

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 15-254

HAMPSTEAD AREA WATER COMPANY, INC.

Petition to Expand Franchise within the Town of Kingston - King's Landing

Order *Nisi* Granting Approval of Franchise, Financing of Assets, and Application of Existing Consolidated Rates

ORDER NO. 25,803

August 24, 2015

In this order *nisi*, the Commission approves the petition of Hampstead Area Water Company, Inc., to expand its franchise in Kingston, New Hampshire, and provide service to residents of the King's Landing condominiums. The Commission also approves the company's request to acquire associated assets and to apply its existing consolidated rates to King's Landing customers.

I. BACKGROUND

Hampstead Area Water Company, Inc. (HAWC), is a regulated public utility pursuant to RSA 362:2 and RSA 362:4, and provides water service to over 3,360 customers in twelve towns in southern New Hampshire, including Kingston. HAWC's rates are consolidated and applied to customers in and across all of HAWC's systems. *Hampstead Area Water Company*, Order No. 24,626 (May 26, 2006). HAWC's service to water utility customers dates back to the late 1970s.

On July 6, 2015, HAWC filed a petition to expand its franchise in Kingston to include King's Landing, a proposed residential condominium development of Trendezza, LLC (Trendezza). HAWC also sought approval to finance the purchase of the assets associated with the King's Landing water distribution system and to charge its existing consolidated rates to the

King's Landing customers. The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted to the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2015/15-254.html>.

In support of its petition, HAWC filed the testimony of Harold Morse, president of HAWC (Exhibit 11), and John Sullivan, controller for HAWC affiliate Lewis Builders, Inc. (Exhibit 12). HAWC also filed copies of documents referenced in its petition and testimony: a water rights deed and easement (Exhibit 1), a condominium site plan (Exhibit 2), a description of the proposed franchise area (Exhibit 3), a Department of Environmental Services (DES) letter of conditional approval of King's Landing wells (Exhibit 4), a contract for the sale of water system assets (Exhibit 5), a schedule of acquisition costs (Exhibit 6), a bill of sale of water utility assets (Exhibit 7), a promissory note from HAWC to Trendezza (Exhibit 8), a project cost schedule (Exhibit 9), a continuing property record (Exhibit 10), and HAWC's letter to the Plaistow Board of Selectman with a draft Selectmen's letter to the Commission (Exhibits 13 and 14).

According to the filing, Trendezza requested new water service from HAWC to 44 condominium units to be constructed. To that end, Trendezza has granted HAWC a water rights and easement deed. Exhibit 1. The King's Landing development, including the location of the wells within the development, is visually depicted in Exhibit 2, and the proposed franchise expansion area is described in writing in Exhibit 3.

Trendezza will install the King's Landing water distribution system, and HAWC will purchase the system for \$44,000 with no interest (Exhibits 5 and 6). HAWC will pay Trendezza that amount over time, in \$1,000 per-hook-up installments, until full build-out of the

development. Petition at 2, para. 6; Exhibit 8. Trendezza will contribute approximately \$337,000 to HAWC as Contribution in Aid of Construction (CIAC). Petition at 2, para. 6; and Exhibits 6 and 7. The CIAC will not be included in rate base for the purpose of setting HAWC's rates in any future rate proceeding.

Trendezza received necessary water-system and well approvals from DES in August of 2013. Exhibit 4. The DES permits are transferrable to HAWC. *Id.* HAWC's use of the system's wells is limited to domestic use only; in-ground irrigation is not permitted under DES's conditional approval. An easement granted to HAWC secures the company's access to the water system and its right to enforce the protective well radius. Exhibit 1.

The King's Landing water system will not be connected to HAWC's core system, and HAWC will not provide fire protection service to King's Landing customers. Instead, fire protection service will be provided by a cistern located within the development. The cistern is not part of HAWC's acquisition.

The pro forma Continuing Property Records (CPR), Exhibit 10 submitted with the filing, do not contain the detail kept by HAWC in the ordinary course of its business. More detailed CPRs, however, will be obtained by HAWC during the acquisition and made available to the Commission at the time of HAWC's next general rate case.

HAWC proposes to charge the King's Landing customers its existing consolidated metered rate. The rate includes a \$10.00 base charge per month and a consumption charge of \$5.02 per 100 cubic feet of water consumed. In 2013, in HAWC's last full rate case, the Commission found those charges to be just and reasonable under RSA 378:28. *See Hampstead Area Water Company, Inc.*, Order No. 25,519 (June 7, 2013).

On July 16, 2015, the Commission received a letter from the Town of Kingston, confirming HAWC's notice of the petition filed in this docket. Commission Staff (Staff), in a filing dated August 5, 2015, recommended approval of HAWC's petition.

II. COMMISSION ANALYSIS

A. Franchise Expansion Approval

“No 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.” RSA 374:22. In addition, no water company shall obtain the permission or approval of the Commission to operate as a public utility without first satisfying any requirements of DES concerning the suitability and availability of water. RSA 374:22, III.

The Commission reviews franchise petitions to ensure that they are consistent with the orderly development of the region. *Pennichuck Water Works, Inc.*, 72 NH PUC 589, 593 (1987). The Commission grants requests for franchise authority upon a finding that such permission is for the public good. RSA 374:26. In so determining, the Commission assesses, among other factors, the petitioner's managerial, technical, and financial abilities. *See Lower Bartlett Water Precinct*, 85 NH PUC 635, 641-643 (2000). RSA 374:26 authorizes the Commission to grant requests for franchise authority without a hearing “when all interested parties are in agreement.”

HAWC has demonstrated, through its years of operating other New Hampshire water utilities, that it has the requisite managerial, technical, and financial abilities to expand its franchise to serve the King's Landing development and its customers. Through that experience, HAWC is well acquainted with the duties and responsibilities associated with providing safe, adequate, and just and reasonable service to customers, including securing capital for necessary

improvements, filing rate cases, and securing necessary approval from DES. Accordingly, we find that HAWC's request to provide water service to customers in the King's Landing development is consistent with the public good. We also find that, by providing DES approval of the King's Landing water sources, HAWC has satisfied the suitability and availability requirements of RSA 374:22, III.

B. Acquisition and Financing Approval

Public utilities engaged in business in this state may issue evidence of indebtedness payable more than twelve months after the date of issuance only if the Commission finds the proposed issuance to be "consistent with the public good." RSA 369:1. Determination of the public good involves looking beyond the actual terms of the proposed financing to the use of the proceeds of those funds and the effect on rates. *See Appeal of Easton*, 125 N.H. 205, 211 (1984). We have previously found that "certain financing related circumstances are routine, calling for more limited Commission review of the purposes and impacts of the financing, while other requests may be at the opposite end of the spectrum, calling for vastly greater exploration of the intended uses and impacts of the proposed financing." *Public Service Company of New Hampshire*, Order No. 25,050 at 14 (December 8, 2009).

HAWC seeks permission to enter into a promissory note with Trendezza in the amount of \$44,000. The terms of that agreement include \$1,000 per-hook-up installment payments over time, without interest, until the development is fully built out. This arrangement is straightforward, and the dollar amount per customer connection is similar to the cost method HAWC has used to accomplish past system acquisitions. *See, e.g., Hampstead Area Water Company, Inc.*, Order No. 25,636 (March 14, 2014) (\$25,000 purchase price based on

25 customers at \$1,000 per hook-up). Accordingly, we find the intended use and terms of the proposed financing to be reasonable and consistent with the public good.

C. Permanent Rate Approval

The Commission's statutory authority includes the power to limit customers' rates to a level that is "just and reasonable" and that recovers only the costs of prudent, used and useful capital improvements. *See* RSA 374:2 (public utilities to provide reasonably safe and adequate service at "just and reasonable" rates); RSA 378:7 (Commission required to determine and fix the utility's just and reasonable or lawful rates); RSA 378:28 (permanent utility rates shall only include a "just and reasonable" return on "just and reasonable" plant, equipment, or capital improvements which the Commission finds are 'prudent, used, and useful'). A "reasonable" rate results from a ratemaking process "that appropriately balances the interests of ratepayers who desire the lowest possible rates and investors who desire rates that are higher." *Appeal of Conservation Law Foundation of New England, Inc.*, 127 N.H. 606, 633, 639 (1986). The Commission is the arbiter of this balance. *See* RSA 363:17-a.

We approved HAWC's consolidated rates in its last full rate case. *Hampstead Area Water Company, Inc.*, Order No. 25,519 (June 7, 2013). Since then, we have approved HAWC's use of existing rates for other franchise expansions. *See Hampstead Area Water Company, Inc.*, Order No. 25,757 (January 16, 2015) (Town of Plaistow); *Hampstead Area Water Company, Inc.*, Order No. 25,704 (August 7, 2014) (Town of Newton); *Hampstead Area Water Company, Inc.*, Order No. 25,672 (May 30, 2014) (Town of Atkinson); *Hampstead Area Water Company, Inc.*, Order No. 25,636 (March 14, 2014) (Town of Plaistow). As in those matters, we find that

HAWC's consolidated rates are just and reasonable for the King's Landing development, and we authorize HAWC to charge those rates to its customers within this new portion of its franchise.

HAWC did not request a specific date by which to implement rates. N.H. Code Admin. Rules Puc 1203.05 requires rate changes implemented as a result of a commission order to be implemented on the basis of service rendered on or after the effective date of the approved rate change. To be consistent with that requirement, we authorize HAWC to charge its consolidated rates on a service-rendered basis as of the effective date of this order, as defined below.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that subject to the effective date defined below, HAWC's petition is granted and HAWC is authorized to expand its franchise within the Town of Kingston, to provide regulated water service to the development of King's Landing, and to acquire the assets identified in its petition and supporting documents as necessary to provide such service; and it is

FURTHER ORDERED, that HAWC is authorized to charge its existing, consolidated rates to customers in the King's Landing development, on a service-rendered basis, effective as of the effective date of this order defined below; and it is

FURTHER ORDERED, that HAWC is hereby authorized to undertake the proposed financing, under the terms and conditions contained in HAWC's petition, and for the purpose as outlined in its petition and supporting documents; and it is

FURTHER ORDERED, that HAWC shall cause a copy of this Order *Nisi* to be mailed by first class mail to the Kingston Town Clerk, and to any known or prospective customers in the King's Landing development, as well as cause a summary 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, such publication to be no later than September 3, 2015, and to be documented by affidavit filed with this office on or before September 21, 2015; 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 10, 2015, 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 17, 2015; and it is

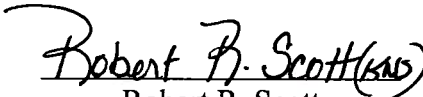
FURTHER ORDERED, that this Order *Nisi* shall be effective September 24, 2015, unless HAWC fails to acquire the King's Landing system as proposed, or HAWC fails to satisfy the publication obligation set forth above, or the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

FURTHER ORDERED, that HAWC shall file a compliance tariff with the Commission on or before October 8, 2015, in accordance with N.H. Code Admin. Rules Puc 1603.02(b).

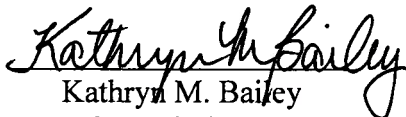
By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of August, 2015.



Martin P. Honigberg
Chairman

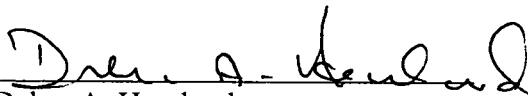


Robert R. Scott
Commissioner



Kathryn M. Bailey
Commissioner

Attested by:



Debra A. Howland
Executive Director