

**DW 06-043**

**LACONIA WATER WORKS**

**Petition to Expand Water Service in the Town of Gilford**

**Order *Nisi* Approving Expansion of Service Area**

**ORDER NO. 24,660**

**September 1, 2006**

On March 20, 2006, Laconia Water Works (LWW) filed a petition with the New Hampshire Public Utilities Commission (Commission) to expand its franchise and provide water service in part of the Town of Gilford. LWW is an independent municipal entity providing water service to Laconia and to certain areas outside the city.

LWW seeks to provide water service to six commercial customers in an area known as Gilford Commons. The proposed franchise territory is more generally described as being in the northeast corner of the Laconia Bypass near Route 11A, and a portion abuts franchises previously granted to LWW in Gilford.<sup>1</sup> The area is locally referred to as the Lemay Property and is listed by the Department of Environmental Services (DES) as a Brownfields site (with identification no. 19805001). LWW intends to charge a 15 percent rate premium in the proposed area over rates charged inside Laconia, without subjecting itself to regulation as a public utility, as allowed by RSA 362:4, III-a (a)(1). Consistent with the statutory exclusion, LWW agrees to provide the same quantity and quality of water service it supplies to customers residing within the City of Laconia. As in past franchise expansions, the new customers will pay for the mains. The Town of Gilford currently provides sewer service to the area.

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<sup>1</sup> See *Laconia Water Works*, Order No. 24,455 (April 7, 2005) (authorizing service to Lakes Business Park Phase II) and *City of Laconia*, 37 NH PUC 387 (1955) (approving service in the vicinity of Bedford and Ridgewood avenues).

In support of its petition, LWW provided letters of support from the City of Laconia and Town of Gilford. LWW also submitted a letter from the DES confirming the suitability and availability of water for the proposed area in compliance with RSA 374:22, III. On August 28, 2006, Commission Staff (Staff) recommended approval of the petition. Staff's investigation revealed that the system expansion will be paid solely by the developer and does not fall under the inter-municipal agreement entered into between Laconia and Gilford.

We find that LWW meets the rate and service requirements that exclude it, pursuant to RSA 362:4, II, from rate and service quality regulation as a public utility. However, RSA 362:4, III-a (a)(1) requires LWW to comply with the utility franchise application requirements of RSA 374:22, which states that no entity shall commence business in a particular area without the permission and approval of the Commission.

The Commission's practice has been to authorize expansion of water franchise territories that are consistent with the orderly development of the region. *Pennichuck Water Works*, 72 N.H. P.U.C. 589, 593 (1987). Consequently, the Commission has encouraged coordination among various parties who may serve the water needs of a particular area. In this instance, the City of Laconia and Town of Gilford are working cooperatively to redevelop this area and the extension of water and sewer service to the Gilford Commons should minimize utility infrastructure costs and benefit all customers. Pursuant to RSA 374:26, approval of the franchise expansion request is appropriate upon a determination that it is for the public good. We find that LWW's expansion, consistent with the discussion above, is for the public good and we will approve it on a *nisi* basis to allow opportunity for public comment.

**Based upon the foregoing, it is hereby**

**ORDERED *NISI***, that subject to the effective date below, and pursuant to RSA 374:22 and 26, Laconia Water Works is authorized to extend water service into a limited area of the Town of Gilford in the vicinity of and including the area known as Gilford Commons, as set forth in the franchise description and map included with Laconia Water Works' petition; and it is

**FURTHER ORDERED**, that, except for franchise application requirements, Laconia Water Works is excluded from Commission regulation in accordance with RSA 362:4, III-a (a) (1) so long as it charges a rate outside its municipal boundaries that is no higher than 15 percent above that charged to its municipal customers and serves those customers outside its boundaries with a quantity and quality of water and level of water service equal to that served to customers with the municipality; and it is

**FURTHER ORDERED**, that Laconia Water Works 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 Laconia City Clerk and the Gilford Town Clerk, such publication to be no later than September 11, 2006 and to be documented by affidavit filed with this office on or before September 29, 2006; 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 18, 2006 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 25, 2006; and it is

**FURTHER ORDERED**, that this Order *Nisi* shall be effective September 29, 2006, 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.

By order of the Public Utilities Commission of New Hampshire this first day of September, 2006.

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Thomas B. Getz  
Chairman

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Graham J. Morrison  
Commissioner

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Clifton C. Below  
Commissioner

Attested by:

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Debra A. Howland  
Executive Director & Secretary