

DW 01-204

HAMPSTEAD AREA WATER COMPANY, INC.
WALNUT RIDGE WATER COMPANY, INC.
LANCASTER FARM WATER COMPANY, INC.

Petition for Approval of Merger

Order Approving Merger and Settlement Agreement

O R D E R N O. 23,954

April 19, 2002

APPEARANCES: Robert H. Fryer, Esquire, for the Petitioners, and Lynmarie Cusack, Esquire, for the Staff of the New Hampshire Public Utilities Commission.

I. BACKGROUND

Hampstead Area Water Company, Inc. (Hampstead), Walnut Ridge Water Company, Inc. (Walnut Ridge), and Lancaster Farm Water Company, Inc. (Lancaster Farm) (the "Companies" or "Petitioners") are owned and operated by Peter A. Lewis of Lewis Builders Development, Inc. Currently, the Companies are separately franchised utilities. Hampstead serves approximately 1,114 customers in the Towns of Hampstead, Sandown, Danville, Plaistow and Chester, New Hampshire. Walnut Ridge serves approximately 860 customers in the Town of Atkinson, New Hampshire and Lancaster Farm serves approximately 84 customers in the Town of Salem, New Hampshire.

The New Hampshire Public Utilities Commission (Commission) issued Order No. 19,717, 75 NH PUC 109 (1990)

approving the transfer of assets of several water companies to Hampstead for the purpose of forming a consolidated utility under one structure. Hampstead received approval of an extension to its franchise in Order No. 19,751, 75 NH PUC 163 (1990) as well as a number of subsequent franchise approvals for its later satellite systems. Walnut Ridge was granted its original authority to operate in Order No. 12,827, 62 NH PUC 190 (1977) while Lancaster Farm was granted franchise approval in Order No. 17,312, 69 NH PUC 655 (1984).

II. PROCEDURAL HISTORY

On October 10, 2001, the Petitioners filed with the Commission a request for an order pursuant to RSA 374:30, to transfer the assets and liabilities of Walnut Ridge and Lancaster Farm to Hampstead. The petition indicated that such a transfer would be in the public interest.

On October 13, 2001, the Commission issued an Order of Notice scheduling a Prehearing Conference to be followed by a Technical Session. The Order of Notice also required intervention requests to be filed prior to the Prehearing Conference. The Prehearing Conference was held on November 28, 2001, with only Staff and the Petitioners appearing, as no requests for intervention were filed.

The Commission issued Order No. 23,864 (December 7, 2001) approving a procedural schedule that was recommended by Staff and the Petitioners. That order also indicated that the case could proceed without a hearing.

As was directed by the Prehearing Conference Order, the Companies filed the direct testimony of Stephen J. Noury, Controller for Lewis Builders Development, Inc. on December 10, 2001. Mr. Noury's testimony indicated that the merger of the Companies would be in the public interest because: 1) administrative cost savings would be realized; 2) a more efficient interconnecton of the systems would be possible; and 3) the resultant increase to the capital base of the merged company would enable it to secure necessary financing to fund substantial improvements that are anticipated by each of the Companies. Mr. Noury further explained that the costs of developing new water sources have increased exponentially, and that the requirements of the New Hampshire Department of Environmental Services have become more stringent. He argued that it would be more reasonable to spread these increased costs over a customer base of 2,200 in a merged system rather than over the 860 customers served by Walnut Ridge or the 84 customers served by Lancaster Farm.

Staff propounded discovery on the Petitioners and after receiving responses entered settlement discussions. A formal Settlement Conference was held on February 14, 2002 which resulted in a verbal stipulation resolving the docket. On March 27, 2002, the Petitioners and Staff signed and submitted their Settlement Agreement to the Commission for approval.

III. SETTLEMENT AGREEMENT

The Settlement Agreement entered into between the Petitioners and Staff contends that where the Companies are owned by the same principal, the transfer of the assets would not result in any change of management. Staff and the Companies agree that until this Commission orders otherwise, each Company involved in this merger will continue to maintain separate income statements and plant records. The Companies also agree to respond to all outstanding audit requests and to comply with the Commission Audit Staff's recommendations before March 31, 2002. Further, Hampstead agrees that all quarterly reports due as a result of NHPUC Administrative Rules or Commission Orders, shall be filed with the Commission no later than 45 days following the close of the quarter. Finally, the Settlement Agreement expresses the shared belief by both Staff and the Petitioners that it is in the public

good to grant permission under RSA 374:30 to transfer the assets of Walnut Ridge and Lancaster Farm to Hampstead.

IV. COMMISSION ANALYSIS

RSA 374:30 provides that any public utility may transfer any part of its works, system or franchise located in this state when the Commission shall find that it will be for the public good and shall make an order assenting thereto. In the case at hand, we find that there will be no change in management or ownership for the three Companies as a result of the proposed merger. Further, we are persuaded by the Petitioners' arguments that the benefits of a merger between these Companies, namely, the administrative cost savings, the possibility of an efficient interconnection between the systems, and an improved ability to access funding for improvements, would be in the public interest as well as benefit the public good. Since the applicable law governing this docket, RSA 374:30, does not require a hearing before the Commission on such matters, since public notice of the proceeding was issued and no parties intervened, and since all parties in this docket have reached agreement on all issues pertinent to this case, we do not feel that it is necessary to conduct a public hearing on this matter. Therefore, we find that the proposed merger of Hampstead, Walnut Ridge and Lancaster Farm under the conditions agreed upon by the Parties in the Settlement Agreement to be in the public good and we

grant permission under RSA 374:30 for the transfer of the franchise and assets from Walnut Ridge and Lancaster Farm to Hampstead.

Based upon the foregoing, it is hereby

ORDERED, that the request to transfer assets pursuant to RSA 374:30 from Walnut Ridge Water Company, Inc. and Lancaster Farm Water Company, Inc. to Hampstead Area Water Company, Inc. is granted; and it is

FURTHER ORDERED, that the Settlement Agreement reached between the Petitioners and Staff in this case is APPROVED.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of April, 2002.

Thomas B. Getz
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Kimberly Nolin Smith
Assistant Secretary