

THE STATE OF NEW HAMPSHIRE



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September 19, 2013

Debra A. Howland
Executive Director
N.H. Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301

RE: DW 13-171 Eastman Sewer Company, Inc.
Joint Petition to Approve Sale of Assets and Liabilities to the Village District of Eastman
Staff Report on Conference Call

Dear Ms. Howland:

On August 23, 2013, the Joint Petitioners in this proceeding, consisting of Eastman Sewer Company, Inc. (Eastman), the Eastman Community Association (ECA), and the Village District of Eastman (VDE), filed an Expedited Motion to Reconsider the Procedural Schedule and Limit Intervention (the Motion). In the Motion, the Joint Petitioners request that intervenor participation be limited to issues in which an intervenor has a particular designated interest, and that the scope of this proceeding and the procedural schedule be reconsidered in light of the defeat of the proposal for an alternative village district and the withdrawal of counsel for the Eastman Sewer Users Coalition (ESUC).

The Commission directed Staff to hold a discussion with the parties in this docket, and address three issues: 1) whether the scope of the docket needs to be modified or clarified following the defeat of the alternative village district; 2) to clarify that the ESUC remains an active party following the withdrawal of counsel; and 3) to discuss the motion generally and clarify the relief the Joint Petitioners are seeking.

Staff worked with the parties to establish a conference call on September 17. Participating were Jay Boynton, Counsel for the Joint Petitioners; various representatives of the Joint Petitioners: Mr. Phil Schaefer for the ESUC; and Staff. Mr. Robert Logan and Mrs. Geraldine Logan, individual intervenors, chose not to participate.

With respect to the first issue as to the scope of the docket, the Joint Petitioners assert that the scope of the docket has narrowed with the defeat of the alternative village district to the extent that potential transfer of the sewer company to this alternative district was considered.

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The Joint Petitioners also assert that, in essence, the voters “have spoken” in favor of the transfer of the sewer utility to the VDE. Mr. Schaefer did not dispute that an alternative district was no longer in consideration, but that the transfer of the sewer utility to the VDE still required a public interest finding of the Commission.

With respect to the second issue as to the status of the ESUC, the Joint Petitioners indicated that, following the withdrawal of counsel for the ESUC, they did not have evidence that Mr. Schaefer or Mr. Van Dolah had authority to act for the ESUC. The Joint Petitioners also asserted that neither Mr. Schaefer nor Mr. James Van Dolah, who propounded discovery on behalf of the ESUC in this docket on August 29, had status as individual intervenors. The Joint Petitioners did not respond to that discovery, questioning the status of Mr. Schaefer and Mr. Van Dolah and indicating that the questions posed were argumentative or irrelevant. Mr. Schaefer disagreed with the contention of the Joint Petitioners that he and Mr. Van Dolah did not have status to act for the ESUC following the withdrawal of counsel, but stated that he would file an appearance with the Commission with evidence that he and Mr. Van Dolah had been authorized to act for the group. He further indicated that ESUC would remain an active party in the docket. The Joint Petitioners then indicated that, following confirmation of the status of Mr. Schaefer and Mr. Van Dolah, the Joint Petitioners would provide responses to the discovery propounded, but noted that they would continue to object to discovery which they considered outside the scope of the proceeding, overbroad, or irrelevant.

With respect to the third issue, clarifying the relief sought in the Motion, the Joint Petitioners stated that with the scope narrowed as discussed, the procedural schedule could be accelerated. The Joint Petitioners did not, however, propose a revised schedule. Staff indicated that it did not believe it was practical at this juncture to revise the schedule as approved, citing the Commission’s busy schedule and Staff’s belief that the ESUC is a legitimate intervenor and the discovery propounded by them should be responded to. The Joint Petitioners also clarified that, consistent with its views on a more narrow scope following the defeat of the alternative district, all discovery should be limited to issues about whether the transfer of Eastman to the VDE is in the public interest.

If there are any questions regarding this matter, please let me know.

Sincerely,



Mark A. Naylor
Director, Gas & Water Division

cc: Service List