

COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

BERKSHIRE, SS.

CIVIL ACTION NO.

HOUSATONIC WATER WORKS COMPANY,)

Plaintiff,)

v.)

TOWN OF GREAT BARRINGTON, TOWN OF)

GREAT BARRINGTON BOARD OF HEALTH,)

MICHAEL LANOUE, DR. RUBY CHANG, and)

PETER STANTON, as members of the TOWN OF)

GREAT BARRINGTON BOARD OF HEALTH,)

and REBECCA JURCZYK, as TOWN OF GREAT)

BARRINGTON HEALTH AGENT,)

Defendants.)

**PLAINTIFF'S MOTION FOR SHORT
ORDER OF NOTICE FOR HEARING
ON MOTION FOR PRELIMINARY
INJUNCTION**

Plaintiff, Housatonic Water Works Company ("HWWC" or "Plaintiff"), hereby moves this Honorable Court to issue a Short Order of Notice for a hearing on HWWC's Motion for Preliminary Injunction ("Motion"), which is filed herewith.

As grounds for the Short Order of Notice, HWWC states that the issue at the center of the Motion is Defendant Town of Great Barrington Board of Health's ("Board") issuance of a modified Order to Correct to HWWC, dated September 13, 2024 ("Modified Order"). As set forth in HWWC's Verified Complaint for Review in the Nature of Certiorari Pursuant to M.G.L. c. 249, § 4 ("Compl."), filed herewith, HWWC was served with the Order on September 17, 2024. Compl., ¶ 53. The Modified Order provides that "all dates and deadlines for performance of conditions in this **ORDER**... will be effective upon service," and that "Respondent shall be subject to a penalty of up to One Thousand Dollars (\$1,000) per calendar day for any violation of this **ORDER**." Compl., Ex. C, p. 8.

The Modified Order requires HWWC to, *inter alia*:

[P]rovide each household within the Town of Great Barrington that is a water service customer of the Respondent, ***and which so desires***, with an alternative supply of safe, potable water, through the distribution and supply of bottled water in containers which are larger than “single use containers” yet of such size as can be safely handled by the end user ***taking physical condition and ability of said end user into account***, on a daily basis, and an adequate means of dispensing said water, within 7 days of this **ORDER** and at the expense of the Respondent, ***until further order of the Board***. Such distribution shall consist of a supply of water equal to or greater than 1.5 gallons per day, ***per inhabitant in each such household***. The distribution shall be accomplished in such a way as to allow easy access to the supply by each such household with a minimum of inconvenience.

Compl., Ex. C, p. 7 (emphasis added).

HWWC was ordered to comply with this directive beginning September 24, 2024. *Id.* at pp. 7-8. However, it is impossible for HWWC to comply with the terms of the above directive because: (i) HWWC has not been provided with any information regarding which households desire an alternative supply of bottled water; (ii) HWWC has not been provided with information as to how many residents live in each household; (iii) HWWC has no information on the physical condition and ability of each such resident; (iv) the Modified Order does not indicate explicitly whether the bottled water needs to be delivered directly to each household; and (v) the Modified Order is silent as to when this, and the other directives set forth therein, will end. Compl., ¶ 62.

Further, as discussed in Paragraphs 64-65 of the Complaint, if HWWC were to attempt to comply with the above-referenced directive set forth in the Modified Order, despite its vague terms, HWWC would be at significant risk of financial insolvency within a short period—a matter of months, at most—and it would be left with insufficient funds to cover routine operational costs and critical infrastructure improvements. *See* Compl., ¶¶ 64-65.

WHEREFORE, Plaintiff, Housatonic Water Works Company, respectfully requests that this Court issue a Short Order of Notice and schedule a hearing on Plaintiff's Motion for Preliminary Injunction as soon as the Court's schedule permits.

HOUSATONIC WATER WORKS COMPANY

By Its Attorneys,



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