

THE STATE OF NEW HAMPSHIRE

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June 27, 2019

Debra A. Howland, Executive Director  
New Hampshire Public Utilities Commission  
21 South Fruit Street, Suite 10  
Concord, New Hampshire 03301-2429

Re: DW 19-011, Hampstead Area Water Company, Inc.  
Petition for Franchise Expansion in Salem: Tisdale Trailer Park  
Staff Recommendation for Approval

Dear Ms. Howland:

The purpose of this letter is to offer Staff's recommendation with respect to the petition of Hampstead Area Water Company, Inc. ("HAWC" or the "Company") in the above-referenced docket. HAWC seeks permission to permanently extend its franchise area in the Town of Salem to serve the Tisdale Trailer Park ("Tisdale" or "Trailer Park") consisting of fifty-eight (58) mobile home units. Specifically, HAWC's petition requests permission to 1) extend and expand its franchise to provide water service to the Trailer Park within the Town of Salem; 2) add the Trailer Park expansion to the Lancaster Farm system; 3) acquire the assets upon completion of the extension; and 4) charge its existing consolidated rate to the proposed franchise expansion area. Staff recommends that the Commission approve HAWC's petition.

HAWC provides water service to approximately 3,750 customers in thirteen towns in southern New Hampshire, including Salem. The Trailer Park consists of fifty-eight (58) homes within the Town of Salem, adjacent to HAWC's Lancaster Farm water system. During the summer of 2018, HAWC received a request from the NH Department of Environmental Services (DES) to provide temporary emergency service to Tisdale due to E.coli contamination of their well water. Order No. 26,174 (September 14, 2018), issued in Docket No. DW 18-128, approved a water service agreement to provide temporary service to Tisdale by HAWC until November 1, 2018, via a service line from the Company's Lancaster Farm distribution system through a 1" meter. HAWC, in turn, was authorized to charge Tisdale its current 1" meter rate of \$30 per month plus a consumption charge of \$5.95 per hundred cubic feet (ccf) of water supplied. A step adjustment approved on November 28, 2018 increased the consumption charge to \$6.11 per ccf of water supplied.<sup>1</sup> In response to a petition

<sup>1</sup> These rates were approved by the Commission in Order Nos. 26,165 (July 31, 2018) and 26,195 (November 28, 2018), respectively, in DW 17-118.

submitted by HAWC to extend the emergency water service agreement, a Secretarial Letter was issued on November 20, 2018, extending the agreement until April 30, 2019. HAWC filed a subsequent request for extension which was approved by a Secretarial Letter issued on April 26, 2019 to further extend the agreement until resolution of the instant docket.

On January 18, 2019, HAWC filed its petition for the Trailer Park franchise area extension and expansion, as described above, accompanied by several exhibits including the pre-filed supplemental testimony of its president, Harold Morse and its financial consultant, Stephen P. St.Cyr. On February 13, 2019, an Order of Notice was issued scheduling a Prehearing Conference and technical session for March 12, 2019. On March 4, 2019, the Salem Board of Selectmen acknowledged receipt of notification of HAWC's petition. No requests for intervention were received. During the course of the proceeding, two rounds of discovery were propounded by Staff on HAWC.

Exhibit 1 of HAWC's original filing included a proposed Water Services Agreement ("Agreement") between Tisdale, HAWC and Hampstead Area Water Services Company ("HAWSCO"), a division of Lewis Builders Development, Inc. In response to Staff discovery, however, the Agreement was subsequently revised. (Attachment A) In summary, the revised Agreement provides that HAWSCO would install a 4" water main connecting HAWC's Lancaster Farm development to a meter pit, containing a 2" meter, at the property line of the Trailer Park. HAWSCO would be paid for this work, estimated at \$47,150, by the owner of Tisdale. In turn, the newly installed assets would be contributed to HAWC. The owner of Tisdale would also pay the associated income taxes resulting from receipt of the Contribution In Aid of Construction (CIAC). The existing distribution system within the Trailer Park would remain the property of Tisdale, which would also continue to be responsible for the maintenance and repair of such. The Agreement also detailed the bulk water supply rate to be charged to Tisdale; HAWC's current tariff rate for a 2" meter of \$100 per month plus a consumption charge at \$6.11 per 100 cubic feet for water used during the month.

Staff recommends approval of the franchise expansion encompassing the Trailer Park and other requested relief. As discussed above, DES originally requested that HAWC provide temporary service to Tisdale due to an e.coli contamination of their well water. Subsequently, HAWC contacted DES in October 2019 informing them that they had exhausted all efforts to safely provide water to Tisdale via the Tisdale wells and requested authority to provide Tisdale with a permanent water supply connection. Exhibits 10.1 and 10.2 contain DES approval for HAWC's permanent connection to Tisdale. Staff Data Request 1-18 provides further information on DES' approval. (Attachment B) Tisdale has been deactivated as a public water system by DES and is a non-regulated trailer park.

HAWC has been providing water service as a regulated public utility since the late 1970s. Since that time, the company has grown to serve approximately 3,750 customers in thirteen towns in southern New Hampshire, including Salem. Based on this experience and the information provided in HAWC's petition, Staff views HAWC as having the technical, managerial, financial, legal, and other capabilities necessary to serve the Trailer Park. As such, Staff concludes that as HAWC has received DES approval, and for the above mentioned reason, the Commission should find expansion of the franchise would be for the public good, pursuant to RSAs 374:22 and 374:26.

Further, Staff notes that HAWC proposes no change to its existing consolidated rate as a result of this franchise expansion. Staff concurs with HAWC's proposal to provide service to and charge its existing rates to the Trailer Park. Thus, Staff recommends that the Commission find the application of consolidated rates to the owner of Tisdale as just and reasonable pursuant to RSA 378:7. As for the individual trailer park tenants, the service provided by HAWC is pass-through in nature. The water supplied by HAWC is not treated by the owners of the trailer park. The cost of water used by Tisdale residents is passed through to the residents as part of their park rental fees.<sup>2</sup>

Finally, Staff must bring to the Commission's attention that HAWC has not been following the terms of the bulk water sale agreement approved in Order No. 26,174. As revealed through discovery conducted by Staff, the Company changed the original 1" meter to a 2" meter and charged Tisdale the adjusted base charge accordingly. Specifically, HAWC charged Tisdale for a 2" meter service, at \$100 per month based on its tariff, instead of the approved charge for a 1" meter service, which is \$30 per month based on its tariff. The Commission was not notified of this change to the bulk water contract, nor was it approved. As a result, HAWC has overcharged Tisdale an estimated \$452, as of June 2019, in base charges. Staff recommends that HAWC issue a credit to Tisdale for the actual overcharged amount.

Before filing its recommendation, Staff inquired of HAWC regarding its positions relative to Staff's recommendation. HAWC disagreed with Staff's recommendation of approval to issue a credit to Tisdale. As such, Staff recommends that the Commission allow HAWC to respond to Staff's recommendation.

If you have any questions concerning this matter, please do not hesitate to contact me.

Sincerely,



Robyn J. Descoteau  
Utility Analyst, Gas-Water Division

Attachments: Attachment A: Staff DR\_2-1a & d, Second Revised Exhibit 1  
Attachment B: Staff DR 1-18b & c, letter from DES dated February 14, 2019

cc: Service List

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<sup>2</sup> Staff notes that while the issue of Tisdale's status as a utility was not proffered by the parties, the Commission has historically treated mobile home parks as outside the jurisdiction of the Commission when a pass-through of utility services exists. *State Line Plaza Water Company*, Order No. 24,563 at 4 (December 15, 2005). As Tisdale operates in a similar pass-through manner, Staff contends that the underlying Tisdale system is not a regulated utility and is outside the Commission's jurisdiction under RSA 362:2.

Staff DR-2-1a & d Attachments

**SECOND REVISED  
EXHIBIT 1**

**WATER SERVICES AGREEMENT  
MODIFICATION**

Date: \_\_\_\_\_

Tisdale's Trailer Park Inc  
Ronald Chirolla  
P.O. Box 153  
Salem, NH 03079

Re: Tisdale's Trailer Park Inc Community Water System

This Water Services Agreement is by and between the Tisdale's Trailer Park Inc. and its successors and assigns, (the **OWNER**), located at P.O. Box 153, Salem NH 03079. Hampstead Area Water Services Company (a division of Lewis Builders Development, Inc.) (**HAWSCO**) and the Hampstead Area Water Company, Inc. (**HAWC**), both of 54 Sawyer Avenue, Atkinson, New Hampshire, 03811.

1. **PURPOSE:** HAWSCO shall provide a 2" metered water main line to provide water to the water distribution system, located at Tisdale's Trailer Park development, (Premises/Easement Area) located at 185 Pelham Road, Salem, New Hampshire, in accordance with all applicable Federal and State statutes, regulations, and ordinances, as directed by the New Hampshire Department of Environmental Services (NHDES).
2. **COST OF INSTALLATION:** The budget cost of the installation of this main line and meter pit is \$95,000.00 with the work described as follows:
  - a. The OWNER shall have a permanent service line connection installed by HAWSCO from the Lancaster water system to a meter pit. There shall be approximately 350 feet of 4-inch line installed to the meter pit, all of which to be paid for by the OWNER.
  - b. The OWNER shall pay for all administrative, engineering and legal fees arising from this construction, and for regulatory approvals from the Public Utilities Commission (PUC) and DES.
  - c. Contribution in Aid of Construction (CIAC) tax per December 2017 law change.
3. **PAYMENT:** The OWNER shall pay to HAWSCO 50% of the contract price at the signing of this agreement and thereafter paid by progress payments until remaining balance paid in full. Bills are payable upon receipt.
4. **RATES.** HAWC will provide a permanent bulk water supply to the OWNER. Water rates shall be based upon HAWC's consolidated rate. HAWC's current tariff is \$100 base rate for a 2" meter and consumption rate of \$6.11 per 100 cubic feet. HAWC shall bill the OWNER monthly. This is expressly conditioned upon PUC approval.

**5. OWNER'S RESPONSIBILITIES:**

- a. The OWNER shall grant HAWC a maintenance and access easement encompassing the Premises/Easement Area in the form attached as exhibit A to be signed contemporaneously with this Agreement.
- b. The OWNER shall own and be remain responsible for the maintenance and repair of the Tisdale Trailer Park Community Water System from the meter pit connection to each residence.

**6. HAWC'S RESPONSIBILITIES:**

- a. HAWC shall own and be responsible for the connection line from the Lancaster Water System to and including the meter pit and its meter. However, if there is a water leak in the Tisdale Trailer Park Community Water System that remains unrepaired for a period of 5 days after notice from HAWC to OWNER about same, HAWC shall have the right to enter onto the Premises/Easement Area and repair such water leak. The OWNER shall pay for the cost of such water leak repair.
- b. HAWC is responsible to obtain PUC approval.

**7. HAWSCO's RESPONSIBILITIES**

- a. Construction of the waterline and meter pit,
- b. Obtaining DES Approvals

**8. NOTICES:** The OWNER shall designate a contact representative who shall have full authority to authorize any and all work done under this CONTRACT. The initial contact representative is:

Ronald Chirolla  
30 Granite Ave  
Salem, NH 03079  
603-339-4026

**9. SCOPE:** This proposed AGREEMENT and Exhibits, if any, attached hereto constitute a full Agreement between the OWNER, HAWSCO, and HAWC. Any changes, deletions, or alterations of any kind shall be in writing and must be signed by the OWNER, HAWSCO, and HAWC.

**10. MODIFICATION AND WAIVER:** Any modification or waiver of any of the provisions of this agreement shall be effective only if made in writing and executed by the OWNER, HAWSCO, and HAWC. The failure of any party to insist upon strict performance of any of the provisions of this agreement shall not be construed as a waiver of any subsequent default of the same or similar nature.

**11. ENTIRE AGREEMENT:** This agreement contains the entire understanding of the parties and there are no representations, warranties, covenants or undertakings other than those expressly set forth hereunder.

- 12. **SITUS:** This agreement shall be construed and governed in accordance with the laws of the State of New Hampshire.
- 13. **PARTIAL INVALIDITY:** If any provision of this agreement is held to be invalid or unenforceable, all other provisions shall nevertheless continue in full force and effect.
- 14. **CAPTIONS:** The paragraph captions or headings of this agreement are inserted only as a matter of convenience and for reference and, in no way define, limit or describe the scope, intent or rights conferred under this agreement nor in any way affect or limit the provisions herein.
- 15. **MEDIATION:** If there is a dispute regarding this agreement, the parties agree to first submit such a dispute to Mediation before utilizing any other means of dispute resolution.
- 16. **ATTORNEY'S FEES:** If either party is required to enforce any term of this agreement by way of litigation, then the prevailing party shall be awarded their attorney's fees and costs.

**TISDALE'S TRAILER PARK, INC.,**

By: \_\_\_\_\_  
Ronald H. Chirolla, Vice President  
Duly authorized

Date: \_\_\_\_\_

Lewis Builders Development, Inc.  
d/b/a **HAMPSTEAD AREA WATER SERVICES COMPANY**

By: \_\_\_\_\_  
Harold Morse, Vice President

Date: \_\_\_\_\_

**HAMPSTEAD AREA WATER COMPANY, INC.**

By: \_\_\_\_\_  
Harold Morse, President

Date: \_\_\_\_\_



The State of New Hampshire  
**Department of Environmental Services**

Robert R. Scott, Commissioner



February 14, 2019

Via Email

CHARLES LANZA  
 GENERAL MANAGER HAMPSTEAD AREA  
 WATER COMPANY  
 54 Sawyer Ave Atkinson, NH 03811  
[charlie@hampsteadwater.com](mailto:charlie@hampsteadwater.com)

Re: Confirmation of DES requirements for permanent connection of Tisdale Mobile Homes PWS 2053040 to Lancaster Farms PWS 2052030 - Salem, NH

Dear Mr. Lanza:

Per your request dated Feb 8, 2019, the NHDES Drinking Water and Groundwater Bureau hereby confirms that the following conditions of approval for the referenced water service connection have been met, with dates and responses as indicated in *RED ITALICS*:

- a. Has HAWC complied with the request to provide all 6 items indicated in this e-mail? If yes, please provide a copy of an official acknowledgement from NHDES. If no, please explain. *SEE ATTACHMENT.*
- b. Have the Tisdale wells been deactivated? If yes, please provide a copy of an official acknowledgement from NHDES. If no, please explain. *THE TWO TISDALE MHP WELLS WERE PHYSICALLY DISCONNECTED FROM THE WATER SYSTEM ON OCTOBER 19, 2018, DATE OF APPROVAL OF THE CONNECTION FROM THE LANCASTER FARMS WATER SYSTEM. THEY WILL BE FILLED WITH GROUT PER WATER WELL BOARD RULE 604.04 WELL ABANDONMENT, BY JUN 1, 2019.*
- c. Has Tisdale been officially deactivated by NHDES as a public water system? If yes, please provide a copy of an official acknowledgement from NHDES. If no, please explain. *PWS 2053040 TISDALE MOBILE HOMES, SALEM NH WAS DEACTIVATED AS A PUBLIC WATER SYSTEM EFFECTIVE NOV 21, 2018.*

I can be reached at 603-271-3108 and [Cynthia.Klevens@des.nh.gov](mailto:Cynthia.Klevens@des.nh.gov) for any additional information needed regarding this project.

Sincerely,

Cynthia M. Klevens, PE  
 Water Treatment and Small Systems Section Manager  
 NHDES Drinking Water and Groundwater Bureau

cc. S. Frost, P.E., P.G. - DES DWGB Survey Manager  
 PWS file

Attachment – Oct 19, 2018 Email correspondence from DES Drinking Water and Groundwater Bureau, Shelley Frost, P.E., P.G., for Approval of Permanent Connection of Tisdale MHP to Lancaster Farms PWS 2052030.

2052030 Salem, Lancaster Farms  
Feb 14, 2018  
Page 2 of 2

## ATTACHMENT

**From:** Frost, Shelley <Shelley.Frost@des.nh.gov>  
**Sent:** Friday, October 19, 2018 12:48 PM  
**To:** Charlie Lanza <Charlie@HampsteadWater.com>  
**Cc:** John Herbst <jherbst@lewisbuilders.com>; Stephen Fournier <sfournier@HampsteadWater.com>;  
Rich Bibeau <RBibeau@HampsteadWater.com>  
**Subject:** AUTHORIZATION FOR PERMANENT CONNECTION of Tisdale Mobile Homes PWS  
2053040 to to Lancaster Farms PWS 2052030 - Salem, NH

Charlie, Hampstead Water is authorized to connect with Lancaster Farms PWS. (DES assumes that you have authorization to access the proposed pipeline location.) Approval is conditional on receipt within 60 days of the following items:

- a. A site plan showing the planned location of the connecting pipe, *RECEIVED OCT 29, 2018*
- b. Specs for the trench backfill, pipe materials, *RECEIVED OCT 29, 2018*
- c. Other details of the physical pipe connections, *RECEIVED OCT 29, 2018*
- d. Minimum 12-inch pipe gap for disconnection of each of the Tisdale wells, *CONFIRMED OCT 29, 2018*
- e. Plans for the Tisdale wells that no longer yield water from bedrock (maintain or abandon by filling). - *DES APPROVED THE PLAN TO FILL THE WELLS WITH GROUT PER WATER WELL BOARD RULE 604.04 WELL ABANDONMENT. BY JUN 1, 2019.*
- f. A schedule of work. *RECEIVED OCT 29, 2018*

Once the Tisdale system is connected and receiving water from Lancaster Farm, and the Tisdale wells abandoned or maintained, we will deactivate Tisdale as a public water system.

Shelley



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