

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 18-187

CITY OF DOVER

Request for Extension of Water Service Area in the Town of Rollinsford

Order *Nisi* Granting Franchise Expansion

ORDER NO. 26,367

June 17, 2020

This order grants the City of Dover's petition to extend its service area to include 7 Hall Street in Rollinsford. This order is issued on a *nisi* basis to ensure that interested persons receive notice of the decision and have the opportunity to submit comments or request a hearing before the order becomes effective.

I. PROCEDURAL HISTORY

On December 17, 2018, the Commission received a letter from the City of Dover (Dover or the City) requesting approval to provide water service to 7 Hall Street in Rollinsford. Commission Staff (Staff) determined that the site was not within a previously approved water franchise area for Dover and that the request did not comply with the Commission's filing rules. Staff suggested that Dover refile its petition. Dover refiled its request on August 16, 2019, and on September 12, filed a letter from the Rollinsford Town Administrator, which stated that the Select Board of Rollinsford voted to approve the expansion of service.

On March 12, 2020, Dover filed an email from the New Hampshire Department of Environmental Services (DES) affirming that the City has sufficient water supply capacity to serve 7 Hall Street. On May 22, Staff filed its recommendation.

The City's Petition, Staff's recommendation, and additional filings, other than any information for which confidential treatment has been requested of or granted by the Commission, are posted at: <https://www.puc.nh.gov/Regulatory/Docketbk/2018/18-187.html>.

II. POSITIONS

A. Dover

Dover requested approval to extend its water service area to include 7 Hall Street pursuant to RSA 362:4, III-a and RSA 374:22. Dover provided four examples which demonstrate that the City has the requisite managerial, financial, and technical expertise to provide water service to 7 Hall Street: (1) Dover operates a DES Licensed Public Water System; (2) the City's water system has a fiscal year operations budget of \$5.86 million; (3) Dover provides service to over 9,700 metered accounts in Dover, Rollinsford, Somersworth and Madbury; and (4) a "Water System Master Plan" prepared by Underwood Engineers Inc., concluded that the City had adequate water supply capacity to meet its future predicted water demands beyond 2035. City of Dover Petition to Extend Water Service Area (August 16, 2019) at 3-4.

Dover stated that the new customer at 7 Hall Street would fund the costs of expanding the water system, resulting in no additional costs to Dover's current customers. *Id.* at 4. Dover further contended that it will provide water service uniformly, and in accordance with its existing tariff, to all customers within the City's existing franchise and to the additional customer in Rollinsford. *Id.*

B. Staff

Staff recommended approval of the City's request. Staff noted that Dover operates and maintains a DES licensed water system serving 9,700 metered customers in four different

municipalities. Staff Recommendation (May 22, 2020) at 3. Staff agreed that Dover has the requisite managerial, financial, and technical expertise to provide water service to 7 Hall Street. *Id.*

Staff argued that the expansion is in the public good because service will be provided at the property owner's request and no other water utilities can feasibly provide such service. *Id.* Staff further stated that Dover's current customers will not subsidize the expansion. *Id.* Staff noted that the Commission has previously found franchise expansion by Dover to be in the public good. *Id.* (citing *City of Dover*, Order No. 24,506 (August 26, 2005)). Staff said that the email from DES filed on March 12 satisfied the requirements of RSA 374:22, III (compelling a water utility to provide evidence of DES's satisfaction concerning the suitability and availability of water to requested franchise expansion). *Id.*

Citing the City's assertion that it would administer water service uniformly and in accordance with its existing tariff, Staff recommended that the Commission should determine that Dover remain exempt from Commission regulation going forward. RSA 362:4, III-a (a)(1) (a water utility may remain exempt from Commission regulation if it charges its new customers a rate no higher than 15 percent above the rate charged to its municipal customers and provides the new customer a quantity and quality of water or level of water service equal to that served to its municipal customers).

Staff acknowledged that the Commission can grant Dover's Petition without hearing pursuant to RSA 374:26, as all parties agree, it recommended the Commission approve the petition by the issuance of an Order *nisi* to ensure that interested parties receive notice and have the opportunity to comment or request a hearing before the order becomes effective.

III. COMMISSION ANALYSIS

Pursuant to RSA 374:22, “[n]o person or business entity shall commence business as a public utility within this state ... without first having obtained the permission and approval of the commission.” The Commission will grant a request for franchise authority if it finds that it is for the public good. RSA 374:26. When determining whether a proposed franchise is for the public good, the Commission assesses, among other things, the managerial, technical, and financial expertise of the petitioner. *Hampstead Area Water Company, Inc.*, Order No. 26,301 at 4 (October 22, 2019). Under RSA 374:22, III, no water company shall obtain the permission or approval of the Commission to operate as a public utility without first satisfying any DES requirements concerning the suitability and availability of water.

Based on our review of the record and Staff’s recommendation, we find that the City possesses the managerial, technical, and financial capabilities to provide water service. We find that the March 12, 2020, correspondence provided from DES adequately evidences that the City meets the suitability and availability of water requirements of RSA 374:22, III. As such, we find that Dover’s request is for the public good.

Pursuant to RSA 362:4, III-a(a)(1), municipal corporations serving new customers outside their municipal boundaries are exempt from Commission regulation, other than for franchise territory expansions, if they charge rates to outside customers that are no higher than 15 percent above rates charged to customers inside the municipal boundaries. Because the City will be charging the same rates to 7 Hall Street as to its Dover customers, we find that Dover remains exempt from Commission regulation, other than for franchise territory expansion.

RSA 374:26 authorizes the Commission to grant requests for franchise authority without a hearing “when all interested parties are in agreement.” We will issue our order on a *nisi* basis

to ensure that all interested parties receive notice of the proposed extension and have an opportunity to comment or request a hearing.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that subject to the effective date below and pursuant to RSA 374:22 and 374:26 the City of Dover is authorized to extend water service to the lot at 7 Hall Street in Rollinsford, as described above; and it is

FURTHER ORDERED, that the City of Dover's provision of water service remains exempt from Commission regulation according to RSA 362:4, III-a(a)(1); and it is

FURTHER ORDERED, that the petitioners shall cause a copy of this Order *Nisi* to be mailed by first class mail to the Rollinsford Town Clerk and to the current owners of the lot at 7 Hall Street, Rollinsford, New Hampshire; and it is

FURTHER ORDERED, that the City of Dover publish a summary of this order, issued concurrently with this order, once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted; and it is

FURTHER ORDERED, that such mailing and publication to be no later than June 26, 2020, and to be documented by affidavit filed with this office on or before July 13, 2020; 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 July 6, 2020, for the Commission's consideration; and it is

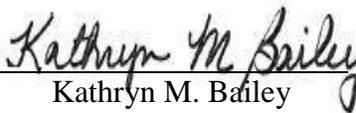
FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than July 10, 2020; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective July 17, 2020, 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.

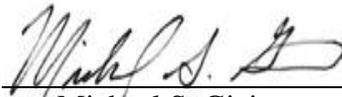
By order of the Public Utilities Commission of New Hampshire this seventeen day of June, 2020.



Dianne Martin
Chairwoman

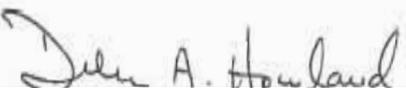


Kathryn M. Bailey
Commissioner



Michael S. Giaimo
Commissioner

Attested by:



Debra A. Howland
Executive Director

Service List - Docket Related

Docket# : 18-187

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