

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DW 14-107**

**HAMPSTEAD AREA WATER COMPANY, INC.**

**Petition to Expand Franchise Area in the Town of Newton**

**Order *Nisi* Granting Approval of Franchise, Acquisition of Assets, and Application of Existing Permanent Rates**

**ORDER NO. 25,704**

**August 7, 2014**

This order grants Hampstead Area Water Company, Inc., authority to expand its water franchise area to include a 35-unit expansion of a condominium development in the Town of Newton known as Sargent Woods. It also authorizes the company to purchase and finance the water system assets necessary to provide service and to charge its existing permanent rates within the expanded franchise.

**I. BACKGROUND**

Hampstead Area Water Company, Inc. (HAWC), is a regulated public utility pursuant to RSA 362:2 and RSA 362:4. HAWC provides water service to over 3,200 customers in 12 towns in southern New Hampshire. In *Hampstead Area Water Company, Inc.*, Order No. 24,884 (August 8, 2008), the Commission granted HAWC approval for a satellite system to serve the Sargent Woods Condominium Development (Sargent Woods), which is located in the Town of Newton. HAWC now seeks authority to extend its franchise area onto Tax Map Lot 7-5-4 to serve a proposed 35-unit expansion of Sargent Woods (the Expansion). Petition at 1; *see also* Petition Exh. 4 (metes and bounds description). HAWC also requests authority to acquire assets that are necessary to serve the Expansion and to issue debt in the amount of \$35,000 to acquire

those assets. Petition at 2-3; Petition Exhs. 9 and 11. Finally, HAWC requests authority to charge the customers served within the Expansion its currently-approved consolidated rates. Petition at 3. The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted to the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2014/14-107.html>.

The owner and developer of Sargent Woods, Centerview Hollow Land Company, LLC (CVH), and Lewis Builders Development, Inc. (LBDI), respectively, both of which are affiliates of HAWC, are constructing an extension of the existing water system at Sargent Woods to serve the Expansion. Staff Recommendation Exh. 6 at 1. CVH and LBDI have agreed to sell the extension assets to HAWC at a price of \$1,000 per residential connection, or \$35,000. Staff Recommendation at 2. The assets primarily consist of transmission and distribution mains as well as services. Water meters will be purchased by HAWC directly from LBDI as the individual dwelling units are completed at an estimated cost of \$350 per unit for a total estimated cost of \$12,250. *Id.* CVH has conveyed water rights and an easement deed to HAWC. Petition at 2; Petition Exh. 1.

The total estimated cost of construction of the mains and services is \$143,000. Any amount above the \$35,000 purchase price will be considered contributed by CVH and, as such, will be treated as Contributions in Aid of Construction (CIAC) by HAWC. Construction of the condominium development is to be completed in late 2015 or early 2016, although initial occupancy may occur during the summer of 2014. *Id.*

In order to finance the purchase of the system assets, HAWC has executed a promissory note payable to LBDI in the amount of \$35,000. The terms of the note include a requirement for

HAWC to make 240 monthly payments of principal and interest over a 20 year term. The interest rate on the note is 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. Subsequently, the interest rate will be adjusted every third year on its anniversary date. Currently, the interest rate attached to the note would be 5.50%. *Id.*

The Town of Newton Board of Selectmen acknowledged that HAWC notified it of the pending petition. No subsequent correspondence has been received from the Newton Board of Selectmen relative to this docket. *Id.* at 3. The New Hampshire Department of Environmental Services (DES) has approved the expansion of the Sargent Woods water system. Petition at 2; Petition Exh. 5.

Commission Staff (Staff) believes that HAWC has the requisite technical, managerial, financial, and legal capability to operate a water utility in the proposed franchise area. Staff recommends that the Commission approve HAWC's petition to expand its franchise, approve HAWC's current tariff rates for the new franchise, and approve the proposed financing.

## **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 reviews franchise petitions to ensure that they are consistent with the orderly development of the region. *Pennichuck Water Works, Inc.*, Order No. 18,952 (Dec. 31, 1987). The Commission grants requests for franchise authority upon a finding that it is for the public good. RSA 374:26. In so determining, the Commission assesses, among other things, the managerial, technical, and financial abilities of the petitioner. *See Lower Bartlett*

*Water Precinct*, Order No. 23,562 (Sept. 25, 2000). Pursuant to RSA 374:22, III, no water company shall obtain the permission or approval of the Commission to operate as a public utility without first satisfying any requirements of DES concerning the suitability and availability of water.

The Commission has previously found that HAWC possesses the requisite capabilities to provide water service. HAWC has been providing water service to customers since 1989. HAWC's predecessor utilities include Walnut Ridge Water Company, which first began providing regulated water service in 1977. HAWC has demonstrated sound financial planning by periodically taking advantage of low-cost financing through the State Revolving Loan fund to install water mains and wells and to address leakage. *See Hampstead Area Water Company, Inc.*, Order No. 25,299 (December 8, 2011); *Hampstead Area Water Company, Inc.*, Order No. 24,937 (February 6, 2009); *Hampstead Area Water Company, Inc.*, Order No. 24,720 (December 28, 2006). HAWC has also regularly filed rate cases, which demonstrates its ability to ensure it earns a revenue requirement sufficient to cover its expenses and capital investments. *See Hampstead Area Water Company, Inc.*, Order No. 25,519 (June 7, 2013); *Hampstead Area Water Company, Inc.*, Order No. 25,000 (August 4, 2009). With respect to HAWC's instant request, it will secure deeded access to the Expansion from CVH and will purchase the necessary water system assets. The project will meet HAWC's technical specifications. The water service will be provided from an expansion of HAWC's current Sargent Woods system, which has been approved by DES and which the Commission therefore finds satisfies the requirements of RSA 374:22, III for suitability and availability. The Commission finds that HAWC has the requisite managerial, technical, and financial, expertise to operate a regulated water utility and to provide water service to the proposed franchise area.

The Commission's review of HAWC's request to issue debt in order to purchase the Expansion water system assets is governed by RSA 369:1, which states that public utilities engaged in business in this state may issue evidence of indebtedness payable more than twelve (12) months after the date thereof only if the Commission finds the proposed issuance to be "consistent with the public good." Analysis of the public good involves looking beyond the actual terms of the proposed financing to the use of the proceeds to ensure that the public good is protected. *See Appeal of Easton*, 125 N.H. 205, 211 (1984). The Commission has previously found that "certain financing related circumstances are routine, calling for more limited Commission review of the purposes and impacts of the financing, while other requests may be at the opposite end of the spectrum, calling for vastly greater exploration of the intended uses and impacts of the proposed financing." *In re PSNH*, Order No. 25,050 at 14 (December 8, 2009).

Here, a review consistent with *Easton* falls on the more routine end of the spectrum. Extensive exploration of the intended uses and impacts of this proposed financing is not warranted. The purposes and use of the financing are to complete HAWC's acquisition of the water system from LBDI, which we find to be an appropriate use of utility funds. The terms of HAWC's promissory note with LBDI are straight forward and favorable to customers. In addition, the method of booking assets at cost, and booking any excess as CIAC, is consistent with transactions previously approved by the Commission. *See Hampstead Area Water Company, Inc.*, Order No. 24,362 (August 19, 2004). Accordingly, the Commission finds the proposed financing to be consistent with the public good and approves the financing request.

HAWC has requested authority to charge its current tariffed rates in the expanded franchise area. The Commission is authorized to investigate whether rates, fares, charges, or

prices a utility proposes to put into force are just and reasonable. RSA 378:5 and :7. HAWC intends to charge its existing consolidated rates in the expanded franchise. The rates for residential, general metered service consist of a \$10.00 base charge per month with a consumption charge of \$5.02 per 100 cubic feet of water consumed. The municipal hydrant rate is \$200 per annum per hydrant plus an annual availability fee of \$2,000 per annum. The Commission previously found these rates to be just and reasonable for HAWC's core and satellite systems. *See Hampstead Area Water Company, Inc.*, Order No. 25,519 (June 7, 2013). The expanded franchise area will be a satellite system of HAWC, and HAWC has utility-wide consolidated rates. Accordingly, the Commission finds it reasonable for HAWC to charge the same rates in the expanded franchise area, and the Commission authorizes HAWC to charge its consolidated rates on a service-rendered basis as of the effective date of this order. N.H. Code Admin. Rules Puc 1203.05.

RSA 374:26 authorizes the Commission to grant requests for franchise authority without a hearing "when all interested parties are in agreement." Here, Staff and HAWC are in agreement that HAWC should provide water service in the proposed franchise area. While the Commission is not aware of any parties that are opposed to HAWC's petition, the Commission nonetheless approves the petition on a *nisi* basis with a delayed effective date, to ensure that all interested parties receive notice of the proposed franchise and rates, and have an opportunity for a hearing.

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

**ORDERED *NISI***, that subject to the effective date below, HAWC's petition is granted, and HAWC is authorized to provide regulated water service in the proposed franchise area and to acquire the assets identified above as necessary to provide such service; and it is

**FURTHER ORDERED**, that HAWC is hereby authorized to undertake the proposed financing, under the terms and conditions contained in HAWC's petition, and for the purpose as outlined herein; and it is

**FURTHER ORDERED**, that HAWC is authorized to charge its Commission-approved tariff rates in the new franchise, on a service-rendered basis, effective as of the date of this order; and it is

**FURTHER ORDERED**, that HAWC shall cause a copy of this Order *Nisi* to be mailed by first class mail to the Newton Town Clerk, and to any known or prospective customers in the proposed franchise area, as well as cause a summary 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, such publication to be no later than August 18, 2014 and to be documented by affidavit filed with this office on or before September 8, 2014; 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, 2014 for the Commission's consideration; and it is

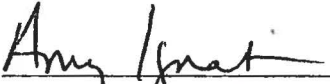
**FURTHER ORDERED**, that any party interested in responding to such comments or request for hearing shall do so no later than September 2, 2014; and it is


**FURTHER ORDERED**, that any party interested in responding to such comments or request for hearing shall do so no later than September 2, 2014; and it is


**FURTHER ORDERED**, that this Order *Nisi* shall be effective September 8, 2014, 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 21, 2014, in accordance with N.H. Code Admin. Rules Puc 1603.02(b).

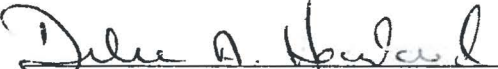
By order of the Public Utilities Commission of New Hampshire this seventh day of August, 2014.

  
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Amy L. Ignatius  
Chairman

  
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Robert R. Scott (HRS)  
Commissioner

  
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Martin P. Honigberg  
Commissioner

Attested by:

  
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Debra A. Howland  
Executive Director