

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 13-171

EASTMAN SEWER COMPANY, INC.

**Joint Petition for Approval of Sale to Village District of Eastman and
Exemption from Further Regulation**

**Order Denying Expedited Motion to Reconsider the Procedural Schedule
and to Limit Intervention**

ORDER NO. 25,583

October 18, 2013

I. PROCEDURAL HISTORY

Petitioners Eastman Sewer Company, Inc. (Sewer Company), the Village District of Eastman (Village District), and the Eastman Community Association (Association), filed a joint petition with the New Hampshire Public Utilities Commission (Commission) seeking approval of the Association's sale of the Sewer Company to the Village District, and seeking confirmation that the Sewer Company would then be exempt from further regulation. At the August 1, 2013 prehearing conference, the Commission granted the motions to intervene of Robert Logan, Geraldine Logan, and the Eastman Sewer Users Coalition (Coalition). The Commission also approved a procedural schedule providing for a standard course of discovery, testimony, technical sessions, and a final hearing in March 2014.

A potential issue in this docket was the attempt by some Eastman residents to form a village sewer district with the expectation that this new village sewer district would be a more appropriate entity to purchase the Sewer Company. *See* Petition at 3-4. On August 17, 2013,

however, the voters did not approve the proposed village sewer district. Shortly after this vote, counsel for the Coalition withdrew from this docket.

II. POSITION OF THE JOINT PETITIONERS

Citing the vote against the new village sewer district, the joint petitioners filed an *Expedited Motion to Reconsider the Procedural Schedule and Limit Intervention Pursuant to RSA 541-A:32 and Puc 203.17* (Motion). The joint petitioners argued in the Motion that the voters “have now affirmatively approved the transfer” at issue in this case, “rejected the formation of a new alternative village district,” and thus “unequivocally demonstrated the public good in this transfer.” Motion at 1. The Motion asked for an “expedited hearing on this motion,” for the Commission to limit intervenor participation “to issues in which an Intervenor has a particular designated interest,” and for the Commission to reconsider “the scope of these proceedings and the Procedural Schedule ... in light of the voters’ defeat of an alternative village district and the withdrawal of the” Coalition. Motion at 2.

III. STAFF REPORT

The Commission directed Staff to hold an informal discussion with the parties to review the issues raised in the Motion, to clarify the Coalition’s status given the withdrawal of its lawyer, and to determine if the scope or schedule of this docket should be amended. Staff held a conference call with the parties on September 17, 2013 and filed a report of the call on September 19, 2013.

The report first documents the parties’ agreement, given the vote on the proposed village sewer district, that the scope of this case remains as stated in the order of notice, i.e., whether the proposed sale is in the public interest. Any issues that could have been raised by a competing village sewer district are moot.

Second, Staff's report reflects the Coalition's intent to remain a party to this case and that the individuals representing the Coalition, Mr. Schaefer and Mr. Van Dolah, would file an appearance confirming their authority to represent the Coalition. The Commission received that filing on September 23, 2013.

Finally, to the extent the joint petitioners asked to expedite the procedural schedule, Staff's report notes that the joint petitioners did not propose a new schedule and that the nature of the docket has not materially changed since the procedural schedule was adopted.

IV. COMMISSION ANALYSIS

After review of the Motion and Staff's report, the Commission agrees that the scope of this docket remains as stated in the Order of Notice and thus denies the joint petitioner's request to reconsider scope. Second, the Commission similarly denies the request to reconsider and compress the procedural schedule in light of the vote rejecting the new village sewer district because by law the proposed sale of the Sewer Company requires the Commission to conduct its own public good analysis independent of that vote.¹ Finally, as to the Coalition's status and any limit on its participation as an intervenor, the Commission previously granted the Coalition's motion to intervene and now accepts the appearance of Mr. Schaefer and Mr. Van Dolah as the representatives of the Coalition in this docket. Given the parties' agreement and the Commission's order on the scope of these proceedings, there is no need for the Commission to otherwise limit the Coalition's participation as the joint petitioners request.

¹ Although RSA Chapter 149-I authorizes the acquisition of sewer systems by municipalities, RSA 374:30 independently requires that the Commission find that the transfer of utility assets is for the public good.

Based upon the foregoing, it is hereby

ORDERED, that the *Expedited Motion to Reconsider the Procedural Schedule and Limit Intervention Pursuant to RSA 541-A:32 and Puc 203.17* is DENIED.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of October, 2013.



Amy D. Ignatius
Chairman

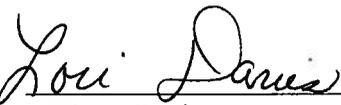


Michael D. Harrington
Commissioner



Robert R. Scott
Commissioner

Attested by:



Lori A. Davis
Assistant Secretary