

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DW 07-130**

**HAMPSTEAD AREA WATER COMPANY, INC.**

**Petition for Franchise Expansion in the Town of Newton and Operate Water System within  
New Franchise Area, Acquisition of Assets, Approval of Financing, and Approval of  
Permanent Rates**

**Order *Nisi* Granting Approval of Petition**

**ORDER NO. 24,884**

**August 8, 2008**

**I. BACKGROUND**

Hampstead Area Water Company, Inc. (HAWC) is a regulated public utility as defined by RSA 362:2 and 362:4 and currently serves approximately 2,900 customers in various communities throughout southeastern New Hampshire. On December 14, 2007, HAWC filed a petition for authority to provide water service to a proposed 80 dwelling-unit cluster development known as Sargent Woods in the Town of Newton. In addition to the development, HAWC sought franchise rights to an additional 676 acres. Sargent Woods, LLC is the developer and the water system is being constructed by Al Hoyt & Sons, Inc.

HAWC seeks approval to: 1) operate a franchise within the Town of Newton; 2) operate a well field and water system in Newton; 3) issue debt financing in the amount of \$81,000; (4) acquire the water system assets from the developer; and (5) charge its currently authorized consolidated rates within Newton. In support of its petition, HAWC submitted copies of agreements, correspondence, schedules and pre-filed testimony. HAWC supplied a copy of a January 25, 2007 letter from New Hampshire Department of Environmental Services (NHDES)

noting that the Sargent Woods water system will meet the suitability and availability requirements of RSA 374:22, III.

HAWC has executed a Water Rights Deed and Easement with the developer. HAWC has entered into an agreement to purchase the water system assets including wells, pumping and treatment equipment, transmission and distribution mains, supply mains and services. The purchase price will be determined by multiplying the number of total units, 80, by \$1,000 per dwelling, plus one additional connection for a clubhouse, for a total of \$81,000. This is the amount HAWC proposes to finance. The cost to build the water system, exclusive of water meters, is estimated at \$286,500. The difference between the \$81,000 and \$286,500, or \$205,500, will be treated as Contributions in Aid of Construction (CIAC) and therefore will not be included in HAWC's rate base.

Construction of the development is ongoing and customers will be added as market conditions permit. HAWC seeks to apply its approved consolidated rate currently in effect to the proposed franchise area. This rate consists of a \$25.00 quarterly charge and a \$3.71 per 100 cubic foot consumption charge.

HAWC seeks to finance the purchase of the water system assets through promissory notes with the developer in increments as the project is built out. The first note will be for \$23,000 and for a term of twenty (20) years. The initial interest rate is proposed to be established at 2.25% above the prime rate published in the Wall Street Journal on the last business day of the calendar quarter preceding Commission approval of the financing. This rate will be adjusted every three years on the anniversary date of the execution of the note.

On April 18, 2008, the Commission received a Motion to Intervene from the Town of Newton. Newton stated that it did not object to franchise approval for the 65.97 acre Sargent Woods development but that it did not believe HAWC needed the additional 676 acres beyond the development since HAWC had not shown the necessity of the larger franchise area. The Town asked that the Commission exclude the additional acreage from the proposed franchise area.

On May 19, 2008, HAWC filed a response to Newton's motion to intervene. HAWC supported Newton's motion to intervene but stated that the larger franchise area is delineated by town roads and existing boundaries, will be consistent with the orderly development of the region, and will avoid a patchwork of small franchises within that area of Newton. HAWC stated the proposed franchise area is experiencing further development and that it is exercising prudent planning for a stable, quality water supply to the area. HAWC stated that it is in the public good for the proposed franchise area to be granted. On June 16, 2008, Staff and HAWC attended an evening informational meeting in Newton to discuss the franchise issue. On June 27, 2008, HAWC withdrew its request for the larger franchise area, and revised its petition to request a franchise area for just the Sargent Woods development.

On July 3, 2008, the Town of Plaistow filed a motion to intervene. Plaistow stated it was only concerned with HAWC's franchise request since its planning board was considering a number of applications for projects near the proposed franchise area. Plaistow stated it did not intend to take a position on HAWC's filing.

On July 3, 2008, Staff filed a letter recommending the Commission approve HAWC's petition. Staff stated it had reviewed the filing and had conducted discovery, which it attached to

its letter and, based on the information gathered, Staff recommended that the Commission approve HAWC's amended filing. Staff stated that the Commission has previously ruled that the consolidated rates are just and reasonable and Staff does not believe there is any reason not to continue to apply HAWC's consolidated rate to the Sargent Woods system.

## II. COMMISSION ANALYSIS

Pursuant to RSA 374:22, “[n]o person or business entity shall commence business as a public utility within this state...without first having obtained the permission and approval of the commission.” The Commission shall grant requests for franchise authority and allow an entity to engage in the business of a public utility when it finds, after due hearing, that the exercise of the right, privilege, or franchise is in the public good. RSA 374:26. In determining whether a franchise is in the public good, the Commission assesses the managerial, technical, financial, and legal expertise of the petitioner. See, *Lower Bartlett Water Precinct*, 85 NH PUC 635, 641 (2000).

HAWC and its predecessor, Walnut Ridge, have been operating water systems in New Hampshire for approximately 40 years. See, *Walnut Ridge Water Company, Inc.*, 62 NH PUC 190 (1977). HAWC has previously demonstrated the requisite managerial and technical expertise to operate its various systems and we are aware of no evidence that HAWC now lacks that expertise.<sup>1</sup> With respect to the requirements of RSA 374:22, III relating to suitability and availability of water, we believe that based upon the DES letter, dated January 25, 2007, that HAWC has satisfied RSA 374:22, III. Accordingly, we find that expanding HAWC's franchise

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<sup>1</sup> *Walnut Ridge Water Company, Inc.*, 62 NH PUC 190 (1977); *Bryant Woods Water Company, Inc.*, 73 NH PUC 465 (1988), *Walnut Ridge Water Company, Inc. and Bryant Woods Water Company, Inc.*, 75 NH PUC 740 (1990), *Hampstead Area Water Company, Inc.*, 87 NH PUC 259 (2002).

territory to include the amended proposed area is reasonable and we will approve HAWC's request.

Regarding financing, pursuant to the provisions of RSA 369:1, public utilities engaged in business in this State may issue evidences of indebtedness payable more than 12 months after the date thereof only if the Commission finds the proposed issuance to be "consistent with the public good." The public good consideration involves looking beyond actual terms of the proposed financing to the use of the proceeds of those funds and the effect on rates to ensure the public good is protected. See *Appeal of Easton*, 125 N.H. 205 (1984). HAWC intends to use the proceeds of the financing to purchase the Sargent Woods water system assets. HAWC's method of establishing the purchase price is reasonable and consistent with previous approved financings. Accordingly, we find that HAWC's proposed purchase of the Sargent Woods water system assets is prudent and in the public good and we will approve that acquisition.

Having found that the intended use of the proposed financing for the purchase of the water system assets is both prudent and in the public good, we now turn our attention to the proposed terms of the financing and the impact on customer rates. Those terms require that HAWC pay the developer the sum of \$23,000 over a twenty (20) year term in two hundred forty (240) monthly installments of principal and interest. The initial interest rate will be established at 2.25% above the prime rate published in the Wall Street Journal on the last business day of the calendar quarter preceding our approval of this financing. The prime rate in effect on March 31, 2008 was 5.25%; therefore the initial interest rate of this financing will be 7.50%. We find that the terms of the financing are consistent with those found in other financings by HAWC that we have recently approved and that these terms will not have an adverse impact on future customer

rates. Based on our review of the record, we find the proposed financing for the purchase of the Sargent Woods water system assets is consistent with the public good and we approve the financing. With respect to rates, we previously approved consolidated rates for HAWC in the amount of \$25.00 per quarter and \$3.71 per 100 cubic feet of water consumed. See *Hampstead Area Water Company, Inc.*, Order No. 24,734 (March 23, 2007). The Sargent Woods water system is similar in nature to other systems that were operated by HAWC at the time these rates were approved and thus we find the imposition of HAWC's current consolidated rate to the customers who will reside in Sargent Woods to be just and reasonable.

Lastly, the towns of Newton and Plaistow have demonstrated in their motions to intervene that their rights, duties, privileges, immunities, or other interests may be affected by this proceeding. There were no objections to the motions to intervene and accordingly, we will grant their intervention requests.

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

**ORDERED NISI**, that HAWC's request to expand its franchise, as amended, to serve customers in the Sargent Woods development as described above is approved; and it is

**FURTHER ORDERED**, that subject to the effective date below, HAWC's request to finance the purchase of the Sargent Woods water system assets from Sargent Woods, LLC under the terms and conditions stated in HAWC's petition, is approved; and it is

**FURTHER ORDERED**, that HAWC is authorized to charge Sargent Woods customers its present consolidated rate in the amount of \$25.00 per quarter and \$3.71 per 100 cubic feet of water consumed on a service rendered basis effective on the date when service is first established in that system; and it is

**FURTHER ORDERED**, that the motions to intervene filed by the towns of Newton and Plaistow are approved; and it is

**FURTHER ORDERED**, that HAWC shall cause a copy of this Order *Nisi* to be published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted and shall send a copy of same to the Newton town clerk by first class mail, such actions to occur no later than August 18, 2008 and to be documented by affidavit filed with this office on or before September 8, 2008; and it is

**FURTHER ORDERED**, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than August 25, 2008 for the Commission's consideration; and it is

**FURTHER ORDERED**, that any party interested in responding to such comments or request for hearing shall do so no later than September 1, 2008; and it is

**FURTHER ORDERED**, that this Order *Nisi* shall be effective September 8, 2008, unless HAWC fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

**FURTHER ORDERED**, that HAWC shall file a compliance tariff with the Commission on or before August 22, 2008, in accordance with N.H. Admin. Rules Puc 1603.02(b).

By order of the Public Utilities Commission of New Hampshire this eighth day of  
August, 2008.

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Thomas B. Getz  
Chairman

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Graham J. Morrison  
Commissioner

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Clifton Below  
Commissioner

Attested by:

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Debra A. Howland  
Executive Director & Secretary