

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 12-272

CITY OF SOMERSWORTH

Extension of Water Service in the Town of Rollinsford

Order *Nisi* Approving Franchise Expansion

ORDER NO. 25,420

October 5, 2012

I. BACKGROUND

On September 14, 2012, the City of Somersworth (Somersworth) filed a petition pursuant to RSA 362:4, III-a and RSA 374:22 to extend its water service in the Town of Rollinsford. Somersworth seeks to establish a new water franchise area to serve four residential properties which can no longer use their on-site private wells due to local groundwater contamination. Somersworth also requests approval to convert an existing customer, a manufacturing facility located adjacent to the proposed franchise area, from private fire protection service to full water service.

By Order No. 17,832 issued August 30, 1985 in Docket No. DE 85-268, the Commission provided its approval for Somersworth to serve outside its municipal boundaries in Rollinsford to provide private fire protection service to Janco, Inc. Janco is located on Goodwin Road in Rollinsford. A ten inch water main was extended to serve Janco at that time. Somersworth now proposes to use this main to provide domestic water service to the four residential properties to be served within the new proposed franchise area. In addition, Janco is the facility that seeks full water service from Somersworth as a part of this franchise request.

Somersworth states it has received past Commission approval to serve 39 residential customers in Rollinsford. Somersworth asserts that its water system has adequate capacity to add these four new customers and that the costs of connecting them will be borne by the proposed customers in the expanded service area. Somersworth states that it will serve the new customers on the same terms as provided within its current service area. In support of its request, Somersworth provided copies of the deeds of the properties to be served, a map of the area indicating the location of the existing water main and the service lines to be installed to serve the new customers, and a letter from Somersworth's City Manager. The City Manager summarized Somersworth's request and stated that the Somersworth City Council voted to approve the franchise expansion request.

On September 27, 2012, Staff filed a letter with the Commission recommending approval. Staff propounded discovery requests which it attached to its letter. Staff stated it had reviewed of the petition and past franchise requests made by Somersworth, to determine if the approval for a franchise for service to Janco in 1985 did not also include the instant four residential properties. Staff stated that it appears that only the Janco property was established as a new franchise area in 1985. Staff's discovery clarified that the requested franchise area for the four residential properties is Rollinsford tax map 1, lots 25-1, 35, 36, and 39-1.

Staff stated that the Town of Rollinsford and the New Hampshire Department of Environmental Services (DES) support Somersworth's franchise request. Staff stated that the water service to be provided by Somersworth in the new franchise area will be under the same tariff provisions as its customers within the city, and that Somersworth has indicated that its water system has adequate capacity to accommodate the four new customers. Based on the

agreement of all parties concerned, Somersworth, the Town of Rollinsford, DES, and Staff recommended the Commission issue an order expeditiously and without the typical publication and comment period requirements of an order *nisi*. Staff stated that Somersworth plans to connect the four residential properties to the water main prior to the onset of the upcoming winter season.

II. COMMISSION ANALYSIS

Pursuant to RSA 374:22, I, “[n]o person or business entity shall commence business as a public utility within this state . . . or shall exercise any right or privilege under any franchise not theretofore actually exercised in such town, without first having obtained the permission and approval of the commission.” We approve such requests upon a determination that the franchise is for the public good. RSA 374:26. In so determining, we assess, among other things, the managerial, financial, and technical expertise of the petitioners. *See Lower Bartlett Water Precinct*, Order No. 23,562, (September 25, 2000), 85 NH PUC 635, 641 (2000).

The Commission most recently determined that Somersworth possesses the requisite managerial, financial, and technical expertise to provide water service in Rollinsford in its decision in *Somersworth Water Commission*, Order No. 17,832, 70 NH PUC 744 (1985). Somersworth has asserted and the DES has confirmed, in a letter dated May 26, 2009, that Somersworth has suitable and available water to supply the proposed new franchise area pursuant to RSA 374:22, III. By providing water service to four new customers in a neighboring community, Somersworth is in part responding to emergency circumstances resulting from local groundwater contamination. Somersworth will continue to charge equivalent rates to customers outside its corporate boundaries, and will therefore continue to be exempt from regulation by this

Commission. Staff has indicated that Somersworth intends to connect the new customers as soon as possible before the onset of the winter season.

The Commission reviews franchise petitions to ensure that they are consistent with the orderly development of the region. *Pennichuck Water Works, Inc.*, 72 NH PUC 589, 593 (1987). RSA 374:26 explicitly authorizes the Commission to act on a franchise petition without hearing when all interested parties are in agreement. We note that Somersworth's request is of an emergency nature and that the Town of Rollinsford supports it. Somersworth has adequate capacity to provide service in the proposed franchise area. Having reviewed Somersworth's filing and Staff's recommendation, we find that Somersworth has the requisite capability to provide water service in the requested franchise area, meets the rate and service requirements of RSA 362:4, III-a and its expansion within the Town of Rollinsford is for the public good. Somersworth shall not be considered a public utility pursuant to RSA 362:2 and RSA 362:4 so long as it complies with RSA 362:4, III-a.

RSA 374:26 authorizes the Commission to grant requests for franchise authority without a hearing "when all interested parties are in agreement." While we are not aware of any parties opposed to the franchise petition, we will nonetheless afford interested parties the opportunity to comment. Accordingly, we will issue our decision on a *nisi* basis.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that the request of the City of Somersworth to establish a new franchise area in the Town of Rollinsford comprised of tax map 1, lots 25-1, 35, 36, and 39-1 is hereby APPROVED; 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, with a copy mailed to the Town Clerk of Rollinsford, to Janco, Inc. and to the four new customers, such publication to be no later than October 11, 2012 and to be documented by affidavit filed with this office on or before October 23, 2012; and it is

FURTHER ORDERED, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than October 18, 2012 for the Commission's consideration; and it is

FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than October 22, 2012; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective October 23, 2012, unless the Petitioner fails to satisfy the publication obligation set forth above or 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 fifth day of October,
2012.



Amy L. Ignatius
Chairman



Michael D. Harrington
Commissioner



Robert R. Scott
Commissioner

Attested by:



Kimberly Nolin Smith
Assistant Secretary