

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 19-147

HAMPSTEAD AREA WATER COMPANY, INC.

**Petition for Approval to Accept Drinking Water and Groundwater Trust Fund
Grant and Financing, Bank Financing**

Order Granting Motion to Modify Loan Amount

ORDER NO. 26,548

November 9, 2021

I. BACKGROUND

Hampstead Area Water Company, Inc., (HAWC), is a regulated water utility providing water service to approximately 3,700 customers in thirteen towns. On September 9, 2019, HAWC petitioned for, among other things, authority to accept a grant from the New Hampshire Drinking Water and Groundwater Trust Fund (DWGTF), and a loan from the DWGTF to pay the income tax associated with receipt of that grant.

On September 28, 2020, the Commission issued Order No. 26,407 authorizing HAWC to borrow up to \$1,204,815 from the New Hampshire Drinking Water and Groundwater Trust Fund (DWGTF) to pay for the income tax associated with contributions in aid of construction (CIAC) derived from its receipt of the DWGTF grant money and contributed plant from the Towns of Salem and Plaistow.

On May 12, 2021, HAWC filed a motion seeking to increase the DWGTF loan amount by \$85,000, to a total loan amount of \$1,289,815. In support of its motion, HAWC stated that the increased loan amount would be used to pay income tax on CIAC associated with accepting an additional \$250,000 in grant funds from the DWGTF. Additionally, HAWC requested to withdraw a separate request for approval of

financing in the amount of \$392,500 to pay a portion of the Merrimack Source Development Charge, which it is required to pay.

II. COMMISSION ANALYSIS

The Commission may modify its orders at any time after they have been issued. RSA 365:28. It is not required to hold a hearing before modifying an order when no hearing was required by statute, or in fact held, before the order issued. *Id.* The Commission's statutory authority to reconsider and modify its orders "is limited only in that the modification must satisfy the requirements of due process and be legally correct." *Northern Utilities, Inc.*, Order No. 26,526 at 3 (September 23, 2021) (*citing Elec. & Gas Utilities*, Order No. 26,375 at 3 (June 30, 2020)). No hearing was required by statute, and no hearing was held, before Order No. 26,407 was issued. *See* RSA 369:4. As a result, no hearing is required in this instance. In addition, there has been no objection to HAWC's request.

Pursuant to RSA 369:1, public utilities engaged in business in New Hampshire may issue evidence of indebtedness payable more than 12 months after the date thereof only if the Commission finds the proposed issuance to be "consistent with the public good." Analysis of the public good consideration involves looking beyond actual terms of the proposed financing to the use of the proceeds of those funds and the effect on rates to insure the public good is protected. *Appeal of Easton*, 125 N.H. 205, 211 (1984). As we have previously noted, "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." *In re Public Service Company of New Hampshire*, Order No. 25,050, 94 NH PUC 691 (2009).

In Order No. 26,407, the Commission undertook a full *Easton* analysis, and found that

...although the DWGTF Loan may raise the rates of HAWC's existing customers at the outcome of the Company's rate case, and will increase HAWC's debt, this financing is nonetheless for the public good. The DWGTF Loan allows the Company to meet its mandatory income tax obligation for receipt of almost \$3.3 million of contributed, no-cost capital. HAWC, Staff, and DES have argued that the contributed capital will help promote the Company's duty to provide safe and adequate water service, pursuant to RSA 374:1. The financing for the tax is equivalent to buying the contributed capital at a steep discount.

Id. at 8.

The Commission previously found that HAWC's request for approval of financing under the initial terms required the degree of scrutiny needed for less routine matters and that the use of the proceeds of the funds was reasonable and appropriate.

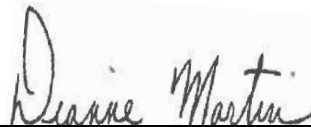
We find that the increased loan amount is a reasonable modification to the Commission's prior order, and that the public good will continue to be served because the terms and use of the funding is the same as in the prior order. We also find the modified loan amount is unlikely to have a significant impact on rates. We therefore find good cause to approve of a modification to Order No. 26,407, resulting in the authorization of a total financing in the amount of \$1,289,815 from the DWGTF to pay CIAC taxes associated with the acceptance of an additional grant funds from the DWGTF.

Based upon the foregoing, it is hereby

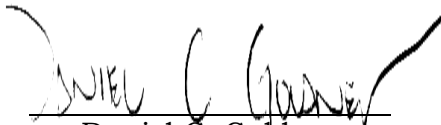
ORDERED, that the HAWC's motion to modify the loan amount originally approved in Order No. 26,407 to a total amount of \$1,289,815, is GRANTED; and it is

FURTHER ORDERED, that HAWC's motion to withdraw its request for permission to obtain a loan of \$392,500 to pay a portion of its Merrimack Source Development Charge is GRANTED.

By order of the Public Utilities Commission of New Hampshire this ninth day of November, 2021.



Dianne Martin
Chairwoman



Daniel C. Goldner
Commissioner

Service List - Docket Related

Docket# : 19-147

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