corresponding adjustments are made to accumulated depreciation and depreciation expense accounts. As Abenaki has grown, it has purchased assets from other entities. Those assets and their accumulated depreciation are carried to Abenaki's utility plant and accumulated depreciation accounts.

Q. Has the Commission periodically reviewed Abenaki's plant assets in recent rate cases?

A. Yes. On multiple occasions, the Commission has reviewed Abenaki's rate base and deemed the plant assets of Abenaki to be prudent, used and useful in providing service to its customers. For example:

In Order No. 26,205 (page 10) from Docket No. DW 17-765 (Rosebrook Water System order approving change in rates), the Commission stated, "we find the investments made for recovery…to be prudent, used, and useful."

In Order No. 26,231 (pages 8, 9-10) from Docket No. DW 18-108 (Abenaki Water Co., Inc./Tioga River Water Co., Inc. Petition to Transfer Utility Assets and Franchise to Abenaki Water Co., Inc.), the Commission found that Abenaki "possesses the requisite managerial, technical, and financial expertise" to operate a New Hampshire water utility and approved the purchase price of the system based on the net book value of the assets of the Tioga Gilford Village and Tioga Belmont systems.

Additionally, in Order No. 25,322 (page 9) in Docket No. DW 10-217, the Commission stated, "Staff has audited the plant additions, and corroborates that they are used and useful in the provision of utility services."

In Order No. 25,905 (page 7) in Docket No. DW 15-199, the Commission approved a settlement agreement and "agreed to the use of year-end rate base for test year assets" for the Lakeland Water, Lakeland Sewer, and White Rock assets.

Q. Please describe Abenaki's current utility plant in service.

A. As of December 31, 2020, Abenaki has a Net Utility Plant in Service of approximately $1.87 million across its systems. This plant consists of 13 wells, 5 treatment facilities, 2 pumping stations, 9 tanks, 85,000 feet of main, radio read water meters for each customer, and numerous hydrants, valves, services, and other related water distribution appurtenances. The table below summarize the assets.

	Lakeland (Water)	White Rock	Rosebrook	Tioga Gilford Village	Tioga Belmont	Total - Water	Lakeland (Sewer)	Total - Abenaki
101 Utility Plant in Service	$ 692,217	$ 600,484	$1,659,357	$ 247,372	$ 188,985	$ 3,388,415	$ 111,185	$ 3,499,600
105 CWIP	$ 661	$ 34,442		$ 7,972	$ 12,262	$ 55,337	$ -	$ 55,337
Total Utility Plant	$ 692,878	$ 634,926	$1,659,357	$ 255,344	$ 201,247	$ 3,443,752	$ 111,185	$ 3,554,937
108.1 Accum. Depr UPIS	$ 341,981	$ 278,361	$ 814,507	$ 102,260	$ 83,123	$ 1,620,232	$ 65,832	$ 1,686,064
114 Acquisition Adjustments	$ -	$ -	$ (347,259)	$ -	$ -	$ (347,259)	$ -	$ (347,259)
115 Accum Amortization	$ -	$ -	$ 333,775	$ -	$ -	$ 333,775	$ -	$ 333,775
Net Acquisition Adjustments	$ -	$ -	$ (13,484)	$ -	$ -	$ (13,484)	$ -	$ (13,484)
Net Utility Plant	**$ 350,897**	**$ 356,565**	**$ 844,850**	**$ 153,084**	**$ 118,124**	**$ 1,823,520**	**$ 45,353**	**$ 1,868,873**

	Lakeland (Water)	White Rock	Rosebrook	Tioga Gilford Village	Tioga Belmont	Total - Water	Lakeland (Sewer)	Total - Abenaki
Wells	3	3	2	2	3	13	-	13
Treatment Facilities	1	1	1	1	1	5	-	5
Pumping Stations	1	-	-	-	-	1	1	2
Booster/Lift Pumps	2	-	-	-	-	2	2	4
Pipe (feet)	23,078	13,500	32,600	3,150	2,550	74,878	10,000	84,878
Tanks	3	2	1	2	1	9	-	9
Hydrants	-	-	64	-	-	64	-	64

Q. Are all of these assets essential for running the water system?

A. Yes. All of the listed assets are essential for running Abenaki's water system and are therefore "used and useful" in the service of customers. The costs of these assets are already included in customer rates and will be collected from customers into the future whether or not the transaction moves forward.

Q. Are all of these assets properly accounted for on the books of Abenaki?

A. Yes. All of the listed assets are properly accounted for on the books of Abenaki. Moreover, Abenaki has routinely provided an annual breakdown of its utility plant accounts in its annual reports to the Commission. Copies of the 2020 annual reports for Abenaki's water and sewer systems are provided as Attachments AQ-AWC-6 and AQ-AWC-7. The utility plant account information provided in the reports contains more detail than typically found in annual reports, as Abenaki breaks down its plant accounts for each of its five water systems and its wastewater system separately in accordance with regulatory requirements. Abenaki's financials, including its plant accounts, were audited in 2020 by both outside auditors and Commission Staff. Neither audit required any substantive adjustments to utility plant or related accounts.

Q. If the transaction is approved, will Abenaki's rate base increase due to the transaction, or any accounting associated with the transaction?

A. No. Abenaki's rate base will not increase or decrease due to the transaction. The rate base does not change as a result of a change in parent ownership. The "pre-acquisition book value" of the assets is established by accounting practice and locked into rates at the time of a rate case based on the net book value at the time rates are set. The "pre-acquisition book value" cannot be validly modified by the Commission *because of the sale*, and nothing about the sale changes the book value or the amount of cost recovered through rates. Consequently, there is no adverse impact to customer rates created by the transaction.

Q. Was the Order correct in stating that the "proposed carry forward of existing Abenaki rate base for purposes of the transaction does not take into account the impaired state of the rate base assets"?

A. No, for several reasons. First, there is no "impaired state of the rate base assets." The Abenaki plant assets have been properly maintained and accounted for throughout their service lives as reflected in the Commission's orders and have been found prudent and useful in providing service to customers. Customer rates reflect the current rate base authorized for recovery by the Commission and the existing Abenaki rate base will "carry forward" in rates whether or not the transaction occurs and whether or not Abenaki sells its assets to Aquarion or some other owner.

Although we are not attorneys, our experience as regulatory professionals tells us that there is no legal or ratemaking principle that exists in any jurisdiction in which Aquarion operates that would allow for a *regulatory write-down* of assets based on some assessment of the condition of assets at the time of the transaction. Customer rates are currently recovering the net book value of the assets, as authorized by the Commission, and the recovery will continue in the absence of the transaction. Accordingly, finding that there is an adverse impact without a write-down of the "pre-acquisition" asset base is not only conceptually and legally wrong, such action will deprive customers of the benefits of the transaction that the Commission has already acknowledged.

Q. Was the Order correct in stating that the "resulting recovery of rates based upon the pre-acquisition book value of those assets as proposed in this Acquisition will have an adverse effect as the utility's rates would unfairly burden rate payers"?

A. No. As explained above, this determination assumes incorrectly that the "pre-acquisition book value" of Abenaki's plant assets is somehow improper or disconnected from the underlying assets. In fact, the pre-acquisition book value of Abenaki's plant assets is completely accurate and is comprised entirely of plant assets that have been reviewed and audited by the Commission in prior dockets and determined to be reasonable for setting rates. There are no elements of Abenaki's rate base included in current rates that have not previously been determined by the Commission to be used and useful. There is no aspect of the proposed transaction that affects the Abenaki rate base. Customers are paying only for the plant assets that are necessary for providing water service, and that the Commission has previously authorized. There is no "unfair burden on ratepayers" caused by the transaction where customers are ***already*** paying for the assets through current rates, and current rates will not change as a result of the transaction closing.

Moreover, it is important to note that the decision as to whether rates may recover the cost of rate base assets is made at the time that the assets are installed and determined to be "prudent" and "used and useful" in the service of customers, which is a determination that the Commission has ***already made*** in relation to the Abenaki assets. Following original installation, the assets are depreciated, reflecting the consumption of the asset over time. Rates are established to contemplate the depreciation (consumption) of assets and there is no process by which the recovery of asset costs is properly revisited to devalue the assets further. This is what makes the Commission's finding so problematic and somewhat perplexing. Customers are paying for rate base today through rates and these payments will continue whether or not the transaction goes forward. The transaction will not cause or change recovery of existing rate base and customers will continue to pay for the "pre-acquisition" rate base through current rates with or without the transaction. Accounting and ratemaking practices account for the consumption of assets over time and therefore the net book value of the assets represents the actual value of the assets.

Q. If the transaction is approved, will Abenaki's rate base utility plant have the potential to increase as a result of the transaction?

A. No. Abenaki's rate base would increase in the future only for the same reason that utility plant rate base increases for any utility system, which is as a result of incremental, prudent capital investment that is deemed by the Commission to be used and useful. That capital investment will occur to ensure reliable service that meets all regulatory standards. If and when such investments occur, the cost of those investments would be eligible for recovery through rates as approved by the Commission. This principle is true for Abenaki regardless of this proposed transaction.

Q. Will customers be charged with an acquisition premium as a result of the NESC's acquisition by Aquarion?

A. No, absolutely not. No acquisition premium will be recorded on the books of Abenaki or NESC and no amounts associated with an acquisition premium would ever be charged to customers as a result of this transaction.

Q. Are Abenaki's water system assets "impaired" due to mismanagement or lack of maintenance under current ownership?

A. No, the water-system assets have not been mismanaged and are not impaired. The water-system assets have been managed in a fashion typical of water companies of Abenaki's size, with a tremendous amount of oversight from both the New Hampshire Department of Environmental Services ("NHDES") and the Commission.

When Mr. Morrissey used the term "basket case" to describe Abenaki at the hearing earlier in this proceeding, it was not in reference to the condition of the water system assets, or a reflection of the management of those assets. Mr. Morrissey used the term to describe the financial circumstances facing Abenaki, resulting from the existing revenue shortfall, which is significantly below the cost of service combined with the extensive future capital needs of the systems. When this disconnect occurs, a water system becomes non-viable.

Q. If the Abenaki water systems have not been mismanaged, why are the systems referred to as "non-viable"?

A. The systems are referred to as "non-viable" for financial reasons. Abenaki currently owns five water systems and one sewer system and the average customer count for each of those systems is 177. These systems were not all purchased at one time, but in a series of acquisitions over years. As Abenaki acquired each system, the current rates remained in place and each system's rate base has remained separate. Abenaki has operated the systems and evaluated the capital needs of each system independently. As revenues have fallen below the actual cost of service, Abenaki cannot achieve a reasonable return on equity.

For this reason, Abenaki has sought to raise revenues through general rate case proceedings. However, the process for general rate proceedings involves inherent regulatory lag. For smaller companies with limited financial resources, like Abenaki and its parent (NESC), the regulatory lag and resulting low cash flows make it difficult to make significant capital upgrades without persistent rate relief. Yet, without the upgrades, there is the potential for reliability issues to arise, which, in turn, puts additional cost pressures on the system (i.e., purchased water). It becomes a difficult spiral for any small company to overcome. With a larger, financially stable operator, the pressure for persistent rate relief is not as great as the operator has greater flexibility to manage the overall financial circumstances.

Q. Does Aquarion have experience in acquiring and upgrading non-viable water systems?

A. Yes. Aquarion has a strong history of acquiring non-viable water systems and over time integrating those systems into its operations. Since 2011, Aquarion in Connecticut has acquired 73 small water systems in 25 different transactions. The average customer count of those systems was 158 and many of those systems were considered non-viable. No water utility in New England is more qualified to take ownership of small water systems than Aquarion.

IV. FUTURE CAPITAL NEEDS AND RATE IMPACTS

Q. What will be Aquarion's process for identifying future capital improvements and deciding whether it is feasible, necessary or warranted to move forward with those improvements?

A. Aquarion's process for prioritizing capital improvements will be focused on meeting regulatory requirements, ensuring system reliability, and improving the reliability of water service. All capital improvements will be done with a careful eye to the eventual effects the upgrades will have on rates.

There are several capital improvements needed to meet various regulatory requirements on the Abenaki systems. These are incremental improvements to the current plant assets that were previously deemed used and useful in service to Abenaki customers. Aquarion senior management is currently acting as an advisor to NESC (and Abenaki) during this interim period (pending any final approval of the proposed transaction). Although NESC will maintain ultimate control until the proposed transaction is approved, Aquarion is apprised of these necessary capital improvements through this coordination.

Q. Please describe some of the priorities that Aquarion anticipates on the Abenaki systems.

A. There are a few priorities. First, the White Rock system (95 customers) in Bow, NH has orders from NHDES to resolve arsenic levels that have risen above the maximum contaminant level ("MCL"); make improvements to the distribution systems; and obtain a new source of supply. Much of the design work for this improvement has been completed, but approval of a revamped arsenic treatment only recently received NHDES approval.

This work is being funded through a combination of grants and a loan through the NH Drinking Water and Groundwater Trust Fund ("DWGTF") and State Revolving Fund. The approval process for that funding is nearing completion. Until bidding for this work is complete, the exact costs are unknown. These projects are important and necessary and will benefit customers, warranting the cost that will be incurred over and above the grants that will be obtained.

Second, the Tioga River system (22 customers) has a DWGTF funded project planned to alleviate issues within its distribution system. The project was originally planned to increase storage in the system from 5,000 to 10,000 gallons as insurance against the frequent leaks in its substandard distribution system. After Aquarion reviewed the project, it was determined that it may be possible to use the funds to replace the worst sections of the distribution system rather than to increase the storage. This alternative approach would provide an immediate benefit to customers and more long-term stability and should greatly reduce the need for extra storage in the system. This potential change, though, has delayed the start of the project as additional design and regulatory approval is needed.

Third, the Rosebrook system (413 customers) represents the most significant undetermined capital expenditure. The system has an active Letter of Deficiency from NHDES to resolve issues including operator safety and excessive system pressures. These conditions have evolved since the original construction of the system following the need for additional treatment and enforcement by NHDES of pressure requirements incremental to original construction. The cost of the project is significant for the Rosebrook system and Aquarion has been working with all regulators, the consulting engineers, Abenaki, and its largest customer (Omni) to explore the most cost-effective solutions. Further hampering the design decisions is the outcome of Docket No. IR 21-024, Investigation into Water Pressure Issue in the Rosebrook Water System. The outcome of that investigation may require changes to any proposed design. The change in cost of service for that system cannot be estimated until the design is complete.

Q. Will Aquarion's acquisition of Abenaki have an adverse effect in relation to any of these matters?

A. No. These are matters that will need to be addressed regardless of the owner. However, Aquarion brings broader operating experience, financial resources and technical capabilities to help address these issues in a manner that is most beneficial to customers.

Q. Please describe Aquarion's capital planning process and how that process considers customer rate impacts.

A. Aquarion conducts an annual budget review for its regulated utilities that evaluates operating expense and planned capital improvements. Following the acquisition, Abenaki's system operations manager will be responsible for managing the operating budget once approved by Aquarion's management team. Larger projects (projects with costs greater than $100,000) will be incorporated into Aquarion's Project Management Committee Process. The Project Management Committee meets on a monthly basis to monitor and manage the capital budget including review and approval of project authorization requests for projects with costs of greater than $100,000. The Project Management Committee also monitors project status and reviews the final cost analyses.

Recognizing the bill impacts for some of the larger customers on the Abenaki systems, Aquarion is committed to working closely with these customers to provide them with a "line of sight" into the capital planning process and schedule for improvements so that bill impacts are managed and/or are explainable and understood by the customer.

V. RESPONSE TO INTERVENOR ISSUES

Q. Please describe the letter filed by the Joint Petitioners in this docket on July 15, 2021.

A. In response to concerns raised at the evidentiary hearing on June 28 and 29, 2021 by the Department of Energy ("DOE") Staff, the Office of the Consumer Advocate ("OCA"), and other intervenors, the Joint Petitioners determined it was in the best interest of all parties to withdraw Abenaki's rate request. The Joint Petitioners explained that, although Abenaki has an urgent and demonstrated need for rate relief, customers are better served by allowing the proposed acquisition to move forward at this time without the added consideration of Abenaki's pending rate request. The Joint Petitioners stated that Abenaki would withdraw its rate request in Docket No. DW 20-112 effective upon the Commission issuing a determination of no adverse impact under RSA 369:8, II, on or before August 8, 2021, and that Abenaki would submit a filing in that docket to formalize the request for withdrawal.

Abenaki's filing was submitted in the rate case docket on July 16, 2021, confirming that it would withdraw Abenaki's filing in Docket No. DW 20-112 "without prejudice, pending the Commission's final determination on the joint petition . . . in Docket No. DW 21-090."[8]

[8] Docket No. DW 20-112, Contingent Notice of Withdrawal (July 16, 2021).

Q. Was the rate case withdrawal intended to facilitate the Commission's determination of no adverse effect?

A. Yes. The withdrawal of the rate case was executed to enable the Commission to determine categorically that there will be no adverse effects to rates, terms, service, or operations of Abenaki as a result of Aquarion becoming its new parent company.

Q. Did the OCA express its support for the acquisition based on the rate case withdrawal?

A. Yes. On July 15, 2021, the OCA filed a letter in this docket stating it strongly supports this outcome. OCA explained that the basis of its initial opposition had been grounded entirely on its concerns about the increases proposed in the Abenaki rate case and that the Commission could not make a "no adverse impact" determination with such proposed increases pending. OCA stated that it believes "Aquarion and its ultimate parent, Eversource, represent stronger and therefore better stewards of the various water systems comprising Abenaki than are the current owners" and is "fully confident of Aquarion's managerial, financial, and technical capabilities."[9] OCA noted that the rate case withdrawal would not resolve all open issues facing the Abenaki systems but that Aquarion's acquisition would make better outcomes achievable for ratepayers and shareholders, and therefore urged the Commission to approve the acquisition on this basis.

[9] Docket No. DW 21-090, OCA Letter (July 15, 2021), at 1.

Q. Did the DOE representatives subsequently state their support for the transaction?

A. Yes. On July 29, 2021, the Joint Petitioners filed a letter in this docket that expanded upon the commitment in relation to the Abenaki rate case. The Joint Petitioners stated that in the event the Commission issues the requested determination of no adverse impact under RSA 369:8, II and the proposed acquisition is consummated *on or before* December 31, 2021, the Joint Petitioners commit that a subsequent Abenaki rate case filing for the Belmont, Bow, Tioga Gilford and Tioga Belmont water systems, and the Belmont sewer system, would be based on a test year with 12 months actual cost data – on a calendar year basis – under Aquarion ownership, meaning that a rate case would not be filed until at least one calendar year after the date of closing. If the Commission issues such determination and the acquisition is consummated *after* December 31, 2021, the Joint Petitioners stated they will make a good faith effort to use a calendar test year in the future rate case filing. However, in any event, the future rate case filing would be based on 12 months actual costs under Aquarion ownership and would not be filed until the completion of one year after the date of closing. In addition, although the rate case in Docket No. DW 20-112 did not include the Rosebrook system, the Joint Petitioners extended this commitment to a future rate case for the Rosebrook system.

On July 30, 2021, the DOE filed a letter in this docket stating it supports Aquarion's proposed acquisition. "The DOE agrees with the Office of the Consumer Advocate's filing in support of the acquisition, filed on July 15, which notes that the proposed acquiring company, Aquarion, possesses the managerial, financial, and technical capabilities of running the water systems."[10] The DOE also agreed that "the Joint Petitioners' commitment to allow for a full calendar year of operation of the utilities by the acquiring party will be most beneficial to the ratepayers as it will give a much clearer indication of the costs and potential savings with Aquarion as owner."[11] DOE concluded that with the withdrawal of the Abenaki rate case there is no impact on rates, terms, service, or operation, and therefore the Commission need not issue a preliminary determination of adverse impact, thereby allowing the acquisition to proceed.

Q. Do the Joint Petitioners maintain their commitment to withdraw the Abenaki rate case and for a future rate case to be based on 12 months actual cost data – on a calendar year basis – under Aquarion ownership?

A. Yes. Although the commitment to withdraw the rate case was premised upon the Commission issuing a determination of no adverse impact under RSA 369:8, II, on or before August 8, 2021, the Joint Petitioners maintain this commitment pending a determination of no adverse impact based on the amended filing, pursuant to RSA 369:8, II(b)(5), within 30 days after receiving this amended filing, or September 19, 2021.

Q. Please describe the concerns of the Customer Intervenors as stated in the Order.

A. The Order noted that the Customer Intervenors raised concerns about water quality and supply issues in both the Bow and the Tioga Belmont water systems.[12] The Customer Intervenors also raised concerns about the magnitude of the rate increases proposed in the

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[10] Docket No. DW 21-090, DOE Letter (July 30, 2021), at 1-2.

[11] Id. at 2.

[12] Order at 6.

pending Abenaki rate case in Docket No. DW 20-112.[13] Subsequent to the Joint Petitioners' proposal to withdraw the Abenaki rate case pending a favorable determination on the proposed acquisition, "the Customer Intervenors agreed to the proposed withdrawal of the pending Abenaki rate case, but requested further conditions: (1) no rate case expenses from the withdrawn rate case be recovered from ratepayers; (2 and 3) all water quality remediation plans for the Bow and Tioga Belmont systems be carried out on schedule; (4) Aquarion consider combining Abenaki rate base with Aquarion's rate base; (5) the subsequent rate case for Abenaki be filed no sooner than one year after Aquarion takes full ownership of Abenaki to allow for a complete year of test data under the new ownership."[14]

Q. Please respond to these proposed conditions.

A. First, Aquarion confirms that it will not seek recovery of rate-case expenses from the withdrawn rate case.

With respect to the Customer Intervenors' second and third proposed conditions, work in both systems continues to progress, but because Abenaki has elected to use DWGSTF loans and grants and each financing requires separate approvals, both projects have moved slower than anticipated. Abenaki, through its communications with the various regulators will continue to keep stakeholders updated on the progress. Aquarion can confirm that

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13 Id.

14 Id.

these projects are necessary and commits that a change in ownership of Abenaki will not negatively affect the schedule.

With respect to the Customer Intervenors' fourth proposed condition, Aquarion understands this request to be for an immediate merger of the Abenaki with AWC-NH, which is not its proposal and would be problematic for several reasons. In addition, in the Order, the Commission stated that the proposed post-acquisition structure in New Hampshire (to not attempt an immediate merger of Abenaki into AWC-NH), "appears to be a reflection of the asset impairment and liability issues."[15] However, this statement is not accurate. As we noted previously in this testimony, there is no "asset impairment" and no aspect of the transaction and no price or non-price term that relates to or revolves around an assumption of "asset impairment."

In fact, the decision to *not* merge the NESC operating companies rests squarely on a determination that Abenaki's operations are unique from Aquarion's existing operations due to the relative size, small customer base, *future* capital investment needs, and geographically dispersed service territory. Aquarion determined that it would gain greater insight into Abenaki's operations by continuing to operate Abenaki on a stand-alone basis for a period of time following the acquisition. Aquarion plans to assess Abenaki's strengths and weaknesses and identify areas of improvement to align with Aquarion's high operational standards, without creating the complexity of having to accomplish an

[15] Id. at 10.

operating company merger integration at the same time. Aquarion addressed this issue in response to Staff 1-14, entered as Exhibit 10 in this docket, discussing the fact that Aquarion assessed the condition of the water systems controlled by NESC in the due diligence process.

In addition, an immediate merger of Abenaki into AWC-NH at the outset of the Aquarion ownership would be problematic from a rates perspective. Abenaki currently earns a negative return on equity and an immediate merger would raise concerns that a base-rate proceeding would need to be pursued on a faster track than if Aquarion is able to maintain the operations separately until the integration can be naturally accomplished. It is in the public interest to explore merging the operating companies in the future, after a test year of at least 12 months under Aquarion ownership.

Lastly, although Aquarion's plan is to merge the NESC operating companies in Connecticut and Massachusetts into the Aquarion subsidiaries in those states upon closing, this will not cause any rate change for the NESC customers. Aquarion will maintain the NESC rate schedules for these customers at the time of closing, meaning they will not be transferred to Aquarion rates. Merging the NESC companies in Connecticut and Massachusetts will occur to facilitate operations and is a relatively straightforward exercise because they do not have the same operational challenges as Abenaki.

With respect to the Customer Intervenors' fifth proposed condition, the Customer Intervenors acknowledged that Aquarion's commitment in the July 29, 2021 status update letter on the rate case withdrawal satisfies this concern.

Q. Did the Order also cite concerns raised by Omni?

A. Yes. The Order noted that at the hearing Omni expressed concerns about the lack of progress on developing and implementing a solution to the high-pressure issues on the Rosebrook water system.[16] In addition, Omni's July 26, 2021 filing requested a determination of adverse effect. Specifically, Omni argued that the purchase price for the transaction, which includes an acquisition premium, "has apparently not been allocated among the states or the regulated subsidiaries in a way that would inform the Commission as to the value or cost assigned to the respective New Hampshire regulated subsidiaries," and is necessary for determining whether the transaction would have an adverse effect on rates.[17] Omni questioned "whether the book value of the New Hampshire regulated subsidiaries is reasonable as a basis for setting future rates."[18] Omni stated the acquisition will have an adverse effect on rates "to the extent that Aquarion has overpaid for the New Hampshire regulated subsidiaries."[19] Omni argued that the Commission could condition the acquisition on some combination of a multi-year rate freeze, remediation of outstanding issues, and consolidation of the Abenaki and Aquarion subsidiaries in New Hampshire,

[16] Id. at 6.

[17] Docket No. DW 21-090, Omni Motion (July 26, 2021), at 7.

[18] Id.

[19] Id. at 8.

and that it could "(1) impute a purchase price at some discount from book to the respective Abenaki subsidiaries, which would serve as their initial rate bases, or (2) require a contribution in aid of construction ("CIAC") from Abenaki as an exit fee."

Q. Is there any basis for reducing Abenaki's rate base or requiring a "CIAC" payment as a matter of regulatory or ratemaking practice?

A. None whatsoever. Either of these actions would constitute a disallowance of the costs of rate base assets that were already deemed by the Commission to be prudent, used and useful – and that are already being recovered in rates from customers. In our experience as regulatory professionals, there is no ratemaking practice or theory that would justify such action by the Commission. The inherent flaw in Omni's request is that Omni is concerned about future rate increases; however, the rates that Omni is paying are relatively low because Abenaki has not yet made capital upgrades that may be warranted or necessary in the future. This does not mean that the rate base assets that Abenaki has installed *in the past* are not worth their recorded book value. In fact, the assets are properly accounted for and already included in base rates paid by customers by authorization of the Commission based on that book value.

Therefore, forcing Abenaki to pay some sort of "exit fee" or computing some sort of discount to net book value of the assets in service, is completely unreasonable and improper. By virtue of the accounting practices, the net book value of the assets is completely aligned with the use and age of the facilities, as explained above, which means that any discount or forfeiture of *existing* rate base would constitute a confiscatory, improper regulatory action clearly susceptible to court challenge. This theory is simply a red herring designed to thwart a transaction that is highly beneficial to customers, but that will result in a viable operator making future capital upgrades to a system serving one or more significant customers that will – no doubt – have some responsibility for sharing in the cost of those upgrades.

In essence, Omni is seeking a penalty from Abenaki to offset future costs of new upgrades, but there is absolutely no justification in fact, law, regulatory policy or ratemaking theory supporting this penalty. There has been no finding or determination that Abenaki has violated any law or failed to do anything ordered or required by the Commission.[20] Although Abenaki has various operational challenges, those issues are being addressed in other dockets and pursuant to appropriate processes both at NHDES and the Commission. Aquarion is engaged on those issues and its participation should be a welcome addition. As suggested by OCA, Aquarion's acquisition of Abenaki will facilitate better outcomes for these issues. No viable operator would be likely to agree to accept a write down of the recorded book value of Abenaki's assets, nor is such an action a commercially reasonable proposition. This means that the "exit fee" proposition makes it more likely than not that Abenaki customers will be deprived of the benefits that a change in ownership would bring to the equation.

[20] *See* RSA 365:41.

Q. Do you have other comments in response to the concerns raised by Omni?

A. Yes. Although Omni speculates that Aquarion is "over-paying" for Abenaki, the price paid by Aquarion for NESC, including Abenaki, is reasonable, justified by the value of the assets and subject to vigorous negotiation. The metrics of the price are consistent with those in similar transactions, and the price paid by Aquarion was appropriate.

In addition, the Joint Petitioners' commitment that a future rate case filing would be based on 12 months actual costs under Aquarion ownership and would not be filed until the completion of one year after the date of closing is beneficial to Omni. As noted earlier, although the rate case in Docket No. DW 20-112 did not include the Rosebrook system, the Joint Petitioners extended this commitment to a future rate case for the Rosebrook system.

Lastly, there is no reasonable basis for Omni's suggestion that it would be appropriate for the Commission to require consolidation of Abenaki and AWC-NH as a condition of approval. Aquarion is not proposing an immediate merger of the New Hampshire operating companies for the reasons stated earlier in our testimony. An immediate merger would be detrimental to customer interests.

Q. Do you have any additional comments related to intervenor issues?

A. Yes. The Order noted that the Bretton Woods property owners, similar to Omni, argued that the Abenaki water system assets should be acquired by Aquarion at a discounted level. The Bretton Woods property owners further argued that the rate increases sought in the pending Abenaki rate case was contributing to a multi-million dollar increase to the purchase price.[21] We have addressed these concerns earlier in our testimony and explained why a reduction to the recorded book value of current rate-base assets is a false and baseless proposition, particularly where customers are wholly unaffected by the purchase price and will not experience any change in rates upon closing of the Transaction.

VI. CONCLUSION

Q. Does this conclude your testimony?

A. Yes.

[21] Order, at 7.