

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 22-044

CITY OF SOMERSWORTH

Petition to Extend Water Service Area

Order *Nisi* Granting Petition to Extend Service Area

26,685

September 14, 2022

This order approves a petition of the City of Somersworth to extend its existing water service area to include an additional residential property.

I. PROCEDURAL HISTORY

The City of Somersworth (Somersworth, or the City) filed a petition (Petition) on August 1, 2022, to extend its water service area to include one additional, residential property located on Tax Lot 5-20 along Kelwyn Drive within the Town of Rollinsford and adjacent to the City's existing service area.

On August 30, 2022, the New Hampshire Department of Energy (the DOE) filed position statement in support of the Petition, with accompanying documentation.

The petition and subsequent docket filings, other than information for which confidential treatment is requested of or granted by the Commission, are posted on the Commission's website at www.puc.nh.gov/Regulatory/Docketbk/2022/22-044.html.

II. PETITION

A. City of Somersworth

The City noted that the Commission previously approved an extension of the City's water system to 39 residential customers in Rollinsford through Tariff NHPUC

No. 1¹ and to one commercial customer in Rollinsford located on Goodwin Road in Rollinsford through Order No. 17,832 (August 30, 1985) in Docket No. DE 85-268²; and a further extension to four residential properties in Rollinsford with contaminated wells through Order No. 25,420 (October 5, 2012) in Docket No. DW 12-272. The City now seeks approval to expand its franchise territory to include one additional residential property located along Kelwyn Drive in Rollinsford, as shown on Tax Map 5, Lot 20, included in Exhibit 2 attached to the Petition. The City's Petition is made in response to a request from one owner of residential property in Rollinsford for the City to extend water service to his property because Rollinsford does not provide water service to that area

The City included with its petition a letter from City Manager Robert M. Belmore that stated: (i) the City of Somersworth City Council voted on June 6, 2022, to approve the proposed extension; (ii) the City of Somersworth Division of Water has determined that the City's water system contains sufficient capacity to accommodate this request and the addition will create no adverse effect on the existing water system or its current customers; and (iii) the City will provide service uniformly, and in accordance with its existing tariff, to all subscribers within Somersworth and to the additional service area created in Rollinsford. *See* Petition at Exhibit 3, Letter from City Manager Robert M. Belmore.

The City further stated that the Town of Rollinsford concurs with the City's request to establish the proposed franchise area. *See* Exhibit 4, Letter from Paul Toussaint, Town Administrator, Town of Rollinsford. Finally, the City submitted a

¹ *See, e.g.*, DOE Position Statement at Attachment A, *City of Somersworth, New Hampshire Chapter 32-Water Ordinance* at 3 (Bates Page 12), Section 2 at 2 "This Ordinance applies to all Customers served by the Utility upon adoption of this Ordinance and to any connections made thereafter, which includes . . . Sunningdale Condominiums, Kelwyn Park, and Janco. Inc. in Rollinsford".

² *Id.*, referencing Janco, Inc.

letter from the New Hampshire Department of Environmental Services (NHDES), Drinking Water and Groundwater Bureau stating that “the subject public water system meets the suitability and availability criteria of NH RSA 374:22 III, for expansion of water service to one residential lot (Tax Map # 005-020-00) with the address of Kelwyn Drive Rollinsford, NH”. See Exhibit 3.

B. Department of Energy

The DOE stated that it “takes no exception to Somersworth’s request” for the service area extension and provided certain discovery documentation in support of its position. DOE Position Statement at 2. The DOE “contend[ed] that the City should not be considered a public utility subject to further regulation by the . . . Commission,” pursuant to RSA 362:4, III-a (a), while noting that the City is not exempted from the franchise application requirements of RSA 374. DOE Position Statement at 1. The DOE further asserted that Somersworth has the requisite managerial, financial, and technical expertise to provide water service to the referenced residential lot in Rollinsford, “pursuant to [the] public good requirement of RSA 374:26” and that “the expansion is in the public good [as] it is at the property owner’s request and is a minor extension of an existing franchise.” DOE Letter of August 30, 2022 at 1-2. The DOE further stated that, pursuant to RSA 12-P:2, IV, it considered the docket record “to be complete for consideration by the Commission.”

III. COMMISSION ANALYSIS

Pursuant to RSA 374:22, I “[n]o person or business entity . . . shall exercise any right or privilege under any franchise not theretofore actually exercised . . . 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 abilities of the petitioner. *See, e.g., City of Somersworth*, Order No. 25,420 at 3 (October 5, 2012) (granting the City's request for franchise expansion to serve four residential properties in the Town of Rollinsford and the conversion of an existing commercial customer from private fire protection service to full water service). 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 NHDES requirements concerning the suitability and availability of water.

The Commission has previously found that the City possesses the requisite managerial, technical, and financial capabilities to provide water service in the Town of Rollinsford. *City of Somersworth*, Order Nisi No. 25,420 at 3, *citing Somersworth Water Commission*, Order No. 17,832, 70 NH PUC 744 (1985). Based on our review of the record and the letter of support filed by the DOE, we find that the City of Somersworth continues to possess the managerial, technical, and financial capabilities to provide water service. We further find that the expansion of franchise area granted herein is limited to the residential property located on Kelwyn Drive within the Town of Rollinsford, as identified on Tax Map 5, Lot 20 in the City's August 1, 2022 filing at Exhibit 2, and further outlined in an August 22, 2022 discovery response submitted by the City to the DOE and attached to the DOE's position statement in this proceeding.

We note that an expansion of the Company's existing franchise authority requires the approval of NHDES pursuant to RSA 374:22, III. Accordingly, the Company provided with its petition at Exhibit 3 a copy of a letter from NHDES, dated August 17, 2022, to confirm that the City of Somersworth public water system "meets the suitability and availability criteria of NH RSA 374:22 III, for expansion of water

service to one residential lot (Tax Map # 005-020-00) with the address of Kelwyn Drive Rollinsford, NH” that is the subject of this proceeding. In the same exhibit, the City provided a letter from City Manager, Robert M. Belmore, stating that the City “will provide service uniformly, and in accordance with its existing tariff, to all subscribers within the City of Somersworth and to the additional service area created in the Town of Rollinsford.” See Petition at paragraph 5, and Exhibit 3, Letter from City Manager Robert M. Belmore.

Finally, the City stated in its Petition that the expansion of the water line “will be funded by the proposed customer in the expanded service area, who will own the service line from the curb stop to his residence, so that approval of this request would also be in the best interest of the existing customers in that they will not endure any expansion cost.” The City further stated that its “water system has sufficient excess capacity built into its water system to accommodate this request for additional service.” Petition at paragraph 7.

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 extend its existing franchise area pursuant to RSA 374:22 to provide water service to the residential property located on Tax Lot 5-20 along Kelwyn Drive in the Town of Rollinsford is **APPROVED**, subject to the effective date below; and it is

FURTHER ORDERED, that the City of Somersworth 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 September 20, 2022 and to be documented by affidavit filed with this office on or before September 27, 2022; and it is

FURTHER ORDERED, that 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 4, 2022 for the Commission's consideration; and it is

FURTHER ORDERED, that any person interested in responding to such comments or request for hearing shall do so no later than October 11, 2022; and it is

FURTHER ORDERED, that this order shall be effective October 14, 2022, unless the City of Somersworth 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 fourteenth day of September 2022.



Daniel C. Goldner
Chairman



Pradip K. Chattopadhyay
Commissioner



Carleton B. Simpson
Commissioner

Service List - Docket Related

Docket#: 22-044

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