

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES

In the Matter of West Swanzey Water Company, Inc.

Tariff #2 Succeeding Tariff #1 Issued June 25, 2003
Amendment issued March 25, 2011
Effective January 1, 2011

COMPLAINT

Zaremba Program Development, LLC complains against the West Swanzey Water Company, Inc. under the provisions of New Hampshire Public Utilities Commission Regulation PUC 204.01.

1. Zaremba Program Development, LLC submitted to the Town of Swanzey Planning Board a site plan application for a retail store on NH Route 10 on May 2, 2012.
2. The site plan application sought approval from the Town of Swanzey Planning Board for a 9,100 square foot retail store on the easterly side of NH Route 10 near the intersection of Cobble Hill Road. The property to be developed is identified as Tax Map 72, Lot 51 of the Town of Swanzey tax maps. Concurrent with the site plan application was a subdivision application to divide Tax Map 72, Lot 51 into two (2) lots, each serviced by sewer and water mains.
3. The West Swanzey Water Company, Inc. provides water to the subject property.
4. To meet fire safety issues, Zaremba Program Development, LLC proposed a sprinkler system for the 9,100 square foot retail store using the West Swanzey Water Company, Inc. utility as the source of water.
5. West Swanzey Water Company, Inc. filed with the New Hampshire Public Utilities Commission in 2003, updated in 2011, its Tariff #2 stating that private fire protection was available.

6. Zaremba Program Development, LLC contracted with Covenant Fire Protection to conduct tests of the performance of the water supply provided by the West Swanzey Water Company, Inc. at the proposed site.
7. Covenant Fire Protection conducted a hydrant flow test on the project site; examined the Tariff filed with the New Hampshire Public Utilities Commission, Supplement #1 effective January 1, 2011; reviewed Zaremba Program Development, LLC's building design plans for ordinary hazard group II to retail stores with storage of Class I, IV commodities for a maximum storage height of 12' 0" AFF and Group A unexpanded or expanded carton plastics to a maximum storage height of 5' 0" AFF, and reviewed the fire protection water supply requirements of the New Hampshire State Building Code, New Hampshire State Fire Code, NFPA1, 13, 24 and 101.
8. Covenant Fire Protection determined, based upon its work outlined in the immediately preceding paragraph, that the water supply available to the subject project site from the West Swanzey Water Company, Inc. is adequate and in compliance with applicable codes and standards to provide complete automatic wet pipe, sprinkler protection for the subject property as outlined above.
9. West Swanzey Water Company, Inc. wrote to the Swanzey Planning Board that it would provide domestic water supply to the project site, but refused to provide private fire protection to the project site.
10. West Swanzey Water Company, Inc. refused to meet with representatives of Zaremba Program Development, LLC or its engineers to provide any written explanation as to why the West Swanzey Water Company, Inc. was refusing to provide private fire protection to the project site.

11. Despite attempts of Zaremba Program Development, LLC and more particularly its fire protection engineers, Covenant Fire Protection, no explanation was forthcoming from West Swanzey Water Company as to its position being at variance with the Tariff filed with the New Hampshire Public Utilities Commission effective January 1, 2011.
12. The Town of Swanzey Planning Board refused site plan approval to Zaremba Program Development, LLC because of the written refusal of West Swanzey Water Company, Inc. to provide private fire protection, which position is at variance to its approved Tariff and which position is not supported by the engineering testing of the West Swanzey Water Company's capacity.
13. Zaremba Program Development, LLC makes this complaint to the New Hampshire Public Utilities Commission concerning the failure of the West Swanzey Water Company, Inc. to provide the service as established in its Tariff and seeks an order from the New Hampshire Public Utilities Commission that West Swanzey Water Company, Inc. is obligated under its Tariff to provide private fire protection to the proposed development.
14. Zaremba Program Development, LLC respectfully notes to the New Hampshire Public Utilities Commission that West Swanzey Water Company, Inc. presently provides private fire protection to two (2) residential apartment complexes which have many more sprinkler heads and much more square footage to be covered by private fire protection than the proposed 9,100 square foot retail space. These projects in Swanzey are identified as Haley Heights Apartments, wet system 245 sprinkler heads, and Evergreen Knoll, four (4) buildings, thirty (30) Town House units, two (2) handicap accessible flats, 382 sprinkler heads.
15. Zaremba Program Development, LLC states its design requirement would result in roughly 90 sprinkler heads, a substantially less demand on the West Swanzey Water Company than

that for the projects which the West Swanzey Water Company is already providing private fire protection.

- 16. Zaremba Program Development, LLC respectfully requests the Public Utilities Commission take action on this Complaint and order West Swanzey Water Company, Inc. to provide the private fire protection set forth in its Tariff and to bring itself into compliance with its published Tariff.

Zaremba Program Development, LLC.

Date: 5/2/13

By: *Matthew Casey*
Matthew Casey, Development Manager

And Its Counsel
Fernald, Taft, Falby & Little, P.A.

Date: 3 May 2013

By: *Silas Little*
Silas Little
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I verify the matters set forth in this Complaint appear of record in filings before the Town of Swanzey Planning Board; the Cheshire County Superior Court, Zaremba Program Development, LLC v. Town of Swanzey, Docket Number 213-2012-CV-00270, and, the filings by West Swanzey Water Company, Inc. with the New Hampshire Department of Public Utilities Commission.

Silas Little
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