

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 14-186

CITY OF SOMERSWORTH

Extension of Water Service in the City of Dover

Order *Nisi* Approving Franchise Expansion

ORDER NO. 25,712

August 28, 2014

In this order, the Commission approves the City of Somersworth's request to expand its franchise territory to provide water service to three residential properties in the City of Dover. Somersworth has been providing service to the three properties for many years without any record of Commission approval, and this order will bring Somersworth into compliance with the law.

I. BACKGROUND

On July 14, 2014, the City of Somersworth (Somersworth) filed a petition pursuant to RSA 362:4 III-a and RSA 374:22 seeking after-the-fact approval to provide water service to three residential properties that it has served for many years. The properties are located at 167 Varney Road, 170 Varney Road, and 193 Blackwater Road. They are Lot 32, Lot 36-Q, and Lot 21, respectively, on City of Dover tax Map A. Somersworth states that it cannot locate any prior Commission authorization for Somersworth to serve outside of its corporate boundary. Somersworth has filed for approval to remedy this oversight.

Somersworth asserts that its water system has adequate capacity to continue serving the three Dover customers and that serving these customers will not necessitate any additional expansion costs. Petition at 2. The customers own the service line from the curb stop to their homes. *Id.* Somersworth states that it will continue to serve the three customers on the same

terms as Somersworth provides to customers within its corporate boundaries. *Id.* In support of its request, Somersworth filed copies of the deeds of the three subject properties, a letter from Somersworth's City Manager attesting to the adequacy and suitability of the water supply, a copy of City of Somersworth Resolution #46-14, and the City of Dover Resolution #R-2014.05.14-044 concurring with the franchise request. Petition Attachments 1-15.

On August 1, 2014, Commission Staff (Staff) recommended approval of Somersworth's request. Staff opined that Somersworth possesses the requisite managerial, technical, financial, and legal expertise to provide water service to the requested area.

On August 22, 2014, Staff filed a letter received from the Department of Environmental Services (DES). The DES stated that Somersworth's franchise expansion request satisfied the suitability and availability criteria of RSA 374:22, III.

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/2014/14-186.html>.

II. COMMISSION ANALYSIS

Pursuant to RSA 374:22, I, "[n]o person or business entity shall commence business as a public utility within this state ... or shall exercise any right or privilege under any franchise not theretofore actually exercised in such town, without first having obtained the permission and approval of the commission." The Commission approves such requests upon a determination that the franchise is for the public good. RSA 374:26. The Commission assesses, among other things, the managerial, financial, and technical expertise of the petitioners. *See Lower Bartlett Water Precinct*, Order No. 23,562 at 18-19 (September 25, 2000). The Commission also reviews franchise petitions to ensure that they are consistent with the orderly development of the region.

Pennichuck Water Works, Inc., 72 NH PUC 589, 593 (1987). Pursuant to RSA 378:5 and RSA 378:7, the Commission is authorized to investigate whether rates, fares, charges, or prices a utility proposes to put into force are just and reasonable.

The Commission finds that Somersworth's request to provide water service to 167 Varney Road, 170 Varney Road, and 193 Blackwater Road in Dover is for the public good. The Commission is familiar with Somersworth's operations because the Commission recently determined that Somersworth possesses the requisite managerial, financial, and technical expertise to provide water service to an area adjacent to its franchise. *See City of Somersworth*, Order No. 25,420 (Oct. 5, 2012). According to Somersworth's Division of Water, Somersworth has the capacity to provide water service to these customers. Petition Attachments at 15. Somersworth has already paid for expanding its system to serve these Dover customers. Petition at 2. Consequently, there will be no further capital expenses associated with extending service to these customers. Somersworth will continue to charge rates to these customers that are equivalent to rates it charges to customers inside its corporate boundaries. *Id.* For these reasons, we find that Somersworth possesses the managerial, financial, and technical expertise to provide water service to the requested franchise area and that it is in the public good to expand its franchise area.

Pursuant to RSA 362:4, III-a, municipal corporations serving new customers outside their municipal boundaries are exempt from Commission regulation, other than for franchise territory expansions, if they charge rates to outside customers that are no higher than 15% above rates charged to customers inside the municipal boundaries. Because Somersworth will be charging rates to the Dover customers that are equivalent to rates it charges its Somersworth customers,

we find that it is exempt from Commission regulation, other than for franchise territory expansion.

RSA 374:26 authorizes the Commission to grant requests for franchise authority without a hearing “when all interested parties are in agreement.” Here, Staff, Somersworth, and the City of Dover are in agreement that Somersworth should assume the franchise responsibilities and provide water service to 167 Varney Road, 170 Varney Road, and 193 Blackwater Road in Dover. While the Commission is not aware of any parties that are opposed to Somersworth’s petition, the Commission 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 to request a hearing.

Based upon the foregoing, it is hereby

ORDERED, that the request of the City of Somersworth to expand its franchise area in the City of Dover to include 167 Varney Road, 170 Varney Road, and 193 Blackwater Road, as described above, is hereby **APPROVED** on a *nisi* basis; and it is

FURTHER ORDERED, that the City of Somersworth shall 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 September 8, 2014 and to be documented by affidavit filed with this office on or before September 23, 2014; and it is

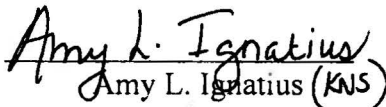
FURTHER ORDERED, that the City of Somersworth shall cause a copy of this order to be mailed by first class mail to all known or prospective customers in the proposed franchise area, such mailing shall be documented by affidavit filed with the Commission on or before September 8, 2014; and it is

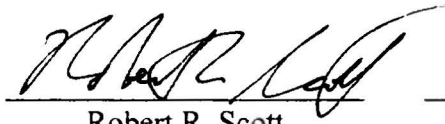
FURTHER ORDERED, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than September 15, 2014 for the Commission's consideration; and it is

FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than September 22, 2014; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective September 26, 2014, unless the City of Somersworth fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date.

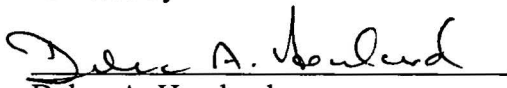
By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of August, 2014.


Amy L. Ignatius (KNS)
Chairman


Robert R. Scott
Commissioner


Martin P. Honigberg
Commissioner

Attested by:


Debra A. Howland
Executive Director