

DW 99-119

LOV WATER COMPANY, INC.

Suspension of Fines

Order Nisi Granting Motion For Extension Of Time

O R D E R    N O.    23,741

July 13, 2001

**I.    BACKGROUND AND PROCEDURAL HISTORY**

On June 14, 2001, the New Hampshire Public Utilities Commission issued Order Nisi No. 23,728. The Order Nisi extended a suspension of fines that was imposed on LOV Water Company in Order No. 23,502. The impetus of the Order Nisi was a Staff memo dated May 18, 2001, by Douglas Brogan, the Commission Staff's Water Engineer, addressing the status of several outstanding issues in this docket. Order Nisi No. 23,728, provides a detailed description of the events leading to the Order and provides some background of Docket No. DW 99-119. The history of which will not be repeated here.

By way of synopsis of the Order Nisi, the Commission directed the Company to meet certain requirements and deadlines set forth in Staff's memo of May 18, 2001. The Order Nisi also adopted Staff's suggestion that the suspension of fines be extended through December 5, 2001, finding it reasonable to do so given the circumstances of the case. The Order Nisi specifically states, in part, that "...we issue

this order on a NISI basis to afford any interested party the opportunity for a hearing."

The Nisi Order No. 23,728 also specifically directed the Company to publish a copy of the Order in a statewide newspaper no later than June 21, 2001, and that persons interested in requesting a hearing must do so no later than July 2, 2001. If no hearing was requested the Order Nisi would become effective July 16, 2001.

The facts indicate that the Petitioner failed to publish the Order Nisi by the date directed. As a result, on July 5, 2001, the Petitioner filed a Motion for Extension of Time to Effect Publication, stating "accident and inadvertence" as the reason for the failure to make publication as directed by the Commission. At no point, to date, has the petitioner asked for a hearing.

## **II. COMMISSION ANALYSIS**

The Commission is concerned by the Company's lack of attention to the mandates of the Commission. The Company failed to comply with Order No. 23,371 which required the Company to install a pump station by a date certain and to report weekly in writing to the Commission regarding the pump station. That Order also directed the Company to file an engineering study, which filing was inadequate and did not

address a significant number of outstanding issues from prior orders. Now, the Company has once again ignored the dictates of the Commission and missed specific deadlines prescribed in Order Nisi No. 23,728.

The Company has come before this Commission on enough occasions in the past to ensure its knowledge and understanding of the rules, practices and procedures of the Commission, including those of due notice by publication. The Commission is thus disinclined to grant the request of the Company. However, we must concern ourselves with the needs of all the parties and what is in the best interest of the public. It is certainly in the best interest of the public that notice be effected regarding this matter and that members of the public have an opportunity to request a hearing, or otherwise comment on this proposed disposition. Therefore, we will grant the Company's request for additional time in which to publish, but we find that the Company has waived its rights to any further time within which to request a hearing. It is our determination that the Company had full knowledge of the contents of Order Nisi No. 23,728, and therefore had ample time in which to request a hearing, but did not do so. Therefore, it will not be rewarded for its "accident and inadvertence" by now being allowed to use the extension of the

Nisi Order as an opportunity to request a hearing.

Finally, we admonish the Company to diligently adhere to the letter and intent of Order No. 23,728, and this Order.

Therefore, Order Nisi No. 23,728 will become effective 30 days from the date of this Order. The Company is required to publish both Order No. 23,728 and this Order in a newspaper of statewide jurisdiction.

**Based upon the foregoing, it is hereby**

**ORDERED,** that Order No. 23,502 be amended to extend the suspension of fines of \$4,300 for a period of six months starting 30 days from the date of this order; and it is

**FURTHER ORDERED,** that the provisions and orders contained in Order No. 23,728 be incorporated, in its entirety, herein; and it is

**FURTHER ORDERED,** that the Petitioner shall cause a copy of this Order Nisi to be published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to be no later than July 20, 2001 and to be documented by affidavit filed with this office on or before July 27, 2001; and it is

**FURTHER ORDERED,** that all persons interested in responding to the Order Nisi be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than July 30, 2001; and it is

**FURTHER ORDERED,** that any party other than the Company interested in responding to such comments or request for hearing shall do so no later than August 3, 2001; and it is

**FURTHER ORDERED,** that the Order Nisi shall be effective August 13, 2001, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of July, 2001.

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Douglas L. Patch  
Chairman

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Susan S. Geiger  
Commissioner

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Nancy Brockway  
Commissioner

Attested by:

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Claire D. DiCicco  
Assistant Secretary

DW 99-119

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