

DW 04-055

HAMPSTEAD AREA WATER COMPANY, INC.

Petition to Expand Franchise Area and Charge Existing Rates in Atkinson

Order *Nisi* Granting Petition

ORDER NO. 24,501

August 19, 2005

I. BACKGROUND AND PROCEDURAL HISTORY

Hampstead Area Water Company, Inc. (HAWC) provides water service to approximately 2,600 customers in a number of systems in Atkinson, Hampstead and nearby towns. On September 27, 2002 in Docket No. DW 02-128, HAWC filed with the New Hampshire Public Utilities Commission (Commission) a request for a rate increase for its various systems. Docket No. DW 02-128 turned into an investigation into HAWC's noncompliance with numerous statutory and regulatory obligations, among them HAWC's pattern of serving new customers before filing for authorization to do so from the Commission. That docket was concluded and required HAWC, among other things, to file for proper franchise approval and seek approval to impose rates. *See, Hampstead Area Water Company, Order No. 24,362* (August 19, 2004). In recognition of the franchise deficiencies coming to light, on March 30, 2004, HAWC filed a petition with the Commission seeking approval for seven small additional franchise areas in the town of Atkinson. HAWC also sought approval of existing rates in those franchises.

The Commission long ago approved franchises for two other Atkinson providers, Walnut Ridge Water Company (Walnut Ridge) in *Walnut Ridge Water Company, Inc.*, 62 NH PUC 190 (1977) and Bryant Woods Water Company (Bryant Woods) in *Bryant Woods Water*

Company, Inc., 73 NH PUC 465 (1988), which was subsequently transferred to Walnut Ridge, 75 NH PUC 740 (1990). The Walnut Ridge and Bryant Woods systems were physically interconnected and operated as the Atkinson Core system in or about 1992. In 2002, HAWC merged with Walnut Ridge. *See, Hampstead Area Water Company, Inc.*, 87 NH PUC 259 (2002). As a result of these transactions, all but one of the seven proposed franchise areas is now part of the interconnected Atkinson Core system owned and operated by HAWC, which serves 1,050 customers. The remaining proposed franchise, also in Atkinson, is a stand-alone water system serving 11 homes, known as Dearborn Ridge.

The instant petition also seeks authorization to continue to charge a single rate of \$8.00 per quarter and \$2.05 per 100 cubic feet of consumption in the proposed franchise areas. Those rates were established for Walnut Ridge in 1987, 72 NH PUC 69 (1987), and were subsequently applied to the Bryant Woods franchise when the two systems merged.

On April 2, 2004, Staff filed a letter requesting the Commission not issue an Order of Notice, noting that the franchise matters were being addressed in Docket No. DW 02-128. Given the relationship of Docket No. DW 04-055 to other open dockets, Staff asserted it could conduct discovery and recommend a course of action without a full proceeding. To that end, on August 5, 2005, Staff submitted a letter to the Commission recommending it approve HAWC's franchise and rate requests.¹ Staff also recommended the Commission approve the

¹ The franchise areas include the following parcels: Franchise Extension Area 3 - Walnut Ridge Expansion, consisting of Town of Atkinson Tax Map Lots 17-27, 17-94, and 11-33; Franchise Extension Area 4 - Ashford Lane, consisting of Town of Atkinson Tax Map Lots 17-29, 17-29-5, 17-29-7, 17-29-8, 17-29-9, 17-29-10 and 17-29-11; Franchise Extension Area 5 - The Commons, consisting of Town of Atkinson Tax Map Lots 17-86-39, 17-86-40, 17-86-41, 17-86-42, 17-86-43, 17-86-44, 17-86-45, 17-86-46, 17-86-64, 17-86-63, 17-86-62, 17-86-61, 17-86-60, 17-86-59, 17-86-58, and 12-86-57 and portions of 12-86-47, 12-86-48, 12-86-49, 12-86-50, 12-86-51, 12-86-55, 12-86-56, 12-3, and 17-86; Franchise Extension Area 6 - Settlers Ridge and Jesse Paige, consisting of Town of Atkinson Tax Map Lots 17-2,

1987 Walnut Ridge rates for these customers. Staff stated that although the \$8.00 fixed quarterly charge and \$2.05 per hundred cubic feet consumption charge were among the lowest of all regulated rates in the State, HAWC had recently filed a new rate case, Docket No. DW 05-112, during which the rates would be explored in depth.

Staff further indicated that it believed HAWC complied with RSA 374:22, III regarding the suitability and availability of water serving these franchises. Staff submitted with its recommendation a New Hampshire Department of Environmental Services (NH DES) construction approval letter dated December 26, 1995, an NH DES Sanitary Survey dated October 21, 2002, a Granite State Analytical, Inc., Drinking Water Compliance Report dated October 15, 2004, and a letter from the Town of Atkinson to Staff, dated March 29, 2004, which indicated that Atkinson had been notified of HAWC's franchise petition before the Commission.

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 shall grant requests for franchise authority and allow an entity to engage in the business of a public utility when it finds, after due hearing, that the exercise of the right, privilege, or franchise is in the public good. RSA 374:26. In determining whether a franchise is in the public good, the Commission assesses the managerial,

17-1, 12-8-1, 12-19, 12-18, 12-8, 12-20, 12-48, 12-49, 12-50, 12-47, 13-22-1, 13-22-2, 13-22-3, 13-22-4, and 13-21, and a portion of 12-61, 12-62 and 13-22; Franchise Extension Area 7 - Centerview Hollow, consisting of twenty (20) units located on Centerview Road and being part of Centerview Hollow Condominium, together with Town of Atkinson Tax Map Lots 8-107, 8-108, 8-109, 8-110, 8-111, 8-112, 8-113, 13-9, 13-10 and 13-11, and a portion of 8-65, 8-106 and 13-96; Franchise Extension Area 8 - Bryant Woods Expansion, lots presently owned by the Town of Atkinson being Town of Atkinson Tax Map Lots 13-30 and 13-31; and Franchise Extension Area 9 - Dearborn Ridge, consisting of a portion of the road known as Dearborn Ridge Road together with Town of Atkinson Tax Map Lots 18-111, 18-113, 18-115, 18-117, 18-119, 18-120, 18-74, 18-118, 18-116, 18-114, 18-112, 18-110, and 19-6-11.

technical, financial, and legal expertise of the petitioner. *See, Lower Bartlett Water Precinct*, 85 NH PUC 635, 641 (2000).

HAWC and its predecessor, Walnut Ridge, have been operating water systems in New Hampshire for some 40 years. *See, Walnut Ridge Water Company, Inc.*, 62 NH PUC 190 (1977). HAWC has previously demonstrated the requisite managerial and technical expertise to operate its various systems.² According to HAWC's prefiled testimony, it was approached by owners and developers of single family homes and larger parcels located adjacent to its franchise area requesting water service. Petition at 15.

We agree with Staff that HAWC has satisfied the requirements of RSA 374:22, III relating to suitability and availability. Staff points to HAWC's long term provision of water to these franchises, as well as to the 2002 DES Sanitary Survey and 2004 Drinking Water Compliance Report, as evidence that there are no serious violations or concerns regarding the suitability or availability of water to serve the instant franchises.

For the foregoing reasons, we find that expanding HAWC's franchise territory to include the areas proposed is reasonable and will approve HAWC's franchise petition. In the future, before HAWC provides service to any other developments outside of its franchise, however, it must obtain Commission approval.

With respect to rates, we understand that HAWC has been charging the 1987 Walnut Ridge rate consisting of an \$8.00 fixed quarterly charge and \$2.05 per hundred cubic feet consumption charge to all customers in the Atkinson Core and Dearborn Ridge systems.

Because resolution of appropriate rates for these franchises is best done in a full rate case, which

² *Walnut Ridge Water Company, Inc.*, 62 NH PUC 190 (1977); *Bryant Woods Water Company, Inc.*, 73 NH PUC 465 (1988), *Walnut Ridge Water Company, Inc. and Bryant Woods Water Company, Inc.*, 75 NH PUC 740 (1990), *Hampstead Area Water Company, Inc.*, 87 NH PUC 259 (2002).

is presently underway in Docket No. DW 05-112, we find it reasonable to allow HAWC to continue to charge the rates described above, until such time as permanent rates are set.

Pursuant to RSA 374:26, permission to expand a franchise may be granted without hearing when all interested parties are in agreement. While we are not aware of any parties opposed to the franchise petition, we will nonetheless afford interested parties the opportunity to comment. Accordingly, we will issue our decision on a *nisi* basis.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that subject to the effective date below and pursuant to RSA 374:22 and 26, Hampstead Area Water Company, Inc. is authorized to provide water service to the seven proposed franchise areas in the Town of Atkinson, as delineated herein; and it is

FURTHER ORDERED, that pursuant to RSA 374:2, Hampstead Area Water Company is authorized to charge the existing Walnut Ridge rates in each of the seven new franchise areas until new rates are determined in Docket No. DW 05-112; and it is

FURTHER ORDERED, that the Petitioner shall cause a copy 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, with a copy mailed to the Atkinson Town Clerk, such publication and mailing to be no later than August 29, 2005; and to be documented by affidavit filed with this office on or before September 19, 2005; 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 6, 2005 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 2, 2005; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective September 19, 2005, 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 which separately denotes the rates for the stand-alone system of Dearborn Ridge, with the Commission on or before September 6, 2005, in accordance with N.H. Admin. Rules Puc 1603.02(b).

By order of the Public Utilities Commission of New Hampshire this nineteenth day of August, 2005.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Michael D. Harrington
Commissioner

Attested by:

Michelle A. Caraway
Assistant Executive Director & Secretary