

THE STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

**PETITION OF LOWER BARTLETT WATER PRECINCT
FOR EXPANSION OF FRANCHISE**

Pursuant to RSA 362:4, 374:22 and 374:28, the Lower Bartlett Water Precinct, a New Hampshire village district (the “Precinct”) which provides water services within the Town of Bartlett, petitions this Commission for approval for the Precinct to expand its franchise to serve outside its existing municipal and franchise boundaries, as described below, under the terms and conditions of its existing tariff. In support of this Petition, the Precinct further states as follows:

1. The Precinct is a New Hampshire Village district established in accordance with RSA 52 to furnish water services. Pursuant to RSA 362:2 and 364:4, III-a, the Precinct is not a public utility.

2. The Precinct presently has a franchise to provide service outside its municipal boundaries by (a) Order No. 21,951 of this Commission, effective January 18, 1996 (Docket No. DE 95-302 - permitting service to the Jackson town line, excluding the Holiday Ridge Water System); (b) Order No. 22,581, effective May 1, 1997 (Docket No. DE 96-257 - permitting service to the Holiday Ridge subdivision); (c) Order No. 23,253, dated July 7, 1999 as clarified by Order No. 23,414 (Docket No. DE 97-255 – permitting service to the Birchview by the Saco subdivision); (d) Order No. 23,562, dated September 25, 2000, as supplemented by Order No, 23,926, dated March 4, 2002, Order No. 23,938, dated March 18. 2006, and Commission letter dated November 15, 2002 (Docket No. DW 99-166 - permitting service along Route 302 to the westerly boundaries of lot numbers 028R01, 053R00, 053L00 and 041L00 as depicted on Tax Map 3RT 302-1, (but excluding the Saco Ridge subdivision), which westerly limit is near the

base of Cow Hill, and (e) Order No. 24,811 dated December 28, 2007 (Docket No. DW 07-084 - permitting service to the Saco Ridge subdivision) (collectively, the “Existing Franchise Areas”).

3. The Precinct now seeks to expand its franchise area Westerly, and Southerly from its existing westerly franchise line, all as more particularly shown on the plan prepared by Horizons Engineering entitled “Proposed Franchise Expansion Limit” dated October 2011 (the “Plan”), attached hereto as Exhibit A. The area shown on the Plan will hereinafter be referred to as the “New Franchise Area”. As shown on the Plan, the limits of the New Franchise Area will be (a) the thread of the Saco River, on the North, (b) the Westerly lines of Lots 283R00, 281L00 and 249L00 of Town of Bartlett Tax Map 3RT 302-4, and as shown on the Plan, on the West, and (c) the White Mountain National Forest, on the South, as further shown on the Plan. The New Franchise Area will include the Cathedral Trails, Tree Tops and Cow Hill developments, the Bear Peak Ski Area, Rogers Crossing and all of the land between the Saco River and the White Mountain National Forest.

4. Residences and businesses within the New Franchise Area have requested water service from the Precinct.

5. Expanding the Precinct’s franchise rights to include the New Franchise Area will be for the public good.

6. To provide water service to the New Franchise Area, the Precinct seeks from the Commission the right to serve beyond its municipal boundaries and the boundaries of its Existing Franchise Areas, pursuant to RSA 362:4, provided that in so doing, it will not become a utility regulated by the Commission “for the purpose of accounting, reporting or auditing functions,” as provided in RSA 362:4, II.

7. The quality and quantity of water the Precinct will provide to customers in the New Franchise Area will be equal to the quality and quantity of water provided by the Precinct to its existing customers within the municipal and franchise boundaries of the Precinct, in accordance with RSA 362:4 III-a, (a) – (e).

8. Customers receiving service within the New Franchise Area will be charged rates that are no higher than 15 percent above that charged to municipal customers of the Precinct, in accordance with RSA 362:4 III-a, (a) – (e). A copy of the Precinct's existing water rates and charges as of February 1, 2011 and proposed tariff for the New Franchise Area are attached hereto as Exhibits B-1 and B-2, respectively.

9. Copies of the Town of Bartlett tax maps 47, 48, 49, 50, 52, 53 and 54 showing the properties within the New Franchise Area are attached hereto collectively as Exhibit C.

10. There is no private water utility in the area of Bartlett that is capable of serving the New Franchise Area.

11. There is no other water precinct or municipal water system capable of serving the New Franchise Area.

12. The Precinct's voters have approved the proposed franchise expansion. See Minutes of 1997, 1998, 2005 and 2007 Annual Meetings of the Precinct attached hereto as Exhibit D1 through Exhibit D4.

13. The Precinct's wells produce water at a rate in excess of two million gallons per day. The Precinct is capable of providing water to the New Franchise Area in compliance with RSA 374:22, III. The Precinct has satisfied the requirements of the New Hampshire Department of Environmental Services concerning the suitability and availability of water, in accordance with RSA 374:22. See Letter of Sarah Pillsbury of the Drinking Water and Groundwater Bureau

of the New Hampshire Department of Environmental Services to Mark A. Naylor of the New Hampshire Public Utilities Commission dated August 6, 2010, a copy of which is attached hereto as Exhibit E.

14. The Precinct has the managerial, legal, technical and financial expertise to provide water services in the requested location and has in its employ, or under its control, a system operator licensed by the State of New Hampshire, as established by the pre-filed testimony of Richard R. Glines, Chairperson of the Precinct Board of Commissioners. See Exhibit F attached hereto.

15. The Board of Selectmen of the Town of Bartlett is aware of the Precinct's intent to serve the New Franchise Area. See Exhibit G attached hereto.

16. Pursuant to RSA 362:4, III-a, there is no necessity for the Town of Bartlett Board of Selectmen to agree to the expansion of the franchise. Similarly, the rules of the Commission do not require the agreement of the Town of Bartlett Board of Selectmen before the expansion of the franchise is granted.

17. In view of the fact that:

- a. there is no other private water company or municipal water system which can provide water service to the New Franchise Area;
- b. the Precinct is willing and able to serve the New Franchise Area;
- c. the Precinct meets all the requirements of the Department of Environmental Services for service to the New Franchise Area;
- d. the Precinct has met the standards set forth in RSA 362:4, III-a;

an Order Nisi would be appropriate.

18. Service should be made to:

Richard R. Glines, Chairperson
Board of Commissioners
Lower Bartlett Water Precinct
P.O. Box 315
Intervale, New Hampshire 03845-0315
(603) 356-6738

and

Timothy E. Britain, Esquire
Cleveland, Waters and Bass, P.A.
Fifth Floor Two Capital Plaza
P.O. Box 1137
Concord, New Hampshire 03302-1137
(603) 224-7761

WHEREFORE, the Lower Bartlett Water Precinct respectfully requests that the
Commission:

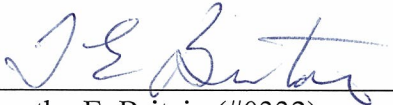
- A. Find that it would be for the public good for the Precinct to engage in the business of supplying water service to the New Franchise Area, as shown on the attached Map (Exhibit A);
- B. Extend the Precinct's franchise rights to include the New Franchise Area;
- C. Grant the Precinct, by an Order Nisi, the franchise right to provide water services to the New Franchise Area in accordance with the Precinct's existing tariff (Exhibit B), as the same may be modified by order of this Commission;
- D. Make such further findings and orders as may be in the public good.

Respectfully submitted,

LOWER BARTLETT WATER PRECINCT

By Its Attorneys,
CLEVELAND, WATERS AND BASS, P.A.

Dated: October 31, 2011

By: 
Timothy E. Britain (#0332)
Fifth Floor, Two Capital Plaza
P.O. Box 1137
Concord, NH 03302-1137
(603) 224-7761

CERTIFICATE OF SERVICE

I certify that copies of the within pleading have this day been forwarded to the Selectmen of the Town of Bartlett (by both Certified Mail and regular mail postage pre-paid), and to the Office of the Consumer Advocate.

Dated: October 31, 2011


Timothy E. Britain