

STATE OF NEW HAMPSHIRE

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Martin P. Honigberg

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Debra A. Howland



PUBLIC UTILITIES COMMISSION
21 S. Fruit St., Suite 10
Concord, N.H. 03301-2429

TDD Access: Relay NH
1-800-735-2964

Tel. (603) 271-2431

FAX No. 271-3878

Website:
www.puc.nh.gov

February 5, 2019

Marcia A. Brown
NH Brown Law
P.O. Box 1623
Concord, NH 03302-1623

RE: DW 17-165, Abenaki Water Company, Inc., Rate Case Expenses
Motion for Protective Order and Waiver of N.H. Code Admin. Rules Puc 201.04
Partial Denial of Motion

Dear Ms. Brown:

On January 30, 2019, Abenaki Water Company, Inc. (Abenaki), filed a Motion for Protective Order and Confidential Treatment of Hourly Billing Rate and Employee Compensation Information and Waiver of N.H. Code Admin. Rules Puc 201.04, specifically parts (b) and (c) which governs the form of submission for documents asserted to be confidential. Abenaki sought confidential treatment of certain billing and employee information for its rate case expenses, contained within approximately 600 pages of documents simultaneously submitted. Pursuant to Puc 203.02(a)(1), when filing for confidential treatment, a party must file one public copy and seven confidential copies. Abenaki conceded that it did not place "REDACTED" or CONFIDENTIAL" notations within each page that required confidential treatment, as required by Puc 201.04(b) and (c), due to the "voluminous nature of the documentation." Abenaki instead applied headers indicating which copies were confidential and public to the documents as a whole, and redacted the confidential information on the public version only.

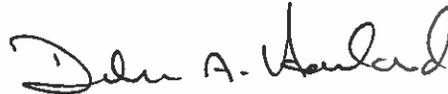
Abenaki argued that this satisfied Puc 201.04(b)(2)(c)'s acceptance of "any other method that clearly indicates the scope of the material redacted." Abenaki made further arguments: that the submission satisfied the intent of the rule; it serves the public interest; it would not disrupt the orderly and efficient resolution of the Commission's review; and to redact with more specificity would require Abenaki's employees to manually notate content over hundreds of pages, adding unnecessarily to rate case expenses.

Pursuant to Puc 201.05, the Commission may waive its rules if it finds that the waiver serves the public interest and will not disrupt the orderly and efficient resolution of the matter before it. In determining public interest, Puc 201.05(b) states that the Commission shall waive the rule if compliance would be onerous or inapplicable given the circumstances or the purpose would be satisfied by an alternative method proposed.

The Commission has reviewed Abenaki's motion and finds that it does not meet the required standards of Puc 201.04(b)(2)(c) or 201.05(a) and (b). The method employed by Abenaki to notate the redacted information does not meet the standard in 201.04(b)(2)(c) as it is not clear which language is to be redacted when viewing the confidential copies without consulting the redacted copies. That finding holds true for the public interest requirement standard in Puc 201.05(a)(1) and (b)(2) as the requirements are not satisfied by the alternative filing designation proposed. In both instances, it remains unclear the information sought by Abenaki to be found confidential.

The Commission therefore denied Abenaki's motion to waive N.H. Code Admin. Rules Puc 201.04. The Commission, however, is sensitive to the resources that have been wasted by the attempted filing and the normal resources that are required to meet the standard. In light of this consideration, the Commission partially waived the requirements of Puc 203.02(a)(1) and will require Abenaki to file one public copy and only four confidential copies of the materials, properly marked.

Sincerely,

A handwritten signature in cursive script, appearing to read "Debra A. Howland".

Debra A. Howland
Executive Director

cc: Service List (Electronically)