

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 22-012

BODWELL WASTE SERVICES CORPORATION

Petition to Discontinue Operations and Transfer Assets and Franchise

**COMMENCEMENT OF ADJUDICATIVE PROCEEDING
AND NOTICE OF PREHEARING CONFERENCE**

On March 10, 2022, Bodwell Waste Services Corporation (Bodwell) filed a petition to discontinue its operations and transfer its franchise and assets to the City of Manchester (Manchester or the City) and the Town of Londonderry (Londonderry or the Town). In support of its petition, Bodwell filed the Direct Testimony of Stephen P. St. Cyr of Stephen P. St. Cyr & Associates, which provides administrative and other services to Bodwell, and related attachments. The petition and subsequent docket filings, other than any information for which confidential treatment is requested or granted by the Commission, are available on the Commission's website at www.puc.nh.gov/regulatory/Docketbk/2022/22-012.html.

I. BACKGROUND AND PROCEDURAL HISTORY

Bodwell began operating as a sewer utility in 1992. It now has approximately 528 customers in Manchester and Londonderry. Bodwell has facilities in both Manchester and Londonderry that are used to collect sewage and pump it through Bodwell's wastewater system to Manchester's public sewer system for treatment. Bodwell customers currently receive a bill from Bodwell for \$64.17 per quarter, or \$256.68 yearly for collection services, as well as a bill from Manchester based on a flat quarterly and volumetric fee for treatment services.

In conjunction with the construction of Manchester's Cohas Brook Sewer Project (the Project), part of a program to expand the City's wastewater collection

system and extend public sewer service to parts of Manchester now served by Bodwell, Manchester and Bodwell have entered into a memorandum of understanding (MOU) whereby Bodwell would transfer its sewer mains, manholes, pump stations, force mains, and appurtenances (collectively, sewer facilities) in Manchester to the City and discontinue its franchise and operations there. Pursuant to its MOU with Manchester, Bodwell must obtain approval from the Commission to discontinue service and transfer its assets to the City no later than September 15, 2022 to allow construction of the Project to proceed as scheduled.

If the Commission grants this approval, then under the MOU, Bodwell would transfer ownership of its Manchester sewer facilities to the City pursuant to a Sewer Facilities Deed of Transfer. Upon recording the deed, Bodwell would no longer have any responsibility for the operation or maintenance of these sewer facilities. According to Mr. St. Cyr's testimony, it is estimated that the City would incur a cost of over \$1 million to decommission Bodwell's pump stations in Manchester. St. Cyr Testimony at 5. Bodwell and Londonderry are in the process of finalizing a similar MOU, which Bodwell will file in this docket.

To pay its outstanding debt, a loan from the Merrimack County Savings Bank (MCSB) maturing in 2032 that the Commission approved in Docket No. DW 17-142, see Order No. 26,072 (November 9, 2017), Bodwell proposed continuing to bill its customers at current rates after its sewer facilities have been transferred, with the amounts collected used to pay the loan directly. Mr. St. Cyr testified that Bodwell estimated billing would need to continue for another 10-12 quarters, or 2 ½ to 3 years, to pay the balance of the MCSB loan, which was \$355,529, as of December 31, 2021. St. Cyr Testimony at 8. Bodwell proposed recovering the administrative expenses and regulatory costs associated with winding down its operations through a

surcharge on customer bills. Mr. St. Cyr testified that the term for the surcharge would be less than the period of time needed to pay off the loan. *Id.* at 9. After the MCSB loan and remaining expenses and costs have been paid, Bodwell's customers would receive bills from Manchester only and will be charged the same rate charged to Manchester's other customers.

In its petition, Bodwell requested the Commission to authorize it to discontinue its operations and to transfer its sewer facilities to Manchester and Londonderry. In addition, Bodwell requested authorization to continue billing its customers at current rates until the MCSB loan is fully repaid, to recover the expenses and costs of winding down its operations, and to be relieved of all reporting obligations, including the filing of annual reports.

II. ISSUES PRESENTED

The filing presents, *inter alia*, the following issues: whether Manchester and Londonderry have the requisite managerial, technical, and financial expertise to provide the sewer services now provided by Bodwell, so that transfer of the relevant portions of Bodwell's franchise to Manchester and Londonderry, respectively, would be for the public good pursuant to RSA 374:22 and RSA 374:26; whether the transfer of Bodwell's franchise and sewer facilities to Manchester and Londonderry would be for the public good under RSA 374:30; whether discontinuance of Bodwell's service is consistent with the public good under RSA 374:28; and whether the rates to be paid by Bodwell customers following the transfer of Bodwell's franchise, including the continuation of billing to pay the outstanding MSCB loan and surcharge for applicable administrative expenses and regulatory costs, are likely to be just and reasonable, as required by RSA 374:2 and RSA 378:5 and :7. Accordingly, an adjudicative proceeding will be convened to address these issues.

The Commission will be conducting the prehearing conference and any hearings scheduled in this matter in person. The Commission will consider requests to conduct hearings using a hybrid format to permit remote participation by a specific individual only if the Commission has determined that a sufficient reason has been provided for why that individual would be unable to attend in person. Any party requesting that a specific individual be permitted to participate remotely should file a written request with the Commission's Clerk's Office no later than fifteen (15) days prior to the prehearing conference or hearing date. If the Commission determines that one or more individuals will be permitted to appear remotely, then individuals in the Commission's hearing room, including the Commissioners, will be broadcast on a web-enabled platform.

Based upon the foregoing, it is hereby

ORDERED, that an adjudicative proceeding be commenced for the purpose of reviewing and resolving the foregoing issues pursuant to RSA chapter 541-A, RSA 374:22, RSA 374:26, RSA 374:30, RSA 374:28, RSA 374:2, and RSA 378:5 and :7, and the Commission's procedural rules; and it is

FURTHER ORDERED, that Manchester and Londonderry shall participate in this proceeding as mandatory parties; and it is

FURTHER ORDERED, that the Commission will hold a prehearing conference, pursuant to N.H. Admin. R., Puc 203.15, at its offices located at 21 S. Fruit St., Suite 10, Concord, New Hampshire, on June 1, 2022, at 1:30 p.m., at which each party should be prepared to address any of the issues set forth in N.H. Admin. R., Puc 203.15; and it is

FURTHER ORDERED, that during the prehearing conference, the Commission will consider the matters listed in Puc 203.15(c) and (d), including the establishment

of a procedural schedule governing the remainder of the proceeding. Parties and potential parties are encouraged to facilitate the development of a procedural schedule by conferring prior to the prehearing conference, so that the presiding officer can address any matters on which there is disagreement during the prehearing conference. Any procedural schedule, however, will not be approved until after the prehearing conference and after consulting the Commission's calendar; and it is

FURTHER ORDERED, that, immediately following the prehearing conference, Bodwell shall make appropriate personnel available for the parties, to hold a technical session to review the filing; and it is

FURTHER ORDERED, that any entity or individual may petition to intervene and seek to be admitted as a party in this proceeding. Each party has the right to have an attorney represent the party at the party's own expense; and it is,

FURTHER ORDERED, that, consistent with N.H. Admin. R., Puc 203.17 and Puc 203.02, any entity or individual seeking to intervene in the proceeding shall file with the Commission a petition to intervene with copies sent to Bodwell and any other parties on the service list, on or before May 17, 2022. The petition shall state the facts demonstrating how the petitioner's rights, duties, privileges, immunities, or other substantial interests may be affected by the proceeding, consistent with N.H. Admin. R., Puc 203.17; and it is

FURTHER ORDERED, that any party objecting to a petition to intervene make said objection on or before May 27, 2022; and it is

FURTHER ORDERED, that parties shall file any proposed exhibits, written testimony, motions, or other documents intended to become part of the record in this proceeding with the Commission. Pursuant to the secretarial letter issued on March 17, 2020, which is posted on the Commission's website at

<https://www.puc.nh.gov/Regulatory/Secretarial%20Letters/20200317-SecLtr-Temp-Changes-in-Filing-Requirements.pdf>, all Commission rules requiring the filing of paper copies are suspended until further notice. Parties may elect to submit any filing in electronic form unless otherwise ordered by the Commission. Filings will be considered filed as of the time the electronic copy is received by the Commission; and it is

FURTHER ORDERED, that routine procedural inquiries may be made by contacting the Commission's Clerk's Office at (603) 271-2431 or ClerksOffice@puc.nh.gov. All requests to the Commission should be made in a written pleading filed with the Commission. Unless otherwise authorized by law, *ex parte* communications are prohibited; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. R., Puc 203.12, Bodwell shall notify all entities and individuals desiring to be heard at this hearing by publishing a copy of this order of notice on its website no later than two business days after the date of issue, such publication to be documented by affidavit filed with the Commission on or before May 16, 2022. In addition, the Clerk shall publish this order of notice on the Commission's website no later than two business days after the date of issue; and it is

FURTHER ORDERED, that any hearings in this matter shall be conducted in accordance with the attached hearing guidelines.

So ordered, this tenth day of May, 2022.



Daniel C. Goldner
Presiding Officer
Chairman

Individuals needing assistance or auxiliary communication aids due to sensory impairment or other disability should contact the NHPUC, 21 S. Fruit St., Suite 10, Concord, New Hampshire 03301-2429; 603-271-2431; TDD Access: Relay N.H. 1-800-735-2964. Notification of the need for assistance should be made one week prior to the scheduled event.

Service List - Docket Related

Docket# : 22-012

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