

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DW 08-098**

**AQUARION WATER COMPANY OF NEW HAMPSHIRE**

**Notice of Intent to File Rate Schedules**

**Order Approving Settlement Agreement and Permanent Rate Increase**

**ORDER NO. 25,019**

**September 25, 2009**

**APPEARANCES:** McLane, Graf, Raulerson & Middleton, P.A. by Steven V. Camerino, Esq., for Aquarion Water Company of New Hampshire; Town of Hampton by Mark S. Gearreald, Esq.; Donahue, Tucker & Ciandella, PLLC, by John J. Ratigan, Esq. on behalf of the Town of North Hampton; Mr. Robert Renny Cushing on behalf of himself, Susan Kepner, Dennis Kepner, and Michael Pierce; Town of North Hampton Water Commission by Robert Landman; Office of the Consumer Advocate by Rorie E.P. Hollenberg, Esq. on behalf of residential ratepayers; and Staff of the Public Utilities Commission by Marcia A.B. Thunberg, Esq.

**I. PROCEDURAL HISTORY**

Aquarion Water Company of New Hampshire, Inc. (Aquarion) is a regulated public utility as defined by RSA 362:2 and 362:4 and provides water service to approximately 8,770 customers in the towns of Hampton, North Hampton and Rye. On July 29, 2008, Aquarion filed a Notice of Intent to file rate schedules and, on August 29, 2008, it filed rate schedules as well as a petition for temporary rates. In support of the proposed rate increase, Aquarion provided pre-filed direct testimony of Larry L. Bingaman, Senior Vice President of Operations; Linda M. Discepolo, Director of Rates and Regulation; Troy M. Dixon, Manager of Regulatory Compliance; and Jay W. Shutt of Floyd Browne Group, Inc., a consulting firm that conducted a depreciation study included with Aquarion's filing.

Aquarion sought an overall increase in annual revenues of \$1,056,070, or 21.08%, for service rendered on or after September 26, 2008. Aquarion proposed an inclining block rate for consumption in excess of 1,500 cubic feet per quarter to promote water conservation. The inclining block rate would affect all classes of customers, except industrial and seasonal customers. Aquarion also requested that the Commission approve a step adjustment to rates for construction of Aquarion's Mill Road Standpipe, which it estimates will cost approximately \$1.5 million and be in service by the end of 2008.

In addition to seeking a general rate increase, Aquarion sought to implement new charges. Specifically, it sought to implement a Water Infrastructure and Conservation Adjustment Surcharge (WICA) that would be based on capital spending and would permit Aquarion to add a surcharge to its rates, within certain limits, for eligible projects completed and in service. Aquarion asserted that the WICA surcharge would promote investment in infrastructure replacement, mitigate rate shock, and help to reduce lost and unaccounted for water. The second charge, a System Development Charge (SDC) would offset the cost of system improvements to accommodate new customers in Aquarion's franchise area. Under this proposal, new customers taking service with a 5/8 inch meter would be charged \$779 as a one-time connection fee. The SDC for larger meter sizes would be calculated using standard American Water Works Association (AWWA) ratios of charges to meter sizes.

Aquarion also sought to implement a Water Balance Program that would require owners of new developments connecting to the water system to either implement approved conservation measures or pay a fee that is used to fund conservation measures implemented by Aquarion.

As to its temporary rate petition, Aquarion proposed a temporary increase in revenues of \$642,600, or 12.83% on an annual basis for bills rendered on or after September 26, 2008.

Aquarion also requested a waiver of N.H. Admin. Rules Puc 1203.05, which requires that rate changes be implemented on a service rendered basis. In support of its request for temporary rates, Aquarion filed financial schedules as well as the pre-filed testimony of Linda M. Discepolo.

On September 25, 2008, by Order No. 24,900 and pursuant to RSA 378:6, the Commission suspended the proposed revisions to Aquarion's permanent rate tariffs pending its investigation and scheduled a prehearing conference for November 5, 2008. On October 1, 2008, the Town of Hampton filed a petition to intervene. On October 10, 2008, the Office of the Consumer Advocate (OCA) filed a letter of participation in this docket on behalf of residential ratepayers. On October 29, 2008, the Town of North Hampton filed a petition to intervene. On November 3, 2008, Mr. Robert Cushing filed a petition to intervene. On November 5, 2008, the Town of North Hampton Water Commission filed a petition to intervene.

On November 20, 2008, Staff filed a proposed procedural schedule on behalf of the parties with the exception of the Town of Hampton. The schedule provided for a hearing on January 13, 2009 on temporary rates and a hearing on July 14 and 15, 2009 on permanent rates. The Commission approved the schedule by secretarial letter on December 16, 2008, granted the pending petitions for intervention, and directed Aquarion to submit a description of the contacts made and information shared with towns prior to the prehearing conference.

On December 26, 2008, Aquarion filed a letter describing the contacts made and information shared with the Towns of Hampton, North Hampton and Rye. Aquarion stated that when it learned that the Town of North Hampton's notice had been misdirected to the old town hall, it called North Hampton's attorney and sent the notice by overnight mail to the town manager and town clerk. Aquarion also described the meetings it held prior to its rate filing with

all three towns, the Town of North Hampton Water Commission, and with representatives of the governing board of Jenness Beach in Rye.

On December 31, 2008, Aquarion filed corrected schedules to its rate filing. The Commission held a hearing on temporary rates on January 13, 2009. On February 13, 2009, the Commission issued Order No. 24,942 approving a temporary increase to Aquarion's revenue requirement. The Commission approved current rates as temporary rates for service rendered on or after December 15, 2008. It also approved an overall increase of 7.65% for service rendered on or after February 1, 2009. The Commission held a public statement hearing on March 25, 2009, at the Winnacunnet High School auditorium in Hampton.

On June 9, 2009, Staff filed the testimony of James L. Lenihan, James J. Cunningham Jr., and Mark A. Naylor; and the OCA filed joint testimony of Kenneth E. Traum and Stephen R. Eckberg. On June 10, 2009, the Town of North Hampton filed testimony of George E. Sansoucy and Glenn C. Walker, and on June 11, 2009, the Town of Hampton filed testimony of Frederick W. Welch.

On July 10, 2009, Aquarion, Staff, the OCA, and the Town of North Hampton filed a settlement agreement with the Commission. The Commission held a hearing on permanent rates on July 14, 2009.

## **II. POSITIONS OF THE PARTIES AND STAFF**

### **A. Aquarion Water Company of New Hampshire**

Aquarion's position is represented in the terms of the settlement agreement described below.

**B. Town of North Hampton**

The Town of North Hampton's position is represented in the terms of the settlement agreement described below. In addition, the Town of North Hampton expressed disappointment that Aquarion's lack of monthly meter reading inhibited the adoption of an inclining block rate. North Hampton stated that it would have preferred that a Water Balance Charge and System Development Charge be incorporated into the settlement agreement. North Hampton recommended these issues be revisited in three years. North Hampton stated that it supports the WICA program and believes it provides an opportunity for the communities to cooperate with Aquarion on reviewing future capital investment projects. Finally, North Hampton stated that it takes seriously Aquarion's offer to work with the communities on water conservation issues.

**C. Town of Hampton**

The Town of Hampton stated that while it did not sign the settlement agreement, it does not object to the agreement in light of the extensive data requests and audits of the company and its understanding of Aquarion's need to realize a better rate of return. Hampton stated it has been concerned about the frequency and magnitude of rate increases and that it believed the WICA program could help decrease the magnitude and frequency of rate cases and alleviate rate shock. Hampton stated that it is not a signatory to the settlement agreement largely out of concern for the magnitude of the rate increases.

**D. Town of North Hampton Water Commission**

The Town of North Hampton Water Commission did not take a position on the settlement agreement.

**E. Robert Renny Cushing**

Mr. Cushing did not take a position on the settlement agreement.

**F. Office of Consumer Advocate**

OCA's position is represented in the terms of the settlement agreement described below.

**G. Staff**

Staff's position is represented in the terms of the settlement agreement described below.

**III. SUMMARY OF SETTLEMENT AGREEMENT****A. Revenue Requirement, Rate Base, Rate of Return, and Capital Structure**

The settling parties recommend the Commission approve a revenue requirement of \$5,883,758 for Aquarion based on a pro forma test year rate base of \$19,599,850 and operating expenses of \$2,577,137. The settling parties recommend an overall rate of return of 7.72% based on a cost of equity of 9.75%, a cost of debt of 6.26% and a capital structure of 58.2% debt and 41.8% equity. This proposed revenue requirement would result in an increase of \$873,844, or 17.44%, over pro forma test year operating revenues of \$5,009,914.

The settling parties state the proposed revenue requirement represents a reasonable compromise of all issues relating to the revenue requirement and that it results in permanent rates for Aquarion's customers that are just and reasonable.

**B. Step Adjustment for Capital Additions**

The settling parties recommend the Commission grant Aquarion a further increase in permanent rates of \$210,854 in annual revenues, effective as of the date of the Commission order approving the agreement. This step increase is to recover the costs associated with the \$1,549,874 addition to rate base as a result of Aquarion's Mill Road tank project. This increase is not to be reconciled with temporary rates and shall be recovered from all customer classes on a proportional basis.

**C. Depreciation**

Aquarion agrees to use amortization accounting for the un-depreciated balance in Property Account 317, and to amortize such balance over a twenty year period. The balance in Account 317 is \$1,434,736, resulting in an annual amortization expense of \$71,737.

**D. Connection Fee**

The settling parties recommend the Commission authorize Aquarion to increase to \$44.00 the charge it levies for connecting service pursuant to Section 28 of its tariff. Aquarion agrees to

use the additional revenues generated from this increased charge, \$26,709, to reduce the revenues required to be collected from Aquarion's public fire service customers.

#### **E. Rate Design**

The settling parties recommend for purposes of this case that the public fire service allocations set forth in Aquarion's cost of service study, filed in Docket No. DW 05-119, be adjusted from 75% to 70% of the full application of fire demands, thereby reducing the overall revenue requirement associated with the public fire service customer class. Applying this new revenue requirement allocation to the revenue requirement provided for in the agreement results in an overall permanent rate increase of 14.4% for the public fire service customer class. The 14.4% increase to public fire revenues shall be further reduced to an increase of 9.99% as a result of the application of the additional connection fee revenues noted above. The settling parties further recommend that the remainder of the revenue deficiency be collected by increasing the rates of all other customer classes on a proportional basis.

#### **F. Effective Date for Permanent Rates and Step Increase and Recoupment**

The settling parties recommend that the agreed permanent rate increase be effective for all service rendered on and after December 15, 2008, the first effective date of temporary rates, in accordance with Order No. 24,942. In order to reconcile the difference between temporary rates and permanent rates, the settling parties request that Aquarion be authorized to implement a surcharge designed to collect, over a twelve month period, an amount equal to the difference between the revenues Aquarion would have collected had the agreed upon level of permanent rates been in effect for service rendered on and after December 15, 2008. Upon the issuance of a final order in this proceeding, Aquarion agrees to submit its calculation of the temporary-permanent rate recoupment and its surcharge recommendation for Commission review. This equal percentage surcharge shall be calculated and reflected as a separate item on all customer bills. The step adjustment set forth above shall not be reconciled for the period when temporary rates were in effect.

#### **G. Rate Case Expense Surcharge**

The settling parties recommend that the Commission allow Aquarion to recoup its reasonable and prudent rate case expenses for this docket through a surcharge, which shall be included with the temporary rate reconciliation surcharge. Rate case expense may include, but shall not be limited to, Aquarion's legal expenses and consultant expenses, incremental administrative expenses such as copying and delivery charges, and incremental charges from Aquarion's affiliates necessary to prepare and conduct the rate case. Aquarion agrees to submit its final rate case expense request to Staff and the OCA for review and recommendation to the Commission.

Upon receipt of the Commission's final order, Aquarion agrees to file a compliance tariff supplement including the approved surcharge relating to recoupment of the difference between the level of temporary rates and permanent rates and the recovery of rate case expenses.

Aquarion agrees to provide a copy of the proposed compliance tariff supplement to the OCA for its review and recommendation.

#### **H. Water Infrastructure and Conservation Adjustment Charge Pilot Program**

The settling parties recommend the Commission allow Aquarion to implement a WICA pilot program. Aquarion agrees to file a compliance tariff consistent with Attachment C attached to the agreement.

Aquarion agrees to file with the Commission a three year projected budget of proposed WICA eligible projects no later than November 1 of each year. Aquarion agrees to provide a copy of such filing to the OCA. Aquarion agrees to provide notice of such filings to the towns in which Aquarion provides service. Year 1 projects are those proposed to be constructed in the succeeding twelve month period and shall be provided for final review and informational purposes. Year 2 projects are those proposed to be constructed in the next twelve month period and are provided for review and approval by the Commission. Year 3 projects are those proposed to be constructed in the twelve months following Year 2 and are provided for advisory purposes and discussion. Staff or any party may request a hearing prior to the Commission's granting approval for a project to become eligible for cost recovery through the WICA. The determination as to whether to hold a hearing on the eligibility of any project for WICA cost recovery shall be at the Commission's discretion.

Aquarion agrees to file the final project costs, supporting documentation and proposed WICA adjustment for completed projects previously determined to be WICA eligible. This filing will be at least sixty days prior to the proposed effective date of any proposed rate change. The settling parties propose the WICA rate become effective on the later of January 1 following Aquarion's filing with the Commission seeking implementation of a WICA rate change or sixty days after the date of the filing; provided, however, that if the Commission determines that further investigation or consideration of any proposed WICA is needed, it may order that the proposed WICA rate become effective on a temporary basis. In which case, the rate would be subject to reconciliation pending final determination by the Commission. Reconciliation would be for final determination of the costs to be included in the WICA and not for any positive or negative variances in actual revenues collected versus projected revenues. Only projects used and useful by the effective date of the WICA would be included for recovery in the WICA.

In the first year that a WICA is implemented for any given project or projects, the property taxes included for recovery shall be prorated to reflect the portion of the year that Aquarion will actually be assessed for such increased taxes. The amount of such taxes, if not known based on a tax bill issued by the relevant taxing authority, shall be estimated using the most recently effective tax rate applicable to the property in question. In the second year in which the WICA is in effect for such project(s), the WICA shall be adjusted to reflect a full twelve months of property taxes, based on the most recent actual tax bill for the relevant property. There shall be no reconciliation for the difference between such tax bill and the estimated tax used for the prior year. After the second year that a WICA for a particular project has been in place, there shall be no further adjustment to the charge.

The settling parties proposed that any WICA rate adjustment be applied proportionally to all classes of customers.

The settling parties proposed that the inclusion of any project in the WICA constitute authorization for Aquarion to continue to collect such amount through its rates on a continuing basis without regard to any subsequent decision by the Commission to discontinue or modify the WICA process. The WICA process shall automatically terminate at the time of a final order in Aquarion's next general rate case, unless it is extended by the Commission in such order or prior to such order.

#### **I. System Development Charge/Water Balance Plan/Conservation Measures**

Aquarion's filing in this docket included a number of proposals intended to encourage water conservation. Aquarion has agreed to withdraw its proposal for a system development charge, a water balance plan, and inclining block rates. Aquarion reserves the right to renew these proposals in any future proceeding. The settling parties agree to continue to explore the potential implementation of water conservation measures. Aquarion has further stated that it intends to work with the municipalities it serves to assist them in developing town ordinances or other means to promote water conservation, including providing data necessary for such purpose, if the municipalities desire such assistance.

#### **IV. COMMISSION ANALYSIS**

RSA 378:7 authorizes the Commission to fix rates after a hearing upon determining that the rates, fares, and charges are just and reasonable. In determining whether rates are just and reasonable, the Commission must balance the customers' interest in paying no higher rates than are required with the investors' interest in obtaining a reasonable return on their investment.

*Eastman Sewer Company, Inc.*, 138 N.H. 221, 225 (1994). Additionally, in circumstances where a utility seeks to increase rates, the utility bears the burden of proving the necessity of the increase pursuant to RSA 378:8. Pursuant to RSA 541-A:31, V(a), informal disposition may be made of any contested case at any time prior to the entry of a final decision or order, by stipulation, agreed settlement, consent order or default. N.H. Code Admin. R. Puc 203.20 (b) requires the Commission to determine, prior to approving disposition of a contested case by settlement, that the settlement results are just and reasonable and serve the public interest.

**A. Revenue Requirement**

The settling parties propose an annual revenue requirement of \$5,883,758. This is based on an agreed upon rate base of \$19,599,850 and agreed upon annual expenses of \$2,577,137. The settling parties used an overall rate of return of 7.72%. The revenue requirement is an overall increase of \$873,844, or 17.44% over Aquarion's test year revenue requirement. We understand that this revenue requirement represents a settlement among Staff and the parties of all issues related to the revenue requirement.

The need for the revenue increase is due in part to Aquarion's investment of approximately \$5.6 million in capital improvements since its last rate case as well as the associated higher depreciation expense and operating costs. Exh. 1 at 9. The non-settling parties did not object to the settlement and we note that the parties conducted extensive discovery and filed testimony on these issues pursuant to the approved procedural schedule. We also note that Staff conducted an audit of Aquarion's books and records. Exh. 14 at 5. The figures used in the settlement agreement were derived from that audit. Hearing Transcript of 7/14/09 (7/14/09 Tr.) at 48, lines 9-19.

Based on our review of Aquarion's filing, the testimony presented in this docket, and other evidence introduced at hearing, we are satisfied that the revenue requirement proposed by the settling parties is just and reasonable and serves the public interest. We further find that the plant, equipment, and capital additions placed in Aquarion's rate base are prudent, used, and useful in accordance with RSA 378:28. The additional revenues of \$873,844 shall be recovered from all customer classes proportionally so that the revenue increase to each rate class is allocated based upon that class's proportion of test year revenues, with the exception of the

adjustment to revenues for public fire protection charges and seasonal connection fees discussed below.

**B. Step Adjustment for Capital Additions**

The settling parties recommend Aquarion be authorized to increase its revenue requirement by \$210,854 in recognition of the \$1,549,874 Aquarion spent on its Mill Road tank project. This tank was placed in service in 2008 after Aquarion's test year and is non-revenue producing. 7/14/09 Tr. at 10, lines 4 and 22. The Commission has authorized step adjustments to rates as a means of ensuring that a regulated utility retains its ability to earn a reasonable rate of return after implementing large capital projects, and to avoid placing a utility in an earnings deficiency immediately after a rate case in which a revenue requirement was based on a historical test year. In this case, the test year was the twelve months ending March 31, 2008. Traditional rate-of-return principles permit a utility to have "the opportunity to make a profit on its investment, in an amount equal to its rate base multiplied by a specified rate of return." *Appeal of Conservation Law Foundation*, 127 N.H. 606, 634 (1986).

We note from the record that the tank project is currently in service. 7/14/09 Tr. at 10, line 24. Aquarion testified that the tank project replaced a tank that was originally constructed in 1914 and that it had run its useful life. *Id.* at lines 1-2. Aquarion also testified that the tank project represented a significant investment, equating to 7.9% of rate base. *Id.* at line 7. Having reviewed the record and testimony presented at hearing, we find that the step increase to Aquarion's revenue requirement to cover the costs and expenses associated with this plant addition is just and reasonable and we will approve the increase, effective as of the date of this order on a service rendered basis. This step increase shall not be considered part of permanent rates for purposes of reconciliation with temporary rates pursuant to RSA 378:29. These

additional revenues shall be recovered from all customer classes proportionally so that the revenue increase to each rate class is allocated based upon that class's proportion of test year revenues, with the exception of the adjustment to revenues for public fire protection charges and seasonal connection fees discussed below.

### **C. Depreciation**

Aquarion's initial filing included a depreciation study conducted by Jay W. Shutt of Floyd Browne Group, Inc. Staff and the parties conducted discovery on the issues raised by the study. Staff witness James J. Cunningham, Jr. filed testimony recommending, among other things, that Aquarion use amortization accounting for the un-depreciated balance in account 317, Other Water Source Plant, and that the term be twenty-years. Mr. Cunningham stated that this accounting treatment was consistent with the Commission's past practice and that it was appropriate given that the assets were not tangible assets. According to the agreement, Aquarion agrees to use amortization accounting for the un-depreciated balance in Property Account 317, \$1,434,736, and to amortize this balance over a twenty year period. The resulting annual amortization expense will be \$71,737. Having considered the evidence and testimony, we find that this is reasonable and we will approve this treatment of account 317.

### **D. Connection Fee and Rate Design**

The Town of North Hampton and the Town of Hampton filed testimony stating their concern over increases in public fire protection charges and seasonal connection fees, among other concerns. Exh. 16 at 1 and Exh. 17 at 2. The settling parties propose to address these concerns by increasing the fee charged for establishing or restoring service during normal business hours from \$15 to \$44. This increase is expected to generate \$26,709 in revenues annually and the settling parties propose to dedicate these revenues to the public fire protection

class. At hearing, OCA supported the increase in the connection fee and testified that the increase was based on the cost to provide that service. 7/14/09 Tr. at 42, lines 10-12. By dedicating those revenues to the private fire protection class, the settling parties propose that these revenues not be used to increase Aquarion's overall revenues.

Secondly, the settling parties propose to change the allocation factor used in Aquarion's August 2005 cost of service study, previously filed in Docket No. DW 05-119, from 75% to 70% of the full cost of public fire protection. This will decrease the proportion of revenues Aquarion receives from the public fire protection class. The settling parties propose no other changes to the allocations identified in Aquarion's 2005 Cost of Service study. The resulting public fire protection rate would thus increase by 9.99% as opposed to the overall increase of 17.44%. Exh. 18 at 11.

We recognize that designating \$26,709 in revenues toward the fire protection class and lowering the functional allocation of Aquarion's revenue requirement to this class are departures from straight cost of service rate design. Such departures, however, are not uncommon and Aquarion itself modified the 2005 Cost of Service results and chose to recognize only 75% of the functional allocation in an effort to mitigate the increase to its public fire protection customers. See, Exh. 4 at 39-52 in Docket No. DW 05-119. In this case, the public fire protection class comprises four municipal customers who draw revenue from taxpayers who are also mostly ratepayers. As such, modifying the Cost of Service results to mitigate the impact to public fire protection customers is not unjust or unreasonable, and we will approve it. We will revisit the allocations among customer classes at the time of Aquarion's next Cost of Service study.

As to the impact of the proposed revenue requirement on customers, Aquarion testified that the bill impact for a typical 5/8 inch meter customer, using 67,000 gallons of water per year,

would be a 22.4% increase as a result of the permanent and step increases. Current bills of \$397.91 per year would rise to \$469.85 per year under permanent rates and to \$486.90 per year with the step increase. 7/14/09 Tr. at 11, lines 4-11 and Exh. 20. Having considered the settling and non-settling parties' recommendations, we find that the rates resulting from the proposed revenue requirement are just and reasonable and we will approve them.

**E. Effective Date for Permanent Rates and Step Increase and Recoupment**

When we approved a temporary increase to Aquarion's revenue requirement in Order No. 24,942, we approved current rates as temporary rates for the period December 15, 2008 through January 31, 2009, and an overall increase of 7.65% effective February 1, 2009. Pursuant to RSA 378:29, temporary rates are effective until the final determination of the rate proceeding and if the final rates are in excess of the temporary rates, the regulated utility is permitted to amortize and recover the sum of the difference. In this order, we have made a final determination on Aquarion's permanent rates. According to the agreement, and pursuant to RSA 378:29, Aquarion will thus file a reconciliation report that will identify the funds to be recouped for each customer class and will propose a surcharge to recover those funds. Although a specific surcharge is unknown at this time, the settling parties propose a twelve-month recovery period. Because Aquarion has yet to make its filing, we will render a decision on this issue after the parties have made the proposed filings.

**F. Rate Case Expense Surcharge**

The settling parties recommend Aquarion be permitted to recover its reasonable rate case expenses associated with this proceeding. Aquarion agrees to file documentation of its expenses in the rate proceeding with Staff and the OCA for their review and recommendation to the Commission. As the amounts of the expenses are not known at this time, the order serves only to

approve the settling parties' agreement that Aquarion may recover its reasonable rate case expenses. We withhold any further order on those expenses until proper documentation has been submitted and reviewed, and recommendations have been made for our consideration.

**G. Water Infrastructure and Conservation Adjustment Charge Pilot Program**

The settling parties propose a pilot Water Infrastructure and Conservation Adjustment that would allow Aquarion to place into rates as a surcharge recovery of significant ongoing costs of replacing aging infrastructure. The program would be initiated by Aquarion filing a projected budget of proposed projects on or before November 1 of each year. The settling parties would have an opportunity to comment on these projects and request a hearing. The Commission would be asked to approve the listed projects for inclusion in a WICA charge. Aquarion would file all final project costs with the Commission at least sixty days prior to the proposed effective date of the WICA charge. The settling parties propose the WICA charge go into effect sixty days after the filing or no later than January 1<sup>st</sup> following Aquarion's filing, whichever is later. The projects must be used and useful and in service by the effective date of the proposed WICA. The settling parties propose that, if further investigation is deemed necessary, the Commission approve the WICA charge on a temporary basis and order that it be reconciled once the final charge is determined. Once the permanent WICA charge is determined, it will be implemented on all bills issued after the date of such order and any positive or negative variance in actual revenues collected versus projected revenues under the temporary WICA surcharge would not be recouped or refunded.

The settling parties also propose that, in the first year a WICA is in place for any given project or projects, the associated property tax expense be prorated to recognize only that portion of the year that the project was actually assessed for taxes. In support of the program, the OCA

testified that the WICA may help to delay future rate cases, address needed non-revenue producing asset additions on a timely basis, have limited rate impact, and would include the parties in the review process before the dollars are actually spent. 7/14/09 Tr. at 43, lines 9-14.

Aquarion testified that it modeled its proposal after its Connecticut WICA program. *Id.* at 33, lines 6-7. Aquarion testified that only non-revenue producing assets would be eligible and that such projects would include replacement in kind of the same size of meters and hydrants and services, replacement of existing mains and valves that have reached the end of their useful life, main cleaning and relining projects and relocations that are not reimbursable, replacement of production meters, and replacement of pressure-reducing valves. 7/14/09 Tr. at 17, lines 1-9. Aquarion testified that due to the need to replace a considerable amount of infrastructure, it is consistently and significantly under-earning on its return and that the WICA is one way to continue the replacement of aging infrastructure and allow Aquarion to receive a timely return on its investment. *Id.* at lines 10-15.

Staff testified that WICA is not a new concept for water utilities and that a number of states have adopted the program. *Id.* at 49 lines 8-20. As a pilot program, Staff testified that it is interested in seeing whether the program provides the incentive necessary to increase Aquarion's rate of infrastructure replacement. *Id.* at lines 10-23. Staff testified that it believes that, under the WICA process, the Commission will have greater oversight of projects for Aquarion, including more review and debate concerning priorities. *Id.* at 51 lines 6-22. In addition, the WICA charge is expected to mitigation rate shock between rate cases, which will benefit ratepayers by making rate increases more gradual. Staff stated that the WICA pilot program may be modified or terminated by the Commission.

Having reviewed the filing and considered the testimony and evidence presented by the parties, we find the WICA pilot program to be reasonable and we will approve it. The proposal appears to comply with RSA 378:30-a which prohibits the inclusion in rates of the cost of utility assets not yet in service to customers. WICA eligible assets will be used and useful in accordance with RSA 378:28 prior to their inclusion in a WICA charge. Aquarion has a similar program operating in Connecticut and there is no indication that the program is not achieving the anticipated goals. The parties represent interests that include municipal customers and residential ratepayers and all parties either support or do not oppose the WICA pilot program. The WICA program appears to strike a reasonable balance between reducing rate shock to customers at the time of each rate case and providing an incentive to Aquarion to accelerate needed infrastructure replacement. For these reasons, we will approve Aquarion's WICA proposal, as modified by the settlement agreement, on a trial basis.

#### **H. System Development Charge/Water Balance Plan/Conservation Measures**

The system development charge and water balance plan initially proposed by Aquarion have been withdrawn. At hearing, the Town of North Hampton expressed its continued interest in Aquarion implementing such programs. The settling parties have agreed to continue to explore potential implementation of water conservation measures. We believe dialogue between a regulated utility and its customer groups is beneficial and can be productive. Therefore, we approve this element of the settlement agreement.

#### **I. Conclusion**

Having reviewed the record, including the settlement and evidence presented at hearing, we find that the revenue requirement proposed by the settling parties is reasonable and will produce just and reasonable rates. We find that the terms of the settlement represent an

appropriate balancing of ratepayer interests and the interests of Aquarion's investors under current economic circumstances, and are consistent with the public interest. We further find that Aquarion's investments in rate base used to serve its customers are prudent and used and useful, pursuant to RSA 378:28. We will adopt and approve the terms of the settlement agreement.

**Based upon the foregoing, it is hereby**

**ORDERED**, that the settlement agreement entered into among the parties to this proceeding and Staff is adopted and approved as discussed herein; and it is

**FURTHER ORDERED**, that Aquarion Water Company of New Hampshire, Inc. is authorized, pursuant to RSA 378:7, to increase its permanent rates as detailed above; and it is

**FURTHER ORDERED**, that Aquarion Water Company of New Hampshire, Inc.'s request for a revenue requirement of \$5,883,758 is approved and Aquarion Water Company of New Hampshire, Inc. is authorized to collect from customers the permanent rates necessary to recover this revenue requirement, as described herein; and it is

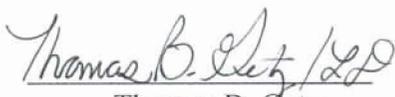
**FURTHER ORDERED**, that Aquarion Water Company of New Hampshire, Inc.'s request to increase its revenue requirement by \$210,854 for a combined revenue requirement of \$6,094,612 is hereby approved, for service rendered on or after the date of this order, and Aquarion Water Company of New Hampshire, Inc. is authorized to collect from customers the rates described herein to recover this increased revenue requirement; and it is

**FURTHER ORDERED**, that Aquarion Water Company of New Hampshire, Inc. file within fifteen days from the date of this order documentation of its calculation of the difference between temporary rates which went into effect on December 15, 2008 and permanent rates as finally determined herein and file a proposed surcharge for recovering the difference from customers; and it is

**FURTHER ORDERED**, that Aquarion Water Company of New Hampshire, Inc. file documentation of its rate case expenses as well as a proposed surcharge for recovery of these expenses within fifteen days from the date of this order; and it is

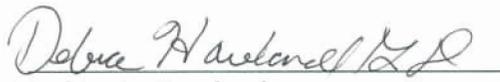
**FURTHER ORDERED**, that Aquarion Water Company of New Hampshire, Inc. file a compliance tariff with the Commission within fifteen days of the date of this Order.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of September, 2009.

  
Thomas B. Getz  
Chairman

  
Clifton C. Below  
Commissioner

Attested by:

  
Debra A. Howland  
Executive Director