

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 16-825

HAMPSTEAD AREA WATER COMPANY, INC.

Petition for Franchise Expansion – Wells Village, Sandown

Order *Nisi* Granting Petition

ORDER NO. 25,979

January 23, 2017

In this order, the Commission grants Hampstead Area Water Company, Inc., authority to expand its franchise to serve a proposed 40 acre, 50 unit condominium development to be known as Wells Village in the Town of Sandown.

I. BACKGROUND

Hampstead Area Water Company, Inc. (HAWC or the Company), is a regulated water utility pursuant to RSA 362:2 and RSA 362:4 serving the areas of Hampstead and Atkinson with satellite systems in various towns in Rockingham County, including Sandown. On October 11, 2016, HAWC filed a petition to extend its franchise area in the Town of Sandown to provide service to a proposed 50 unit condominium development to be known as Wells Village. The franchise area request included the 40.83 acre development shown on Tax Map 13, Lot 1 in the town and a request to include land adjacent to the development that would increase its new franchise area to a total of approximately 265 acres. HAWC also requested authority to acquire the associated water utility assets of Wells Village, approval for financing in connection with the Company's payment of connection fees to the developer of the Wells Village project, and authority to charge its currently effective tariff rates to customers in the new franchise area. The petition and subsequent docket filings, other than 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/2016/16-825.html>

In support of its petition, HAWC also submitted a contract among HAWC, Kasher Corporation, and Lewis Builders Development, Inc. d/b/a Hampstead Water Services Company, an affiliate of HAWC (the Service Company), which outlined the terms under which Kasher will sell the system to HAWC. The Service Company will design and build the system to serve the 50 unit condominium development. Kasher will pay the Service Company to construct a portion of the system. The Service Company will design and perform the installation of the pumping and treatment station, generator, and controls. The projected cost estimate for installation of the water system is \$462,305, as outlined in a project cost schedule submitted as part of the application. Under the terms of the agreement, HAWC will pay Kasher \$50,000 for acquisition of the system in \$1,000 increments as each of the fifty condominiums are hooked up to the system. HAWC will execute a promissory note in favor of Kasher that memorializes the agreement to make the \$1,000 per hookup installment payments. Because HAWC is paying \$1,000 per hookup, a majority of the system cost will be carried on the Company's books as a Contribution in Aid of Construction. The full installation cost will not be included in rate base.

HAWC submitted an executed and recorded Water Rights Deed and Easement given to HAWC by Kasher for water rights in the proposed franchise area. HAWC submitted evidence from the New Hampshire Department of Environmental Services (DES) of approvals granted to Kasher for the use of two bedrock wells to supply water for domestic consumption in the proposed franchise area. DES permitted the wells on September 28, 2016, with a letter of Conditional Final Approval.

HAWC also submitted testimony by its president, Harold Morse. Mr. Morse stated that he believes the Company has the financial, managerial, and technical ability to own and operate the new satellite system. HAWC has past success at adding to its franchise territory having received Commission approval for four franchise extensions in the past two years. Mr. Morse also stated that the Company would charge customers in the Wells Village franchise at the same tariff rate currently approved by the Commission in DW 12-170, Order No. 25,519 (June 7, 2013). Under the tariff, HAWC charges each customer a base charge of \$10 per month and a consumption charge of \$5.02 per 100 cubic feet of water consumed.

The Company has also notified the Sandown Selectmen of its intention to acquire and operate the small water system. The town submitted a letter to the Company acknowledging that it had been notified of HAWC's intention to seek a franchise extension. In its petition, HAWC requested that its franchise also include properties that abut Tax Map 13, Lot 1. In response to Staff discovery requests, the Company indicated that while another developer expressed interest in utilizing the Company for water service in the future, none of the property owners in the adjacent area had been formally notified of the petition for a new franchise area.

On December 14, 2016, Commission Staff recommended approval of HAWC's request for a new franchise but only as to the area of the Wells Village development. Staff stated that it had reviewed the filing and conducted discovery which it attached to its recommendation. Staff concluded that HAWC has the managerial, technical, and financial skills necessary for the Company to provide safe and reliable service and operate a utility in the proposed franchise area at HAWC's current rates. As part of its recommendation, however, Staff concluded that the franchise area should be limited to the 40.83 acre development to be known as Wells Village in Tax Map 13, Lot 1 in the Town of Sandown. Staff believes that if the Company wants to extend

its franchise to include the adjoining acreage, it should file a petition that includes the consent of all identified property owners in that area.

II. COMMISSION ANALYSIS

A. Franchise Expansion Approval

Our review of HAWC's franchise request is guided by the following authorities.

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." We review franchise petitions to ensure that they are consistent with the orderly development of the region. *Pennichuck Water Works, Inc.*, Order No. 18,952 (December 31, 1987). We will grant a request for franchise authority if we find that it is for the public good. RSA 374:26. In considering whether a request is for the public good, we assess, among other things, the managerial, technical, and financial abilities of the petitioner. *See Lower Bartlett Water Precinct*, Order No. 23,562, (September 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. HAWC has also requested authority to charge its current tariffed rates in the new franchise area and, pursuant to RSA 378:5 and RSA 378:7, the Commission is authorized to investigate whether the rates a utility proposes to charge are just and reasonable.

We have previously found that HAWC possesses the requisite capabilities to provide water service. HAWC has been providing water service to customers since 1989. 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.¹ HAWC has also regularly filed rate cases, ensuring that it earns a revenue requirement sufficient to cover its expenses and capital investments.²

HAWC's request in this case will also secure deeded access to the water in the Wells Village development. The proposed project will meet HAWC's technical specifications and the water supply wells also meet the criteria to serve the public under DES permitting requirements. DES granted conditional final approval of the Wells Village water sources on September 28, 2016. We find that HAWC has met its burden under RSA 374:22, III for suitability and availability of supply. Based on our review of the filings, we find that HAWC has the requisite managerial, technical, and financial, expertise to operate a regulated water utility. Accordingly, we find that granting a franchise to provide water service in the Wells Village development is for the public good.

Finally, RSA 374:26 authorizes the Commission to grant requests for franchise authority without a hearing "when all interested parties are in agreement." Staff, HAWC, and the Town of Sandown are in agreement that HAWC should provide service in the proposed franchise area. Because property owners in the expanded area were not notified, we will approve the franchise area to include the land in Tax Map 13, Lot 1 only, which represents the 40 acre development known as Wells Village. We agree with Staff's position that should HAWC desire to expand its franchise to include the adjacent area, it should seek the consent of the property owners in that area prior to seeking franchise extension approval. Although no one has stepped forward to oppose the franchise petition, we will approve HAWC's petition on a *nisi* basis with a delayed

¹ See Hampstead Area Water Company, Inc., Order No. 24,720 (December 28, 2006); Order No. 24,937 (February 6, 2009); and Order No. 25,299 (December 8, 2011).

² See Hampstead Area Water Company, Inc., Order No. 25,000 (August 4, 2009) and Order No. 25,519 (June 7, 2013).

effective date, to ensure that all interested persons receive notice of the proposed franchise and rates and have an opportunity to request a hearing.

B. Acquisition and Financing Approval

Public utilities engaged in business in this state may issue evidence of indebtedness payable more than twelve months after the date of issuance only if the Commission finds the proposed issuance to be “consistent with the public good.” RSA 369:1. Determination of the public good involves looking beyond the actual terms of the proposed financing, to the use of the proceeds and the effect on rates. *See Appeal of Easton*, 125 N.H. 205, 211 (1984). We have previously found that “certain financing related circumstances are routine, calling for a 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.” *Public Service Company of New Hampshire*, Order No. 25,050 at 14 (December 8, 2009).

HAWC seeks permission to enter into a promissory note with Kasher in the amount of \$50,000. The terms of the agreement include the \$1,000 per connection installment payments over time, without interest, until the development is fully built out. This arrangement is straightforward, and the dollar amount is similar to the cost method employed by HAWC to acquire other systems. *See, e.g. Hampstead Area Water Company, Inc.*, Order No. 25,636 (March 14, 2014) and Order No. 25,803, (August 24, 2015) (purchase price based on per hook up installment payments). HAWC will also book the project value in excess of the \$50,000 as Contribution in Aid of Construction (CIAC), which means that the Company will not earn a return on the value of those assets. The CIAC of approximately \$394,805 includes the cost of the system (\$462,305) less the cost of the meters (\$17,500) and the \$1,000 per connection fee

(\$50,000) for a total of \$394,805. HAWC will serve up to 50 new customers at a cost of \$50,000, which should result in no impact on customer rates in the future. We find the proposed financing consistent with the public good.

C. Permanent Rate Approval

The Commission has statutory authority to limit customers' rates to a level that is "just and reasonable" and that recovers only the cost of prudent, used and useful capital improvements. *See* RSA 374:2, 378:7 and 378:28 (charges to be "just and reasonable"). A reasonable rate results from a ratemaking process applied to the facts of each particular case "that appropriately balances the interests of the ratepayers who desire the lowest possible rates and investors who desire rates that are higher." *Appeal of Conservation Law Foundation of New England, Inc.*, 127 N.H. 606, 633 (1986).

HAWC seeks to charge its existing consolidated rates in the proposed franchise. The rates for residential, general metered service consist of a \$10 base charge per month with a consumption charge of \$5.02 per 100 cubic feet of water consumed. There are no municipal hydrants and the new 50 unit development will have a sprinkler system in each unit. The Commission has previously found those rates to be just and reasonable. *See* Order No. 25,519 (June 7, 2013). We therefore approve the rates as being consistent with our earlier findings. HAWC's consolidated rates are just and reasonable for the Wells Village development, and we authorize HAWC to charge those rates to its customers within the new portion of its franchise.

HAWC did not request a specific date by which to implement rates. N.H. Code Admin. Rules PUC 1203.05 requires rate changes to be implemented on a service rendered basis on or after the effective date of the approved rate change. To be consistent with that requirement, we

authorize HAWC to charge its consolidated rates on a service-rendered basis as of the effective date of this order as defined below.

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 of 40.83 acres known as Wells Village as depicted on Tax Map 13, Lot 1 in Sandown and to acquire the assets identified in its application to provide such service; and it is

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

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

FURTHER ORDERED, that HAWC shall amend its tariff to include the new franchise area of Wells Village in the Town of Sandown within a reasonable period of time following the effective date of this Order; and it is

FURTHER ORDERED, that the Petitioner 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 January 31, 2017, and to be documented by affidavit filed with this office on or before February 9, 2017; 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

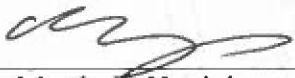
the reason and basis for a hearing no later than February 6, 2017, for the Commission's consideration; and it is

FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than February 10, 2017; and it is

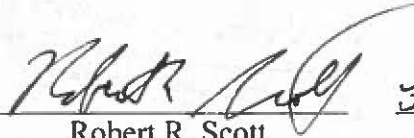
FURTHER ORDERED, that this Order *Nisi* shall be effective February 13, 2017, unless the Petitioner fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

FURTHER ORDERED, that the Petitioner shall file a compliance tariff with the Commission on or before February 27, 2017, in accordance with N.H. Code Admin. Rules Puc 1603.02(b).

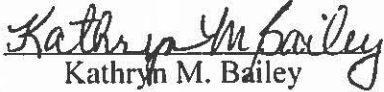
By order of the Public Utilities Commission of New Hampshire this twenty-third day of January, 2017.



Martin P. Honigberg
Chairman

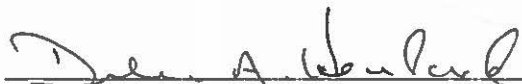


Robert R. Scott
Commissioner



Kathryn M. Bailey
Commissioner

Attested by:



Debra A. Howland
Executive Director