

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Docket No. DW 22-082

RESIDENTS OF COLONIAL DRIVE

Complaint and Petition Against Agape Community Church for Receivership

PARTIALLY ASSENTED-TO MOTION TO
STAY PROCEEDING PENDING EXPLORATION OF ASSET TRANSFER

The Residents of Colonial Drive (Residents), in accordance with N.H. Admin. Rule Puc 203.05 and Puc 203.07 hereby moves the New Hampshire Public Utilities Commission (Commission) to temporarily stay this proceeding while the Residents investigate the feasibility of acquiring the sewer assets Agape Community Church. In support of its motion, the Residents state:

1. On December 2, 2022, the Residents filed a complaint and petition with the Commission requesting imposition of receivership status given the then-present complete failure of the sewer system serving Colonial Drive in Moultonborough.

2. On December 9, 2022, the Commission issued a procedural order scheduling a hearing on preliminary issues for January 12, 2023. On February 1, 2023, the Commission opened an adjudicative proceeding to consider the issues, which were subsequently briefed by the parties.

3. Since the initiation of this matter, and as explained at the two hearings, the Residents themselves, and with the consent of Agape Community Church, have paid to replace the failed sewer pumps at the pump station, thereby eliminating the most serious aspect of the emergency.

4. Also, the Town of Moultonborough recently conducted a video inspection of the sewer mains.

5. The Residents are awaiting the results of that Town inspection. Upon initial comments from the company that performed the inspection, the sewer mains appear to be largely

sound, with the exception of two repair issues. The Residents have a quote for one repair but not the second repair. Additional time is needed to obtain that second quote.

6. Important to this proceeding and whether to continue litigation over whether Agape Community Church's system is subject to regulation per RSA 362:2 and RSA 362:4, and in light of the sewer facilities being in a much-improved state of operation, the Residents and Agape are inclined to discuss the transfer of the sewer assets to the Residents. If an asset transfer occurs, then under RSA 362:4, VII, a system serving its owners is exempt from Commission regulation. This outcome would render the present receivership request moot.

7. The Commission has authority under RSA 365:28 to alter and amend orders and under RSA 541-A:31 to oversee the procedural schedule of an adjudicative proceeding. Therefore, under these authorities, the Residents request the Commission temporarily stay this proceeding for a period of 90 days to allow the Residents and Agape Community Church to resolve the question of the cost to repair the second repair and to discuss a transfer of the sewer assets.

8. The Residents aver that a temporary stay would be in the public interest because the Residents, again with the consent and cooperation of Agape Community Church, has retained a vendor to annually inspect and warranty the pump station work. Also, given the Town's inspection and finding that the sewer collection mains are largely sound, and given the Resident's attention to the two repair issues, it is unlikely that a health and safety emergency would arise during this temporary stay.

9. The Company has contacted the parties and participants to this docket for their positions. Agape Community Church assents to the relief requested as does the Department of Environmental Services and the Department of Energy. Lamprey's Suburban Septic Service responded: "Lamprey Septic does not assent to this Motion because it further delays the resolution of the substantial amount of debt owed to Lamprey Septic for services rendered months ago to prevent this system from failing and causing significant pollution." The Residents do not believe

this debt issue is noticed for this proceeding or is relevant to this proceeding given Lamprey's

statements that the Town directed the pumping, Lamprey had worked on sewer system before for

the Town and had been paid by the Town, and that Lamprey knew from Mr. Solomon that the

Residents of Colonial Drive did not own the sewer system. See Transcript of January 12, 2023 at

28, 71, and 73. See also Tab 11, Letter from Suburban Septic Service dated January 11, 2023.

WHEREFORE, the Residents of Colonial Drive respectfully requests the Commission:

A. Grant this motion for a temporary stay of this proceeding for a period of 90

days; and

B. Grant such other relief as is just and equitable.

Respectfully submitted,

Residents of Colonial Drive

By Their Attorney,

Date: May 24, 2023

By:

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this motion has been forwarded this day by electronic transmission to the Docket-Related Service List for DW 22-082.

Date: May 24, 2023

Marcia A. Brown
Marcia A. Brown