



Water Company Acquisition *Governance & Operations*

September 11, 2018

Agenda



- **Governance goals and background**
- **Governance Group diligence and possible governance options**
- **Proposed governance structure under Town ownership**
- **Proposed rate setting process under Town ownership**

Goals of Governance



- **Efficient and Professional Operation of Water System**
- **Transparency in Rate Setting and Capital Budget Process**
- **Public Voice – Citizen Advisory Board**
- **Day 1 Governance with the potential for future flexibility**
- **Coordination with Hull and Cohasset**

Town of Hingham – Statutory Right to Purchase

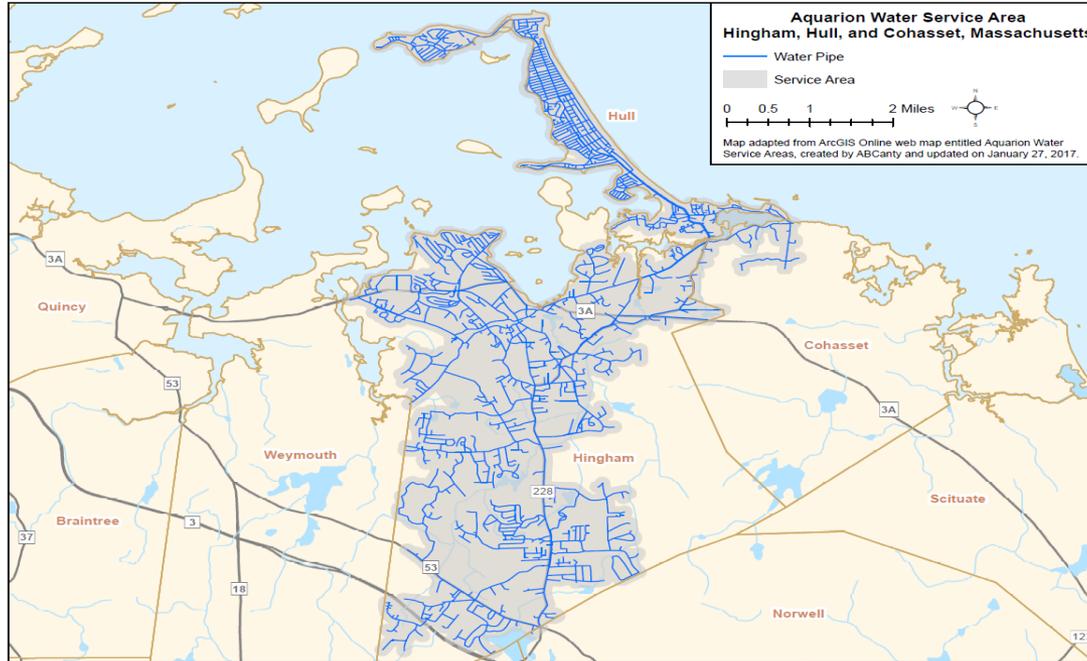


Chapter 139 of the Acts of 1879

The Special Act provides that the Town can purchase its water company at any time and provides that upon purchase, Hingham would acquire all the “property, rights, privileges and franchises” of Aquarion and may exercise those “rights, powers and authority” by such “officers, servants or agents as the town may direct...”

The Special Act therefore explicitly authorizes Hingham to govern and operate the water company in any manner the town sees fit in keeping with applicable laws and regulations.

What is the Town buying – Service Area A



13,168 connections (customers) as of 2017:

- Hingham: 8,196
- Hull: 4,638
- North Cohasset: 334

Source: Aquarion return to MA DPU Year ending 12/31/2017

The Special Acts give Hingham explicit authority to purchase and operate Service Area A

Governance Group Diligence



Governance Group undertook to discern Hingham's legal and regulatory responsibilities and to research governance and operations for similar-sized systems in the following manner:

- **Researched state law governance and operational requirements**
- **Obtained legal advice from Town Counsel**
- **Reviewed MA Drinking Water Regulations**
- **Contacted professional water consultant**
- **Contacted bond counsel in the water utility space**
- **Met with representatives from Hull and Cohasset**
- **Contacted other municipalities and talked with water superintendents in other towns**
- **Contacted officials at MassDEP**
- **Reviewed Tighe & Bond 2017 Water Rate Survey for Massachusetts**
(Source: UNC School of Government Environmental Finance Center MA Water and Wastewater Rates Dashboard)



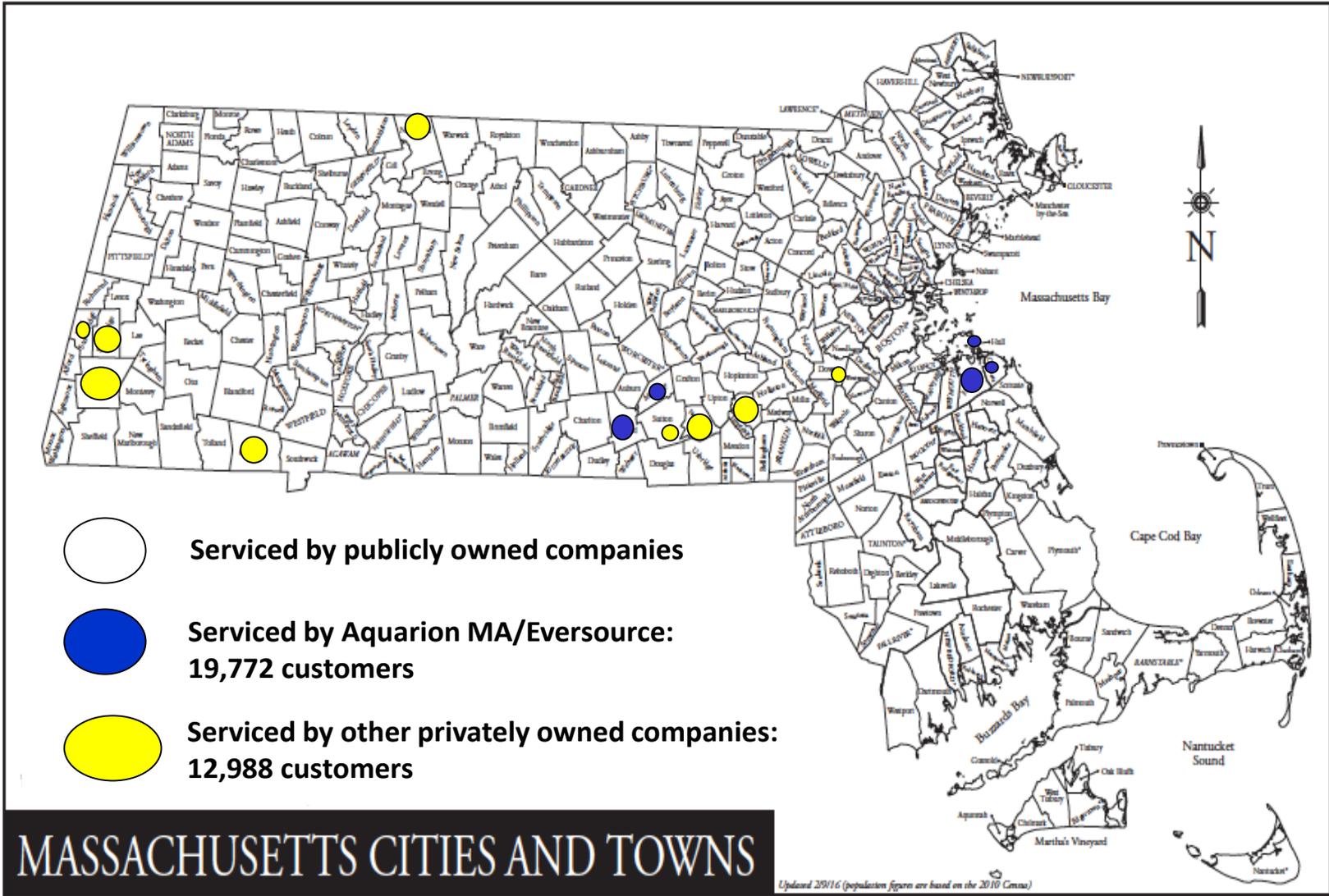
Possible Governance Options

- **Elected or Appointed Water Commissioners**
- **Combined Water and Sewer Commissioners**
- **Combined Water Commissioners and Light Board**
- **Executive Branch of Government (e.g., Board of Selectmen in towns and Mayor in cities) acting as Water Commissioners**
- **Any other governance structure conceived by the town and endorsed pursuant to a special act of the legislature**

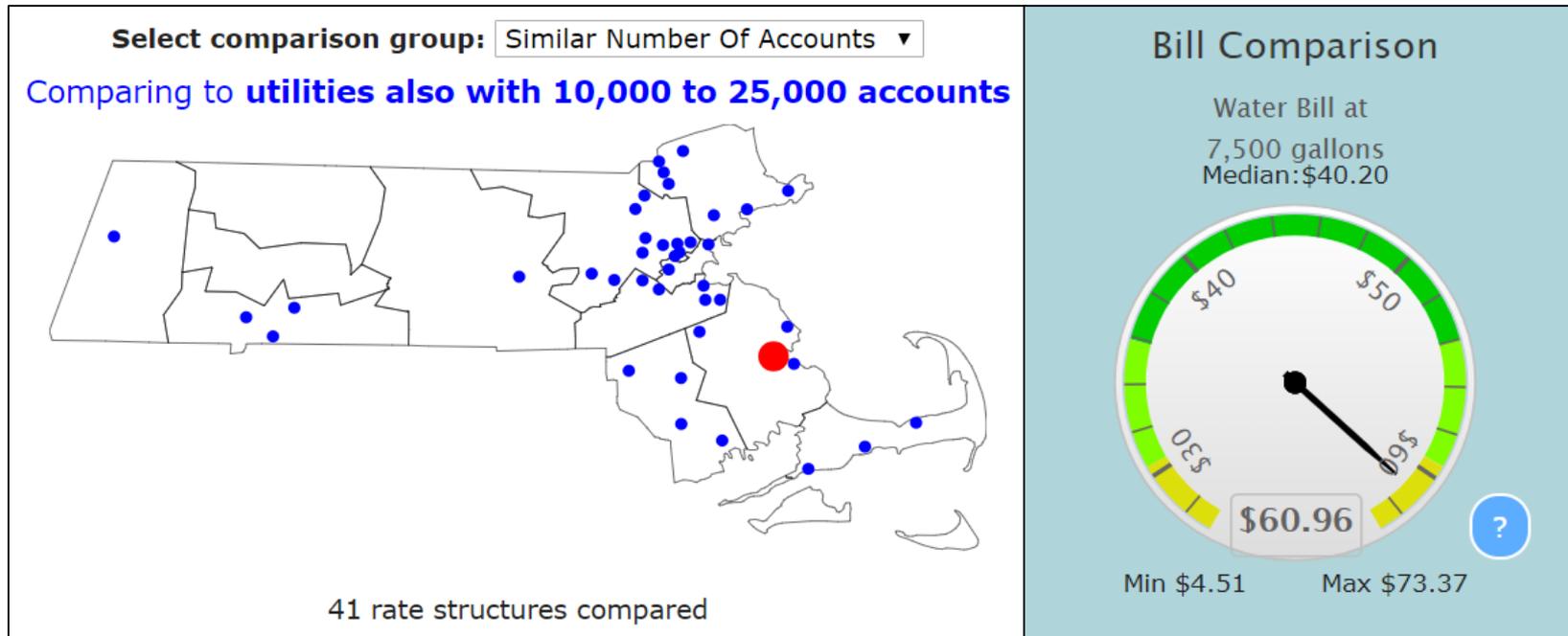
Source: Massachusetts General Laws



MA Water: Municipal vs. For-Profit Systems



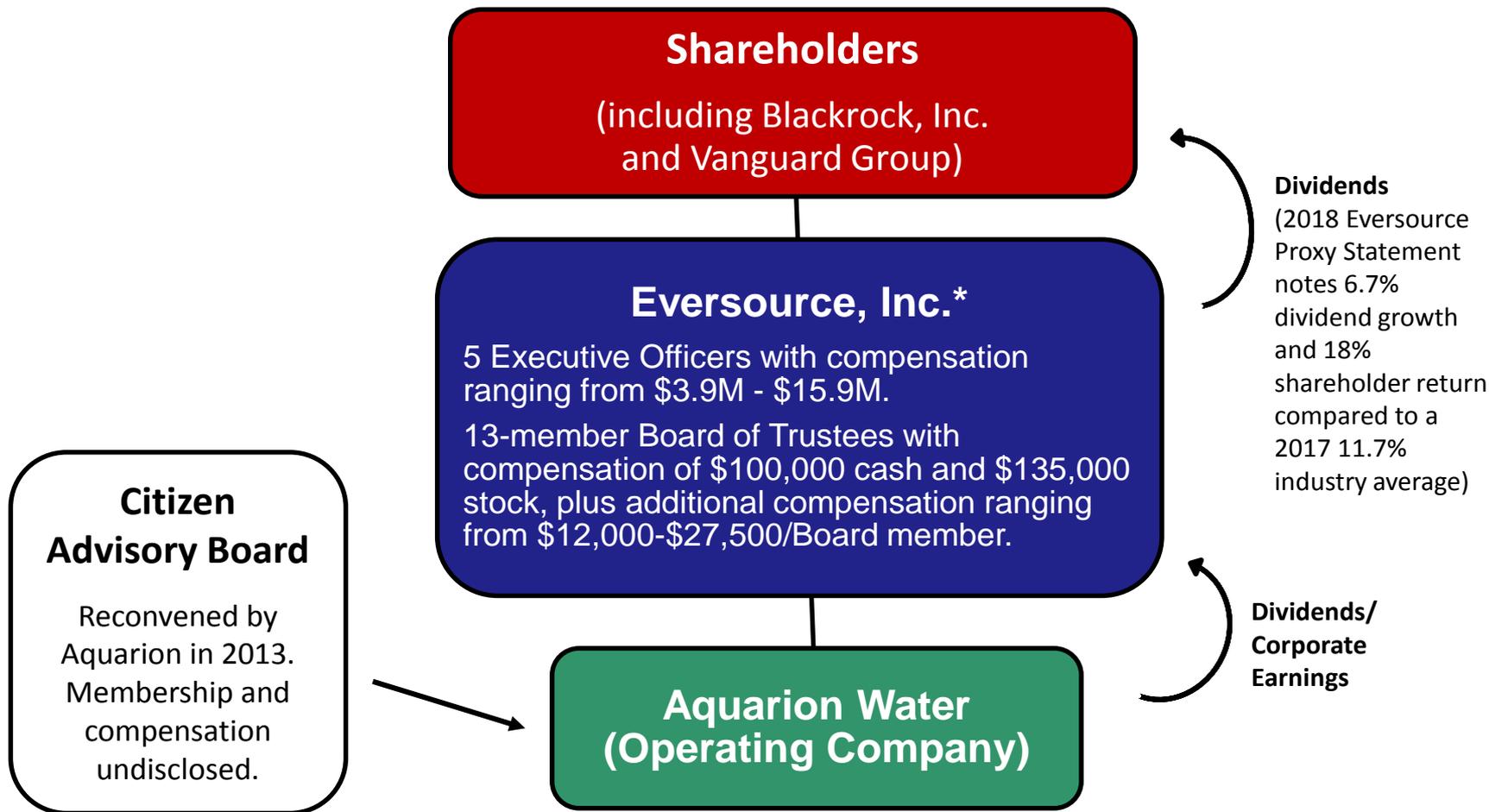
Municipal Ownership of Medium-Sized Water Systems



Source: UNC School of Government Environmental Finance Center and Tighe & Bond MA Water and Wastewater Rates Dashboard; rates as of July 1, 2017, dashboard updated August 28, 2018.

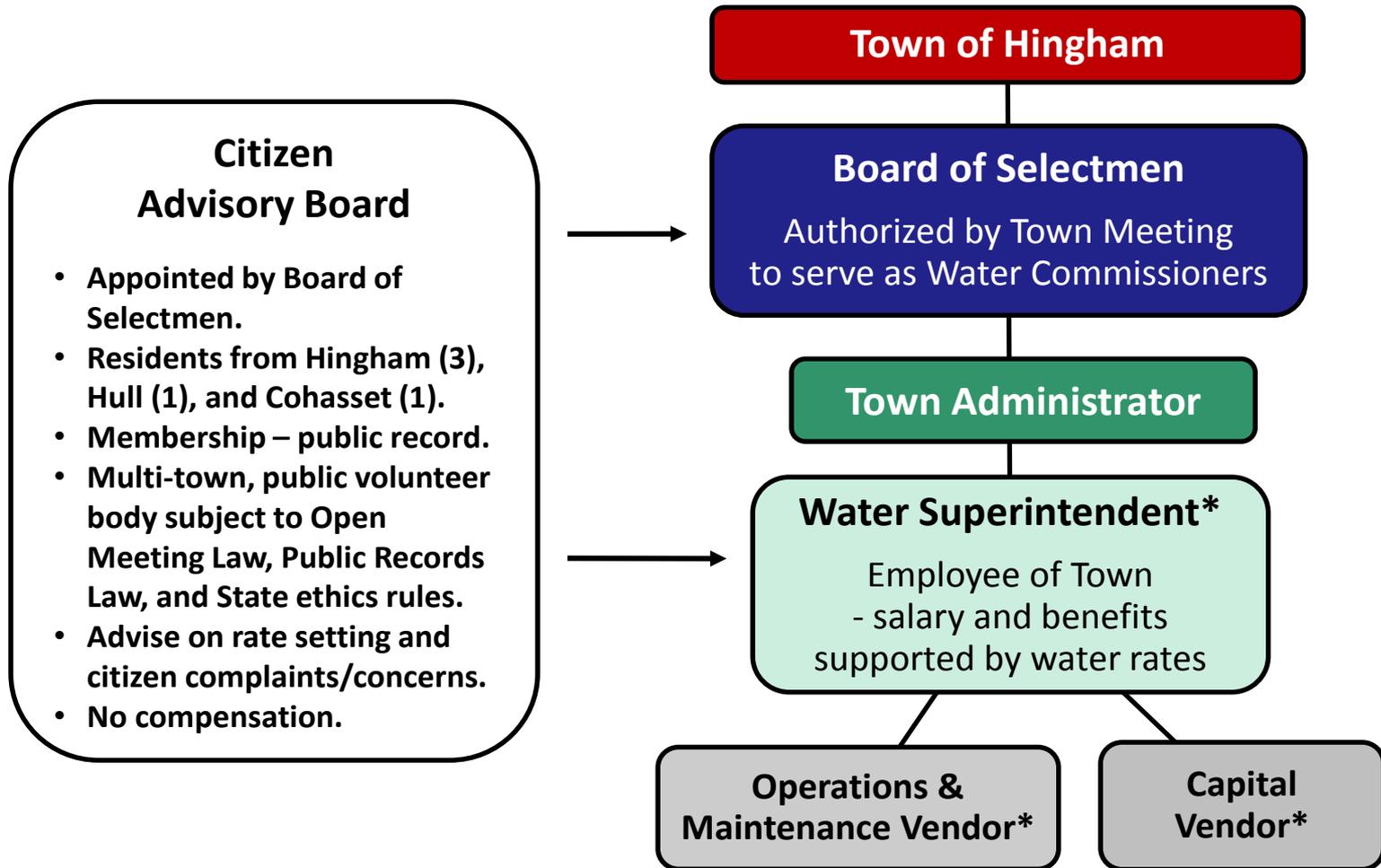
- 41 PWS in MA with accounts ranging from 10,000 to 25,000 (medium-sized water systems)
- 40 of 41 medium-sized systems in MA are owned and operated by municipalities. Only one PWS in this cohort is owned by a for-profit entity – Aquarion.
- 39 out of 41 systems are governed by either a mayor or the board of selectmen acting as Water Commissioners
- Most medium-sized water systems provide water to one or more additional municipalities or to customers in other towns. (Source: MassDEP Records)

Current Aquarion Governance/Ownership



* 2018 Eversource Proxy Statement notes that Eversource is the only gas and electric utility in the country to add water as a line of business through the acquisition of Aquarion Water.

Proposal: Town-Owned Day 1 Governance Structure



Relationship with Hull and Cohasset will be memorialized in a memorandum of understanding.

*Employee and vendor contracts have been incorporated into the Town's financial model and are supported by water rates.

Board of Selectmen as Water Commissioners



MA law specifically contemplates that boards of selectmen can and do serve in the additional capacity of water commissioners.

- **MGL c. 41 sec. 69A**: Water commissioners. Town may authorize its board of selectmen to act as water commissioners.
- **MGL c. 40 sec. 39E**: Management of water system. Authorizes the board of selectmen acting as water commissioners to manage, improve and control the land, water rights and other property of the water system *in the best interest of the town*.
- **MGL c. 41 sec. 69B**: Water commissioners -- powers and duties. Vests exclusive responsibility in the board of selectmen acting as water commissioners for the water department and water system “subject to all lawful by-laws and to such instructions, rules or regulations as the town may from time to time impose by its vote.” Board of selectmen shall render an annual report on the condition of the system, their “doings” and the budget of the system. This statute also speaks to rate setting and emergency water.
- **MGL c. 111 sec. 173A and 173B**: Board of selectmen acting as water commissioners has the authority to examine and protect water supplies and sources of supply and to take appropriate action to protect the watershed.
- Water commissioners must provide whatever resources are required to operate the system in compliance with MassDEP regulations. They may also seek indirect assistance through local coordination with municipal boards to assure source water quality protection and preservation. MGL c. 111 sec. 122A (coordination with the Board of Health); MGL c. 40 sec. 21 (land use regulations to protect water supply); MGL c. 131 sec. 40 (coordination with Conservation Commission); MGL c. 111 sec. 173A (police to protect water supply).

Citizen Advisory Board



- **Multi-town public body composed of 3 residents from Hingham and 1 each from Hull and Cohasset. Members appointed by the Board of Selectmen.**
- **Advise the Water Superintendent and the Water Commissioners on rate setting and customer issues among other potential responsibilities**
- **Volunteer board made up of citizens with experiences relevant to water operations**
- **Subject to Open Meeting Law, Public Records Law, and State ethics rules**
- **CABs are common in other municipally owned water systems**

Employees/Vendors



- **MGL c. 41 sec. 69. Superintendent of water. Authorizes the board of selectmen acting as water commissioners to appoint a suitable person to act as superintendent of the water department.**
- **Town will employ a full-time, fully licensed water superintendent with appropriate experience in water system operations of a similar size.**
- **Town will hire a water operating company and a vendor for capital projects with experience operating/improving a system similar in size and complexity to Service Area A and employing appropriately licensed personnel. 236 CMR 4.00**

Water Company Operations



- **Ensure water quality**
- **Adopt water system enterprise fund (MGL c. 44 sec. 53F ½)**
- **Public rate setting process**
- **Public capital improvement plan process**

Water Quality



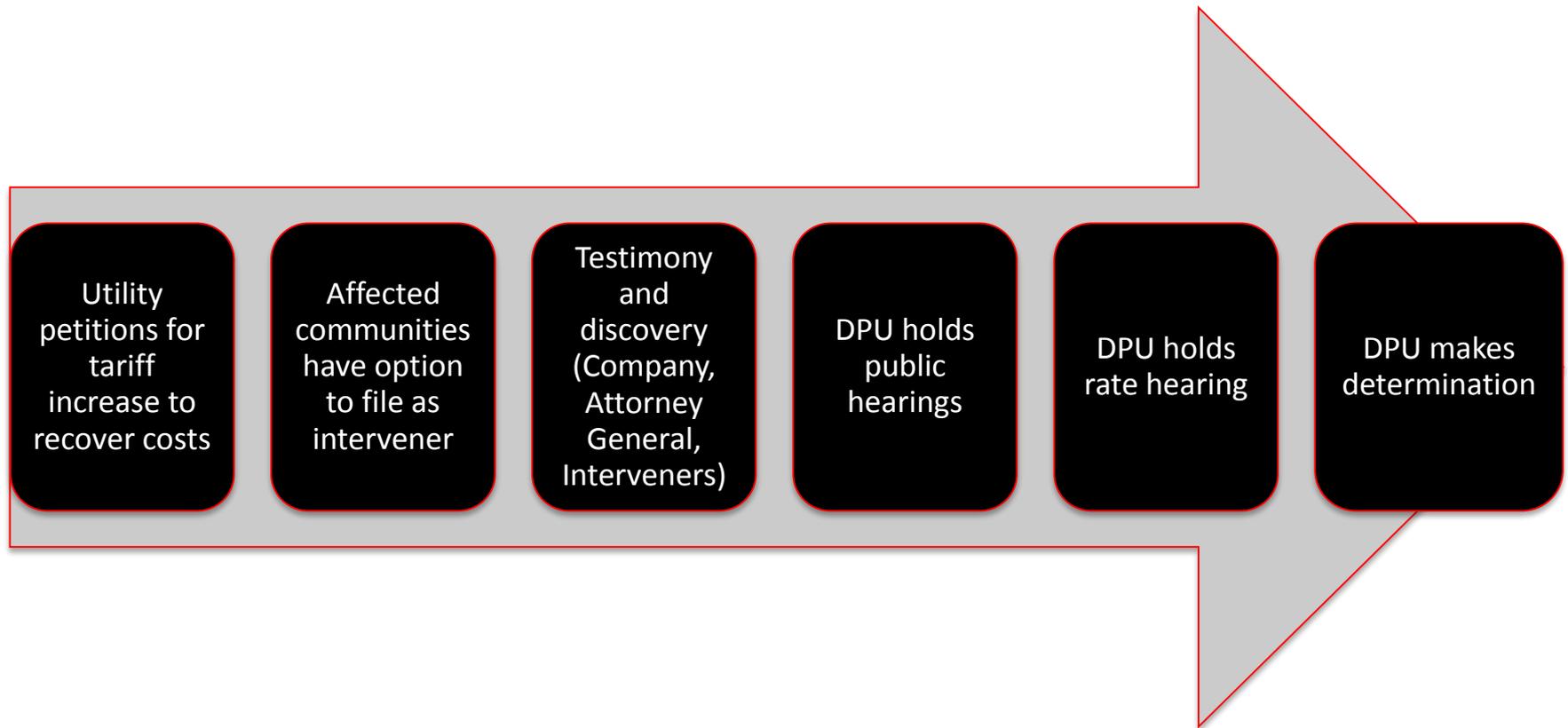
- **Requirements of Safe Water Drinking Act (SWDA) are the responsibility of MassDEP through adoption of MA Drinking Water Regulations, 310 CMR 22, et seq.**
- **MassDEP regulations apply equally to town-owned and for-profit water companies. Regulations for water quality standards and operations applicable to Aquarion are equally applicable to the Town as the operator of Service Area A.**
- **Upon acquisition of the water company, the town will: (i) file with the DEP for the transfer of the withdrawal registration; (ii) confirm with the DEP that all operational and licensure requirements have been met; and (iii) file a business plan for the operation of the water system in compliance with the requirements of the SWDA and MA regulations. (Sources: MGL c. 21G – Water Management Act and MassDEP Guidelines for Public Water Systems and Water Supply Business Plan)**

Finances



- **Town Meeting has the authority to adopt an enterprise fund for the water system operation.**
- **Enterprise fund would provide the Town with the ability to segregate the finances of the water system (Service Area A) from the finances of the Town and, importantly, to retain water system earnings in the enterprise fund rather than be required to transfer such earnings to the General Fund at the end of the fiscal year.**
- **Financial model demonstrates that water rates are sufficient to support the operation of and capital improvement to the system, including debt service thereon.**

How a for-profit, DPU rate case works



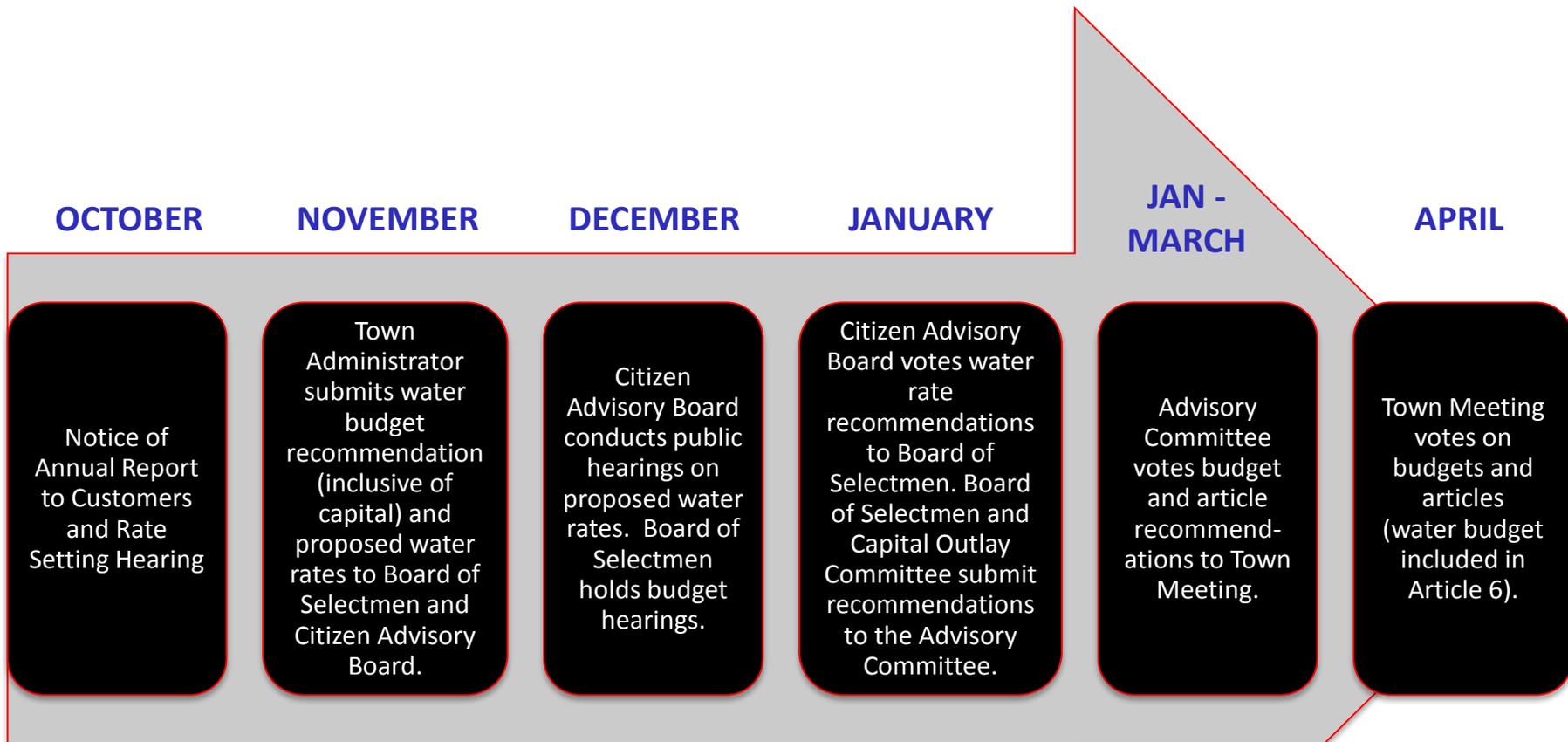
Expenses that are allowed in rate cases include operating costs, Return on Equity (companies allowed to submit ROE between 10.5% and 14.5%), Depreciation, legal expenses (including rate cases)



Proposed Rate Setting Process

- **MGL c. 44 sec. 53F ½ governing enterprise funds requires in pertinent part that no later than 120 days prior to the beginning of each fiscal year, an estimate of income for the ensuing fiscal year and a proposed line item budget of the enterprise fund shall be submitted to the ...board of selectmen. The board of selectmen shall submit its recommendation to town meeting and town meeting shall act on the budget in the same manner as all other budgets.**
- **Town process would occur annually, at posted public meetings conducted by volunteers like all other town budgets. No rate case costs.**
- **Rates and rate structures for town-owned water systems are regulated by MassDEP. (Aquarion rates are set by the DPU; different rate structure and different allowances than municipal enterprise fund water systems)**
- **MGL. C. 41, sec. 69B also speaks to the financial considerations for rate setting and budgeting that the board of selectmen acting as water commissioners is required to consider.**

Proposed Municipal Rate Setting Timeline and Process



MAY: Board of Selectmen acting as Water Commissioners formally adopt water rates.

Capital Improvements – Planning and Budget Process



- **Capital plan based on Tata & Howard and KANEW reports**
- **No additional surcharge – no WRIM assessment in addition to rates**
- **Tiered capital improvement plan similar to current road building and repair schedule**
- **Capital budgeting would be part of public capital outlay process with involvement from the water superintendent and the citizen advisory board**
- **Subject to Prevailing Wage laws**
- **Coordinated with road building programs**
- **Current process – no transparency; no public input; no coordination with the road building calendar and DPU rate case testimony indicates need for WRIM charge to undertake capital improvements**

Summary



- **Operational standard for a municipal water system is “best interest of the town” MGL c. 40, sec. 39E. Operational standard for a for-profit water system is “best interest of the shareholder.”**
- **Proposed Town-owned Day 1 governance structure is transparent in all respects and includes a public voice in rate setting and customer issues. For-profit governance is opaque and unknown.**
- **Operational structure complies with all MassDEP requirements.**
- **Proposed governance and operation is the same as comparably sized systems. We are currently the only system in our cohort owned by a for-profit company.**
- **Governance and management will take place in Hingham incentivized and required by law to meet the needs of ratepayers. Distant corporate governance with for-profit ROE incentive. No ratepayer control of ownership (now or in the future) or on priorities of corporate owners.**