

STATE OF NEW HAMPSHIRE
BEFORE THE
NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

WESTGATES ESTATES OF RAYMOND HOMEOWNERS ASSOCIATION
Request for Exemption

Westgate Estates of Raymond Homeowners Association ("Westgate" or "the Association") respectfully requests that the New Hampshire Public Utilities Commission ("Commission") exempt WESTGATE from regulation as a public utility in the state of New Hampshire pursuant to RSA 362:4. In support of this request WESTGATE states as follows:

1. WESTGATE is an association of home owners located in Raymond, New Hampshire which owns and operates its own water distribution system for the sole purpose of providing water to its members.

2. WESTGATE provides water to 32 houses, all but one of which belongs to members of the Association. There are five lots available for sale which are part of the association and will be connected to the water system, bringing the total households to be served by the water system to 36 members and one non-member. WESTGATE has provided water to one non-member since 2004 when the developer of WESTGATE, Rockwood Construction LLC, made an agreement with the non-member to connect the household to the water system.

3. WESTGATE was unaware that a nonmember was connected to the water system until 2012. Therefore no charge for usage of the water was billed from 2004 through 2012. The members of WESTGATE currently pay \$625 per year; their dues include water and other services provided by the Association. For 2013 the Association has billed the non-member an annual fee of \$558 for the usage, which reflects its best estimate of the expected cost of providing water in 2013, but the non owner has not paid. The Association has no plans at this point of increasing that rate, although it could change in the future as a result of increased costs. Since learning of the non-members connection to the water system, the Association has treated the non-member equitably in relation to members of the Association and has every intention of continuing to do so.

4. Although RSA 362:4 provides that any association that owns or operates a water system is deemed to be a public utility, if it supplies fewer than 75 consumers the Commission may exempt the association from any and all provisions of Title XXXIV, the public utilities title of the Revised Statutes Annotated, whenever the Commission finds "such exemption consistent with the public good." Rule PUC 602.13 also exempts "[a]ny association of residents supplying water to themselves" from the definition of utility.

5. This Commission has a longstanding precedent of considering homeowner associations like WESTGATE and condominium associations to be one customer and therefore exempt from regulation as public utilities.

6. WESTGATE is an association of homeowners that supplies water to themselves, not to the public. It does not provide water to the undifferentiated public and in fact only provides water to one non-member. WESTGATE has never been regulated as a public utility.

7. Requiring WESTGATE to be a public utility and to meet all of the requirements of a public utility would serve no public interest. In fact imposing the burdens of ratemaking, tariff filing, reporting, accounting and other public utility regulatory requirements on WESTGATE and its members would substantially increase the expenses to the Association without providing any corresponding public benefit. No member of the public or any other party has asked the Commission to impose such burdensome regulation and to do so would be out of keeping with prior actions and orders of this Commission.

Wherefore, WESTGATE respectfully requests that the Commission exempt WESTGATE from all provisions of Title XXXIV of the Revised Statutes Annotated and all rules of the Commission and grant such other relief as may be just and equitable.

Respectfully submitted,

Westgate Estates of Raymond
Homeowners Association

Dated: 3/30/13

By: Jane Shaw
Jane Shaw, President

Rockwood Construction LLC

Dated: 3/30/13

By: Robert Marquis
Robert Marquis, Member