

STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

HAMPSTEAD AREA WATER COMPANY, INC.

DW 20-

**PETITION TO APPROVE SPECIAL CONTRACT FOR HERITAGE ESTATES IN
TOWN OF ATKINSON**

The Hampstead Area Water Company, Inc. (“HAWC” or “Company”) requests Commission approval, pursuant to RSA 378:18, to deviate from its general tariff and enter into a special contract for water service to the Heritage Estates Development (“Heritage Estates”) in Atkinson, New Hampshire. In support of this request, HAWC states as follows:

1. HAWC is authorized by the Commission to provide water service in parts of Atkinson, New Hampshire that includes Heritage Estates.
2. GSDC Development Corp. (“GSDC”) is a New Hampshire business registered with the N.H. Secretary of State to do business in the State. GSDC is the developer of Heritage Estates. GSDC has received approval from the Town of Atkinson to develop Heritage Estates.
3. GSDC seeks to connect to the HAWC core water system and to contribute all plant and infrastructure to HAWC. If HAWC accepts such Contributions in Aid of Construction (CIAC) it will have to pay federal income and state business tax on the CIAC value due to a recent amendment to the Federal Tax Act, 26 U.S.C. §118, that removed an exclusion from taxation for CIAC payments to regulated utilities such as HAWC.

4. Pursuant to RSA 378:14, no public utility “shall charge or receive a greater or different compensation for any service rendered to any person, firm, or corporation than the compensation fixed for such service by the schedules on file with the Commission and in effect at the time such service is rendered.”
5. HAWC has a tariff and rate schedule on file with the Commission that depicts the rates and terms of service, and currently it does not allow payments for federal and state taxes generated from CIAC to the company from developers¹.
6. Pursuant to RSA 378:18, the Commission may deviate from RSA 374:14 and approve special rates for utility service if it finds that “special circumstances exist which render such departure from the general schedules just and consistent with the public interest...”
RSA 378:18.
7. HAWC believes special circumstances exist which render a departure from HAWC’s general schedules because although HAWC’s tariff does not directly authorize HAWC to charge developer for the CIAC tax generated from accepting plant and other infrastructure from GSDC, it does set forth a path for approving the charging of costs. HAWC’s tariff (Original Page 29 and Page 30) enables HAWC to collect from customers, in advance, for the cost of constructing main extensions necessary to serve the new customer. Also, System Upgrade Fees (Original Page 31) may be charged to customers for the construction of new water facilities. However, pursuant to paragraph 5 on Original Page 30, “[s]pecial contracts will be negotiated whenever, in the opinion of the Company, this regular extension tariff should not be used or is not feasible or

¹ HAWC is seeking to amend its tariff to allow developers to pay any tax associated with CIAC HAWC receives, pending in docket DW 19-136.

economical. Each special contract shall be submitted to the Commission for approval.” It is the opinion of HAWC that the regular extension provisions of the tariff are not feasible or economical and that a special contract is needed for these circumstances.

8. As identified in schedules attached to the Pre-Filed Direct Testimony of Stephen P. St. Cyr, the estimated tax due for CIAC will be \$12,524. This is a relatively, considerable expense.
9. As proposed in the special contract attached to Mr. St Cyr’s testimony, the parties agree that GSDC will pay for the anticipated federal income and state business tax on CIAC. The special contract is designed to cover the federal income and state business tax on CIAC that HAWC is responsible for paying now that the exemption to such tax was removed by the 2017 Federal Tax Act amendments.
10. After the Heritage Estates project is completed and in-service and GSDC has made its payments, the parties propose the special contract be terminated. After termination, HAWC will be responsible for all future maintenance and operating costs, and customers within Heritage Estates will be served according to the terms, conditions, and rates in HAWC’s general tariff.
11. As described in the pre-filed direct testimony of Stephen P. St. Cyr, the proposed special contract will benefit HAWC, HAWC’s customers, Heritage Estates, and the public. The cooperation between HAWC and GSDC in addressing water supply needs in the Town of Atkinson is consistent with the New Hampshire legislature’s investigation of regional cooperation among water utilities and the removal of barriers to regional water supply proposals. See, 2000 N.H. Laws Ch. 64 (investigation of regulatory barriers to

regional cooperation) and 2002 N.H. Laws Ch. 141.7 (legislature investigated the feasibility of regional water systems).

12. HAWC and GSDC seek Commission approval of the special contract by July 1, 2020.

13. HAWC submits the prefiled testimony of Stephen P. St. Cyr and additional exhibits including the proposed special contract between HAWC and GSDC and schedules in further support of this Petition.

WHEREFORE, HAWC, your Petitioner, respectfully requests the Commission:

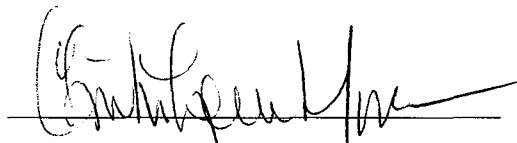
A. Approve the proposed special contract between HAWC and GSDC to allow HAWC to charge and receive payment for federal income and state business taxes generated by the receipt of CIAC; and

B. Grant such other and further relief as may be just and reasonable.

Dated the 4th day of June 2020

Respectfully submitted,

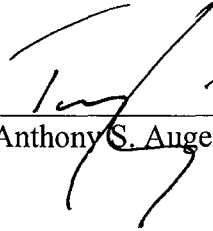
By: THE HAMPSTEAD AREA WATER COMPANY, INC.

A handwritten signature in black ink, appearing to read "Christine Lewis Morse", is written over a horizontal line.

Christine Lewis Morse, Vice President

Certificate of Service

I hereby certify that a copy of the foregoing petition and supporting materials have been sent by email this 4th day of June 2020 to the Office of the Consumer Advocate at OCALitigation@oca.nh.gov.



Anthony S. Augeri