

STATE OF NEW HAMPSHIRE

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May 22, 2020

Debra A. Howland, Executive Director
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301

Re: DW 18-187 City of Dover
Petition to Extend Water Service Area - Rollinsford
Staff Recommendation for Approval

Dear Ms. Howland:

The purpose of this letter is to offer Staff of the New Hampshire Public Utilities Commission's ("Staff") recommendation regarding a request from the City of Dover ("Dover" or "the City") to extend its water service to one additional property in the Town of Rollinsford ("Rollinsford"). After a thorough review of the petition, detailed below, Staff recommends the Commission approve the petition by Order *nisi*.

On December 17, 2018, the Commission received a letter from John B. Storer, Director of Community Services, City of Dover, dated November 1, 2018, requesting approval to provide water service to 7 Hall Street, Rollinsford. After reviewing the request and conducting discovery, Staff determined that the requested service expansion site was not within previously approved water franchise areas for Dover,¹ and required Commission approval. Additionally, Staff determined the letter submitted by Dover did not comply with Commission filing requirements, including but not limited to N.H. Code Admin. Rules Puc 203.04 and 203.05. On January 29, 2019, Staff suggested that Dover refile its franchise expansion application in order to comply with the Commission procedural rules.

Dover refiled its petition on August 15, 2019. Similar to the original letter filed by Dover, the refiled petition requested authorization, pursuant to RSA 362:4, III-a and RSA 374:22, to extend its water service area to the parcel located on 7 Hall Street in Rollinsford. In support of its petition, Dover argued that it has the "requisite managerial, financial, and technical expertise to provide water service" to the one customer, as it operates a New Hampshire Department of Environmental Services (DES) Licensed Public Water System, with a fiscal year

¹ Order No. 9969 (May 22, 1970) and Order No. 12,548 (January 3, 1977) grant franchise areas to a portion of Hall Street, but does not include 7 Hall Street, Rollinsford.

operations budget of \$5.86 million, providing service to over 9,700 metered accounts in Dover, Rollinsford, Somersworth and Madbury. City of Dover, Petition to Extend Water Service Area (August 16, 2019) at 3-4. Dover also stated that a “Water System Master Plan” prepared by Underwood Engineers concluded that the City had adequate water supply capacity to meet its future predicted water demands beyond 2035. *Id.* at 4. The City, furthermore, stated that the new customer would solely fund the costs of expanding the water system, incurring no additional costs to Dover’s current customers. *Id.*

In further support, the following Exhibits were attached to the petition:

- Petition Exhibit 1 is a map showing the proposed franchise expansion area. 7 Hall Street is identified on the map as well as ownership and lot identification details. However, the street is identified with a Dover mailing address. Staff visited the Town of Rollinsford website where property tax records confirmed that 7 Hall Street is within the Town of Rollinsford. [Attachment]
- Petition Exhibit 2 is a Manufactured Housing Warranty Deed executed March 25, 2016, conveying the property from the previous owner to the current owner.
- Petition Exhibit 3 contains a copy of the letter from John B. Storer, Director of Community Services, City of Dover dated November 1, 2018, received by the Commission on December 17, 2018.
- Petition Exhibit 4 is the City of Dover’s Resolution by the Mayor and City Council permitting the City Attorney to file a Petition with the Commission to extend Dover’s water service area to 7 Hall Street in Rollinsford. The Resolution was unanimously approved on August 14, 2019.

On September 12, 2019, the City filed a letter from Rollinsford’s Town Administrator that stated the Select Board of Rollinsford voted to allow the expansion of Dover municipal water to two additional residents, including 7 Hall Street. Dover, furthermore, filed an email on March 12, 2020, from Rick Skarinka, an engineer at DES’s Drinking Water and Groundwater Bureau, stating that DES determined that the City has sufficient water supply capacity to serve the proposed franchise expansion.

Pursuant to 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.” The Commission will grant a request for franchise authority if it finds that it is for the public good. RSA 374:26. When determining whether a proposed franchise is for the public good, the Commission assesses, among other things, the managerial, technical, and financial expertise of the petitioner. *Hampstead Area Water Company, Inc.*, Order No. 26,301 at 4 (October 22, 2019). Under 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 DES requirements concerning the suitability and availability of water.

Staff supports the petition submitted by Dover to modify its franchise area to include one additional residential property adjacent to its franchise. Based on the evidence that the City operates and maintains a DES licensed water system, servicing 9,700 metered customers, in four different municipalities, Staff agrees that Dover has the requisite managerial, financial, and technical expertise to provide water service to 7 Hall Street, Rollinsford. In addition, Staff agrees that the expansion is in the public good as it is at the property owner's request, no other water utilities are in close proximity or feasible to provide and the expansion, and Dover's current customers will not subsidize the expansion. Staff, furthermore, notes that the Commission has previously found that franchise expansion by Dover was in the public good, and nothing in the current petition raises any issues of concern with respect to the Commission's prior findings. *City of Dover*, Order No. 24,506 (August 26, 2005).

Staff also contends that the email filed by the City from DES, dated March 12, 2020, satisfies the requirements of RSA 374:22(III) regarding the suitability and availability of water to serve this extension. Thus, Staff recommends that the Commission approve Dover's proposed franchise expansion to 7 Hall Street in Rollinsford.

Lastly, Dover asserted in its petition that the city will provide water service uniformly, and in accordance with its existing tariff, to all customers within the City's existing franchise and to the additional customer in Rollinsford. City of Dover, Petition to Extend Water Service Area (August 16, 2019) at 4. Staff therefore recommends that the Commission determine that Dover's provision of water service outside its municipal boundaries should remain exempt from Commission regulation going forward. See RSA 362:III-a(a) (“[a] municipal corporation furnishing water services shall not be considered a public utility under this title: (1) if it serves new customers outside its municipal boundaries, charging such customers a rate no higher than 15 percent above that charged to its municipal customers ... and serves those customers a quantity and quality of water or a level of water service equal to that served to customers within the municipality”).

In conclusion, Staff recommends that the Commission grant such approval without hearing as all parties are in agreement. *See* RSA 374:26 (when all parties agree, the Commission may grant the request without a hearing). Staff, however recommends that the Commission approve Dover's petition by the issuance of an Order *nisi* to ensure that all interested parties receive notice and have the opportunity to comment or request a hearing before the order becomes effective. If you have any questions regarding this matter, please contact me.

Sincerely,

/s/ Robyn J. Descoteau

Robyn J. Descoteau
Utility Analyst, Gas/Water Division

cc: Service list

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