



Marcia A. Brown
Attorney at Law

Environmental Law ■ Utility Law

February 9, 2017

Troy R. Brown, Town Administrator
Theresa L. Briand, Town Clerk
2 Liberty Way, Suite 3
Litchfield, NH 03052

Residents of 588, 589, and 590 Charles Bancroft Highway
Litchfield, NH 03052

Re: Docket No. DW 17-003
Pennichuck East Utility, Inc. and Manchester Water Works
Joint Petition to Modify Franchise Boundary in the Town of Litchfield
Commission approval of Petition

Dear Town Officials and Residents,

As you are aware, efforts are being taken to provide potable water to portions of the Town of Litchfield that have been adversely affected by contamination. To that end, the New Hampshire Public Utilities Commission recently approved the extension of water service from Manchester Water Works to North Litchfield. That approval, Order No. 25,988, is attached and provides for an opportunity for a hearing if interested persons so seek. Otherwise, the Order will become effective March 9, 2017 and construction can proceed.

Because customer information is normally protected from public disclosure, I have not included customer names in this cover letter.

Very Truly Yours,

A handwritten signature in cursive script that reads "Marcia A. Brown".

Marcia A. Brown

Enclosure: Order No. 25,988

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 17-003

PENNICHUCK EAST UTILITY, INC. AND MANCHESTER WATER WORKS

Joint Petition to Modify Franchise Boundaries – Litchfield, NH

Order *Nisi* Granting Petition

ORDER NO. 25,988

February 8, 2017

In this order, the Commission grants Pennichuck East Utility, Inc., and Manchester Water Works, authority pursuant to RSA 374:26 and 374:30 to modify the boundary between their franchise areas to allow Manchester Water Works to serve three residential lots in Litchfield, New Hampshire.

I. BACKGROUND

Pennichuck East Utility, Inc. (PEU), provides water service to approximately 7,000 customers in 19 New Hampshire towns, including Litchfield. Manchester Water Works (MWW) provides water to customers within the City of Manchester and portions of surrounding towns. MWW was exempted from Commission regulation in 2003, *Manchester Water Works*, Order No. 24,138, 88 NH PUC 111 (2003). Notwithstanding this exemption, MWW must obtain Commission approval to acquire any additional franchise area outside its municipal boundaries. RSA 362:4, III-a (a) (1). On January 5, 2017, PEU and MWW filed a joint petition for authority to transfer three single-family home lots with compromised groundwater from PEU's franchise area in the Town of Litchfield to MWW. The lots are identified on Litchfield Tax Map 23 as Lots 33, 34, and 35. 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/2017/17-003.html>

The New Hampshire Department of Environmental Services (NHDES) has requested PEU and MWW's assistance in expanding public water supply in the Town of Litchfield due to the presence of perfluorooctanoic acid ("PFOA") in the groundwater. The three residential lots at issue are on the Litchfield/Manchester line. They have been identified by NHDES as having compromised groundwater and are in need of a public water supply. While the three lots are within PEU's franchise territory, a water main needs to be extended to provide them with service. The parties determined that a MWW main is in closer proximity to the lots than PEU's closest main, and that it would be more economical to extend the MWW main. MWW proposes to provide service to the three lots under its terms of service and at rates on file with the Commission. PEU would be relieved of its obligation to provide service to the three lots.

The petition contained a letter from the NHDES stating that it had reviewed its records of MWW and confirmed that the suitability and availability criteria of NH RSA 374:22, III had been met for the expansion of water service to the three lots. NHDES therefore supported the request. The petition also contained a supporting letter from the Town of Litchfield. The letter from Litchfield stated that the Town was notified in March 2016 by NHDES of the groundwater contamination in parts of Litchfield. The Town agreed that this petition is the most cost effective way to connect the affected homes to a public water supply. The Selectmen voted on December 17, 2016, with "No-Objection" to support the joint petition.

On January 25, 2017, Commission Staff recommended approval of the petitioners' request to modify PEU's franchise area in the Town of Litchfield to allow MWW to serve the three residential lots known on Litchfield Tax Map 23 as Lots 33, 34, and 35 at MWW rates on

file with the Commission, and to relieve PEU of the obligation to provide service to the stated lots.

II. COMMISSION ANALYSIS

Our review of PEU and MWW's franchise modification request is guided by RSA 374:22, "[n]o 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." We review franchise petitions to ensure that they are consistent with the orderly development of the region. *Pennichuck Water Works, Inc.*, Order No. 18,952 (December 31, 1987). We will grant a request for franchise authority if we find that it is for the public good. RSA 374:26 and 30. In considering whether a request is for the public good, we assess, among other things, the managerial, technical, and financial abilities of the petitioner. *See Lower Bartlett Water Precinct*, Order No. 23,562, (September 25, 2000). Pursuant to RSA 374:22, III, 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 for the applicant's proposed water utility.

Having reviewed the filing and Staff's recommendation, we find that the transfer of franchise rights from PEU to MWW for the three lots in question is for the public good. The record demonstrates that MWW has the requisite managerial, technical, and financial abilities to serve the requested franchise. MWW provides water service to the City of Manchester and several adjacent systems. Evidence in the file confirms that the MWW water system meets the suitability and availability requirements of DES as required by RSA 374:22, III and can accommodate the addition of the three lots. The proposed transfer would enable efficient water service in the area and would require no transfer of assets. We also find that application of

MWW's existing rates to the three lots is consistent with RSA 362:4, III-a. Installation of service lines to the three lots will be covered under MWW's existing tariff provisions.

Accordingly, we find that granting Pennichuck East Utility, Inc., and Manchester Water Works, authority to modify the boundary between their franchise areas is for the public good.

RSA 374:26 authorizes the Commission to grant requests for franchise authority without a hearing "when all interested parties are in agreement." Here, Staff, PEU, MWW, and the Town of Litchfield are in agreement that MWW should acquire PEU's franchise rights to the three lots. Notwithstanding this agreement, we will approve the petition on a *nisi* basis in order to ensure that all interested parties receive notice of the proposed transfer and have an opportunity to request a hearing.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that subject to the effective date below, the proposed transfer of franchise rights to Litchfield Tax Map 23 Lots 33, 34, and 35 from PEU to MWW is approved pursuant to RSA 374:26 and 374:30; and it is

FURTHER ORDERED, that PEU is relieved of its obligation to provide water service to the same properties; and it is

FURTHER ORDERED, that MWW is authorized to charge its tariff rates in the subject area as of the date of this order; and it is

FURTHER ORDERED, that the petitioners shall cause a copy of this Order *Nisi* to be mailed by first class mail to the Litchfield Town Clerk and to the current owners of Litchfield Tax Map 23 Lots 33, 34, and 35; and it is

FURTHER ORDERED, that a summary of this order be published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted; and it is

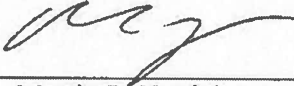
FURTHER ORDERED, that such mailing and publication to be no later than February 17, 2017, and to be documented by affidavit filed with this office on or before March 6, 2017; and it is

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 February 24, 2017, for the Commission's consideration; and it is

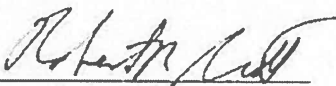
FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than March 3, 2017; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective March 9, 2017, 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.

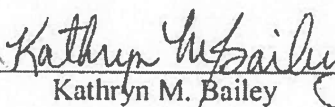
By order of the Public Utilities Commission of New Hampshire this eighth day of February, 2017.



Martin P. Honigberg
Chairman




Robert R. Scott
Commissioner



Kathryn M. Bailey
Commissioner

Attested by:



Debra A. Howland
Executive Director