

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 11-198

PENNICHUCK WATER WORKS, INC. AND MANCHESTER WATER WORKS

Request to Modify Franchise Boundaries

Order *Nisi* Approving Request

ORDER NO. 25,300

December 13, 2011

I. BACKGROUND

Pennichuck Water Works, Inc. (PWW) is a regulated public utility pursuant to RSA 362:2 and RSA 362:4 and serves some 26,000 customers in 12 municipalities in southern New Hampshire. Manchester Water Works (MWW) serves customers in Manchester and surrounding towns and was exempted from Commission regulation in 2003. *See, Manchester Water Works*, Order No. 24,138, 88 NH PUC 111 (2003). On September 9, 2011, PWW and MWW filed a joint petition for authority to transfer three lots in Bedford from MWW's franchise to PWW's Powder Hill franchise. The lots are identified as 1-24-1, 1-24-2 and 10-4 on Donald Street near Route 114. The petition and subsequent docket filings, other than information for which confidential treatment is requested of or granted by the Commission, is posted to the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2011/11-198.html>.

MWW currently provides service within its franchise up to a nearby PWW booster station just east of the three lots, but would have to extend a water main to service the lots. An existing PWW water main extends westerly from the booster station to supply PWW's Powder Hill franchise, and runs by the three lots. The owners of lots 1-24-1 and 1-24-2 have recently requested service. The third lot lies across the street. The petitioners have estimated that,

although actual costs will depend on the type and size of service requested, service by PWW would in general be at a higher annual cost to the affected customers than service by MWW, but the initial cost to connect would be significantly less than under service by MWW. Service by PWW would be more efficient because it would eliminate the need for approximately 600 feet of parallel PWW and MWW water mains in the affected portion of Donald Street. The Town of Bedford provided a letter dated October 17, 2011 in support of the proposed transfer.

On November 28, 2011, Staff filed a letter recommending that based on its review and discovery, the Commission should approve PWW's and MWW's joint petition. Staff noted that the Donald Street booster station draws water from MWW to supply PWW's Powder Hill system, which serves over 400 customers and operates under a permit issued by the NH Department of Environmental Services (DES). Staff indicated that service to the three lots will impose only a small additional impact on system demands, and that these factors collectively satisfy the requirements of RSA 374:22, III regarding the suitability and availability of water for the transferred area. Staff stated that PWW has the requisite technical, managerial, and financial capability to service the three lots in that it successfully operates the Powder Hill system as well as other water systems in the state.

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 ... without first having obtained the permission and approval of the commission.” The Commission shall grant requests for franchise authority and allow an entity to engage in the business of a public utility when it finds, after due hearing, that the exercise of the right, privilege, or franchise is for the public good. See RSA 374:26. In determining whether a

franchise is for the public good, the Commission assesses the managerial, technical, and financial expertise of the petitioner. *See, Lower Bartlett Water Precinct*, Order No. 23,562, 85 NH PUC 635, 641 (2000). Pursuant to RSA 378:5 and RSA 378:7, the Commission is authorized to investigate whether rates, fares, charges, or prices a utility proposes to put into force are just and reasonable.

Having reviewed the filing and Staff's recommendation, we find that the transfer of franchise rights from MWW to PWW for the three lot area is for the public good. The record demonstrates that PWW has the requisite managerial, technical, and financial abilities to serve the requested franchise. PWW provides water service to approximately 26,000 customers in various systems throughout New Hampshire, including the adjacent Powder Hill system. Evidence in the file confirms that the Powder Hill water system meets the suitability and availability requirements of DES as required by RSA 374:22, III and can accommodate the addition of the three lots. The proposed transfer would enable more efficient service in the area and would require no transfer of assets. We also find that application of PWW's existing rates to the three lots, is just and reasonable. Installation of service lines to the three lots will henceforth be covered under PWW's existing tariff provisions.

RSA 374:26 authorizes the Commission to grant requests for franchise authority without a hearing "when all interested parties are in agreement." Here, Staff, PWW, MWW, and the Town of Bedford are in agreement that PWW should acquire MWW's franchise rights to the three lots. Notwithstanding this agreement, we will approve the petition on a *nisi* basis in order to ensure that all interested parties receive notice of the proposed transfer and have an opportunity to request a hearing.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that subject to the effective date below, the proposed transfer of franchise rights to lots 1-24-1, 1-24-2 and 10-4 on Donald Street in Bedford from MWW to PWW is approved pursuant to RSA 374:22; and it is

FURTHER ORDERED, that PWW is authorized to charge its tariff rates in the subject area; 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 Bedford Town Clerk and to the current owners of lots 1-24-1, 1-24-2 and 10-4, as well as published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such mailing and publication to be no later than December 23, 2011 and to be documented by affidavit filed with this office on or before January 13, 2012; and it is

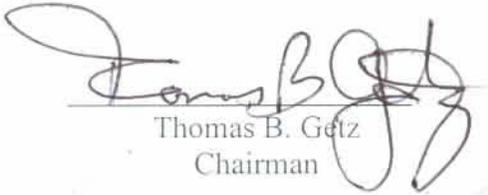
FURTHER ORDERED, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than December 30, 2011 for the Commission's consideration; and it is

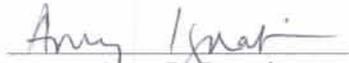
FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than January 6, 2012; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective January 13, 2012, unless the petitioners fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

FURTHER ORDERED, that PWW shall file a compliance tariff with the Commission on or before January 27, 2012, in accordance with N.H. Code Admin. Rules Puc 1603.02(b).

By order of the Public Utilities Commission of New Hampshire this thirteenth day of
December, 2011.


Thomas B. Getz
Chairman


Amy L. Ignatius
Commissioner

Attested by:


Debra A. Howland
Executive Director



SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED

Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.

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Docket #: 11-198-1 Printed: December 13, 2011

FILING INSTRUCTIONS:

- a) Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with:
- DEBRA A HOWLAND
EXECUTIVE DIRECTOR
NHPUC
21 S. FRUIT ST, SUITE 10
CONCORD NH 03301-2429
- b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.
- c) Serve a written copy on each person on the service list not able to receive electronic mail.