

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 24-068

CHARLES EVANS AND EVANS FAMILY, LLC

Petition for Franchise and Exemption from Regulation

COMMENCEMENT OF ADJUDICATIVE PROCEEDING

On April 29, 2024, Charles Evans and Evans Family, LLC (collectively, the petitioners) filed a Verified Petition for Franchise and Exemption From Regulation seeking: (1) to be granted a limited franchise to operate a sewer main extension pursuant to RSA 374:22 and RSA 374:26; and (2) to be exempt from regulation as a utility pursuant to RSA 362:4 because it will serve fewer than 75 customers. In support of their petition, the petitioners filed survey plans, proposed easement deeds, a map of the limits of the Town of Londonderry (Town) sewer system, property tax cards, and state and local permits. All docket filings, other than any information subject to confidential treatment, are available on the Commission's website at <https://www.puc.nh.gov/Regulatory/Docketbk/2024/24-068.html>.

I. BACKGROUND AND PROCEDURAL HISTORY

The petitioners are real estate developers and own multiple parcels of land in the Town. They recently sold a commercial lot, which currently houses a 75,000 square foot warehouse, located at 13 Page Road in the Town (the Lot) to an unrelated entity. As part of the sales contract, they agreed to install a sewer main connection to the Town's existing system. In order to comply with this requirement, the petitioners have proposed to construct a sewer extension connecting the Lot to the Town's system on Sanborn Road. The extension will run across other property owned by the petitioners that it is located between Sanborn Road and the Lot.

In addition to the Lot, the petitioners note that the planned sewer main extension will also connect to two additional properties. The wastewater from all three properties will be treated by the Town. The petitioners will initially retain ownership of the sewer main. However, they indicated in their petition that the Town may eventually take ownership of the sewer main. Finally, the petitioners noted that up to nine additional properties could be connected to the sewer extension in the future, although there are no plans to do so at this time.

II. ISSUES PRESENTED

The filing presents, *inter alia*, the following issues: (1) whether the petitioners possess the requisite managerial, financial, technical, and legal expertise to own and operate a sewer utility in a limited franchise area pursuant to RSA 374:22 and RSA 374:26; and (2) whether that franchise should be exempt from regulation as a public utility pursuant to RSA 362:4 because it will serve fewer than 75 customers. 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 362:4, RSA 374:30, RSA 374:22, RSA 374:26, and the Commission's procedural rules; and it is

FURTHER ORDERED, the Commission requests that, on or before June 21, 2024, the New Hampshire Department of Energy (DOE) file a recommendation for the Commission's action on this petition, which includes whether the matter may be dispositioned by Order *Nisi*.

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 Evans and any other parties on the service list, on or before June 12, 2024. 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 June 19, 2024; and it is

FURTHER ORDERED, should the DOE recommend that a formal hearing is necessary, the parties may submit a stipulation containing a discovery schedule, statement of any additional issues not identified in this order of notice, and at least

three dates on which they would be available for a final hearing in this matter, including how much time will be required on or before July 15, 2024; and it is

FURTHER ORDERED, if hearing is necessary 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

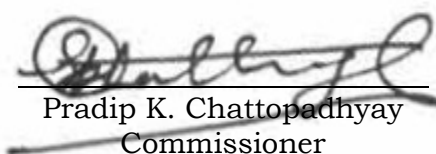
FURTHER ORDERED, that pursuant to N.H. Admin. R., Puc 203.12, the petitioners shall notify all entities and individuals desiring to be heard at this hearing by publishing a copy of this order of notice on its website or newspaper of general publication no later than two business days after the date of issue, such publication to be documented by affidavit filed with the Commission on or before May 29, 2024. 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 twenty-fourth day of May, 2024.



Daniel C. Goldner
Chairman



Pradip K. Chattopadhyay
Commissioner



Carleton B. Simpson
Commissioner

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#: 24-068

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