

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 10-204

HAMPSTEAD AREA WATER COMPANY, INC.

**Petition to Expand Franchise in Chester, Acquisition
of Assets, and Approval of the Application of Existing Rates**

Order *Nisi* Granting Petition

ORDER NO. 25,166

November 8, 2010

I. BACKGROUND

Hampstead Area Water Company, Inc. (HAWC) is a regulated public utility pursuant to RSA 362:2 and RSA 362:4 and serves some 3,000 customers in 11 municipalities in southeastern New Hampshire. On August 3, 2010, HAWC filed a petition seeking to expand its existing Oak Hill franchise area in the Town of Chester to provide water service to a new ten-unit single-family development on Lincoln Lane off Route 121A. HAWC also seeks approval to charge its consolidated rates in the new franchise area. In support of its request, HAWC filed testimony of John Sullivan, controller for HAWC affiliate Lewis Builders Development, Inc. (LBDI); a fully executed letter agreement (Agreement) among HAWC, LBDI, and Abdallah Construction Corporation (Abdallah), Bill of Sale, Water Rights Deed and Easement, Mortgage Deed, and Promissory Note; and other documents.

Abdallah is constructing the development. LBDI will construct the water extension from HAWC's existing water system at Oak Hill on the opposite side of Route 121A to the new development. Abdallah will pay LBDI \$68,670 for the extension in three phases: \$20,000 upon

execution of the Agreement, \$20,000 upon commencement of work, and the remaining \$28,670 to be paid in \$2,867 increments upon the sale of each home. Any balance remaining two years after substantial completion of the water system will be due and payable at that time. This payment arrangement is secured by a Promissory Note and Mortgage Deed. Abdallah will contribute the system in its entirety to HAWC in accordance with the Bill of Sale. HAWC will book the system as a Contribution in Aid of Construction at an even \$68,000 (\$48,000 for mains and \$20,000 for services).

HAWC provided correspondence from the New Hampshire Department of Environmental Services (NHDES) approving the proposed expansion, thus satisfying the requirements of RSA 374:22, III as to the availability and suitability of water in the new franchise. On August 31, 2010, the Board of Selectmen for the Town of Chester filed a letter indicating that it was aware of the proposed extension of water service.

On November 1, 2010, Staff filed a letter recommending the Commission grant HAWC's franchise request and allow HAWC to charge its tariffed consolidated rates in the new franchise area. After reviewing the filing and conducting discovery, Staff indicated it believes HAWC possesses the requisite managerial, technical, and financial capability to provide water service in the proposed area. Staff attached HAWC's discovery responses to its letter.

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 grants requests for franchise authority upon a finding that it is for the public good pursuant to RSA 374:26. In determining whether a franchise is in the public

good, the Commission assesses the managerial, technical, and financial abilities of the petitioner. *See, Lower Bartlett Water Precinct*, 85 NH PUC 635, 641 (2000). 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. HAWC and its predecessor, Walnut Ridge, have been operating water systems in southern New Hampshire since 1977. *See, Walnut Ridge Water Company, Inc.*, 62 NH PUC 190 (1977). HAWC has previously demonstrated it possesses the requisite managerial, technical, and financial capability to operate water systems. HAWC has recently sought temporary and then permanent rates to meet its revenue requirement. *See Hampstead Area Water Company, Inc.*, Order No. 25,000 (August 4, 2009). For the proposed franchise, HAWC has secured proper easements and access to the water system through a Water Rights Deed and Easement and a Mortgage Deed. HAWC proposes to charge its currently effective tariffed rates in the proposed franchise area. HAWC has also supplied a letter from NHDES indicating the proposed water system extension meets the suitability and availability requirements of RSA 374:22, III. Accordingly, we find HAWC possesses the requisite managerial, technical, and financial expertise to operate the proposed Lincoln Lane water system and we find that HAWC's acquisition of assets from Abdallah and its request to provide water service to the proposed franchise area are for the public good.

With respect to rates, we previously approved consolidated rates for HAWC in *Hampstead Area Water Company, Inc.*, Order No. 24,734, 92 NH PUC 52 (2007). The water system at Lincoln Lane is similar in nature to other systems that were operated by HAWC at the time the rates were approved and thus we find the imposition of HAWC's current consolidated rate to the Lincoln Lane customers to be just and reasonable. HAWC did not request a specific

date by which to implement rates and, consistent with N.H. Code Admin. R. Puc 1203.05, we will thus approve the rate on a service-rendered basis as of the effective date of this order.

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 operate the Lincoln Lane water system. The Town of Chester is aware of the petition but has not expressed any objection or consent to it, therefore, we will approve HAWC’s petition on a *Nisi* basis in order 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 *NISI*, that subject to the effective date below, HAWC is authorized to operate as a public water utility an area known as Lincoln Lane, Tax Map 5, Lot 104 on Route 121A in Chester; and it is

FURTHER ORDERED, that HAWC is granted authority, pursuant to RSA Chapter 378, to charge customers in the new franchise HAWC’s consolidated tariff rates currently in effect, 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 Town Clerk for the Town of Chester and to any known prospective customers as well as published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such mailing and publication to be no later than November 18, 2010 and to be documented by affidavit filed with this office on or before December 7, 2010; and it is

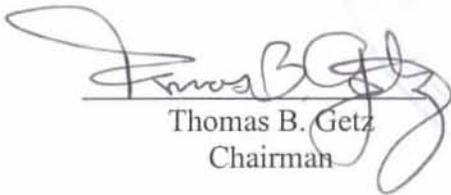
FURTHER ORDERED, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than November 24, 2010 for the Commission's consideration; and it is

FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than December 1, 2010; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective December 7, 2010, 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 December 21, 2010, in accordance with N.H. Admin. Rules Puc 1603.02(b).

By order of the Public Utilities Commission of New Hampshire this eighth day of November, 2010.


Thomas B. Getz
Chairman


Clifton C. Below
Commissioner


Amy L. Ignatius
Commissioner

Attested by:


Debra A. Howland
Executive Director