

**THE STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

Docket No. DW 21-093

Re: Aquarion Water Company of New Hampshire

**JOINT STATEMENT OF POSITIONS OF TOWN OF HAMPTON AND TOWN OF
NORTH HAMPTON**

NOW COME the Town of Hampton and Town of North Hampton, and by way of a Joint Statement of Positions, say as follows:

INTERVENTION BY THE TOWNS

1. Intervention by both the Towns of Hampton and North Hampton should be granted. The Towns of Hampton and North Hampton are public fire protection customers of Aquarion who are assessed charges for the maintenance and availability of water to fight fires using Aquarion hydrants located in each Town; Aquarion has proposed in DW 20 – 184 to increase public fire protection charges by some 33.3% to \$1,131,877 per year. These Towns are also customers for Aquarion Water supplied to municipal buildings—the Town of Hampton alone paid to Aquarion \$53,238.72 in water bills in 2018, \$45,443.92 in water bills in 2019, and \$30,444.79 in water bills in 2020. In addition, the Select Boards in the Towns of Hampton and North Hampton are authorized by statute to “manage the prudential affairs of the town and perform the duties by law prescribed.” RSA 41:8. This may include representing the interests of the residents in each Town before this Commission to ensure that rates and terms of service are just and reasonable.

2. Hampton and North Hampton do not object to water service being provided to residents of Wiggin Way provided that supply is adequate and rates are sufficient to cover the costs to serve these customers and not result in an unlawful subsidy under RSA 378:10.
3. North Hampton's Request for Hearing on change in rates dated March 1, 2021 is incorporated herein by reference so as to set forth the following positions:
 - a. Aquarion should be ordered to submit the information such as is required by the Commission's Puc 1600 Rules to support of the proposed rates for the Wiggin Way system, including a cost of service study, in order to determine whether the proposed rates are just and reasonable pursuant to RSA 378:3 & 7.
 - b. Aquarion's tariff and sound rate making principles contemplate that main extensions be built to existing standards and paid for by developers, not assumed as a liability by the utility or its existing customers without revenues to offset the costs. Similar concepts apply when a new system, like the Wiggin Way system is proposed to be added. The costs to operate this system need to be evaluated in order to determine whether the proposed rates are just and reasonable based on the costs to serve these customers.
 - c. Aquarion has provided no financial information that would allow the Commission to make a determination as to whether the proposed rate is just and reasonable or would result in unreasonable cost shifting. There are serious concerns that the addition of the Wiggin Way system at the proposed rate could result in unreasonable cost shifting and subsidies in violation of RSA 378:7 and RSA 378:10. By way of example only: the Wiggin Way system has only 43 customers. As a result, it will produce very little revenue to offset operations and maintenance expenses and likely will require a

subsidy by existing customers. Based on its age and past supply problems, it seems likely that the Wiggin Way system does not meet current DES standards and may require upgrades or improvements. However, any improvements that may be needed would not likely be supported by revenues at Aquarion's existing permanent rates from the 43 customers of Wiggin Way.

- d. Secondly, the impact of the proposed expansion on existing customers of Aquarion, such as Hampton and North Hampton, needs to be examined before the rate is approved. According to the schedule submitted by Aquarion in DW 20-184, Hampton, North Hampton, Rye Beach and Jenness Beach pay a total of \$849,320 per year in public fire protection charges to maintain capacity in Aquarion's water system needed for fire protection. Aquarion's schedules in that pending proceeding show that it plans to increase public fire protection charges by 33.3% to \$1,131,877 per year.
- e. The Towns of Hampton and North Hampton pay significant charges to maintain additional capacity for fire protection. The Wiggin Way system will likely increase peak demands on the system due to lawn watering which will reduce the capacity that has been added to the system and paid for by fire protection customers. Expanding Aquarion's franchise will take away capacity paid for by the Town's without any credit or reimbursement. The Wiggin Way system has no fire hydrants. The proposed expansion would appear to take advantage of the capacity paid for by existing municipal fire protection customers without Wiggin Way's paying its share of the increased cost to main fire protection flows, contrary to RSA 378:10.

- f. These and other issues need to be examined, discovered and resolved before a permanent rate can be set. A hearing based on adequate financial information is required to consider and determine whether the rate the change in rates from the current temporary seasonal rate to the proposed permanent rate for the Wiggin Way system is just and reasonable as required by RSA 378:7, or, an unlawful one that gives undue and unreasonable preference or advantage, contrary to RSA 378:10.

Respectfully submitted,

Dated: July 23, 2021

Town of North Hampton
By its Counsel

New Hampshire Water Law

/s/

Justin C. Richardson, Esq. (#12148)
586 Woodbury Avenue
Portsmouth, NH 03801
justin@nhwaterlaw.com
(603) 591 – 1241

And:

Town of Hampton
By its Town Attorney

/s/

Mark S. Gearreald, Esq.
Hampton Town Attorney
100 Winnacunnet Road
Hampton, N.H. 03842
Phone (603)929-5816
N.H. Bar I.D. #913

CERTIFICATE OF SERVICE

I hereby certify that a complete copy of the foregoing Statement of Positions is being sent this day to all persons on the Commission's official service list for this proceeding.

Mark S. Gearreald, Esq.