

DE 97-255

BIRCHVIEW BY THE SACO, INC.

**Investigation into Quality of Service and Continued Operation as
a Viable Public Utility**

Order Addressing Long Term Provision of Continued Utility Service

O R D E R N O. 23,253

July 7, 1999

APPEARANCES: George and Karen Weigold, pro se, Kathleen O'Neil, pro se; Ransmeier and Spellman, by Timothy E. Britain, Esq., for the Lower Bartlett Water Precinct; F.X. Lyons, Inc. by Francis X. Lyons for the Receiver; and Eugene F. Sullivan III, Esq. for the Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

In July of 1997 the New Hampshire Public Utilities Commission (Commission) was contacted by a number of customers of the Birchview by the Saco, Inc. (Company or Utility) water utility. The Utility provided water service to a limited portion of the Town of Bartlett, New Hampshire, predominantly in a subdivision known as Birchview by the Saco (Birchview). The complaints did not concern rates, but rather, the poor quality of service being provided by the Company. The Commission Staff (Staff) met with the customers on August 6, 1997 and toured the water system on August 18, 1997.

On August 29, 1997, Staff Water Engineer Douglas Brogan sent Carlton Bacon, the president and principal of the Utility, a letter identifying a number of system deficiencies and concerns with regard to the safety and adequacy of service and requested

specific written information by October 15, 1997. Having received no response to this request, Mr. Brogan sent a second letter on October 20, 1997, noting the absence of a response to the October 15, 1997, letter and requested a response by November 15, 1997.

On December 22, 1997, Mr. Brogan informed the Commission by memorandum of the absence of a substantive response from the Company, and of a number of immediate system deficiencies. These included two of three wells serving the system being inoperative, a main break remaining unrepaired, holes in the pump station roof and a refusal by the Company to install corrosion control as mandated by the federal Safe Drinking Water Act (SDWA). Mr. Brogan's memorandum also explained that the system had significant, additional, long-term needs, that it had over \$40,000 of outstanding unpaid debts, and that it appeared the Company's revenues were inadequate to meet the normal operational needs of the system.

Following a show cause hearing related to the concerns expressed by Mr. Brogan, the Commission found that the Utility was providing "inadequate and unreasonable service to customers, threatening customers' health and welfare." See, Re Birchview by the Saco, Inc., Order No. 22,992 (August 3, 1998); Re Birchview by the Saco, Inc., Order No. 23,002 (August 31, 1998). Based on these findings, the Commission placed the water distribution system in receivership pursuant to RSA 374:47-a. The Commission

appointed FX Lyons, Inc. as Receiver to address the day-to-day operation, maintenance and management of the system.¹ Id.

Although the Commission placed the Utility under receivership, it cautioned both the Company and its customers that receivership was a temporary measure designed to secure a minimal level of safety and adequacy of service while customers and the Utility explored long term solutions to the Utility's inadequacies. Although any decision concerning the future of water service in the area served by the Company would ultimately rest with the Commission, the Commission indicated that a consensus of customers would strongly influence such a decision. In that light, the Commission strongly encouraged the customers to work together toward a consensus for the future of their water supply and distribution system.

One alternative service option explored by the Company prior to receivership was the transfer of the Utility works and service territory to the Lower Bartlett Water Precinct (Precinct). In response to inquiries from the Company and other affected parties prior to receivership, the Precinct had expressed a willingness to take over the system. The Precinct is a municipal corporation providing water service within and

¹ The Commission selected FX Lyons, Inc. to act as the system Receiver because it had been employed by the Company as the system operator for a number of years and had the greatest familiarity with the operations of the system and its inadequacies.

without its corporate boundaries in the Towns of Bartlett and Glen, New Hampshire. See eg., Re Lower Bartlett Water Precinct, 80 NHPUC 794 (1995).

The Precinct initially indicated to the Utility and other interested parties that it would be willing to operate the system on a stand-alone basis until it could extend its water mains to the area and install a new water distribution system throughout the subdivision. Consequently, warrant articles were passed at the Precinct's April 14, 1998, annual meeting that authorized the expenditure of funds to meet the operating expenses and immediate capital improvements necessary to ensure adequate service prior to interconnection of the reconstructed Birchview system with the Precinct. The rates for service to be charged Birchview customers were proposed to be the same as those charged within the Precinct boundaries.

On March 26, 1998, the Commission received a letter from Karen Weigold, a resident of Birchview and customer of the Utility, in her capacity as president the Birchview Homeowners Association (Association). The letter expressed a number of reservations and concerns about an acquisition of the water system by the Precinct. These concerns included: the timing of the construction of a new distribution system within the subdivision; the timing of the actual interconnection of the reconstructed Birchview system with the existing Precinct system; the level of rates to be charged customers before and after

interconnection; the lack of Birchview customer representation in, or Commission regulation of, the Precinct rate-setting process once service outside the Precinct was approved by the Commission; the comparability of service between Birchview and other Precinct customers; the Precinct's conditions of service; and, a legal question related to clauses in certain Birchview homeowner deeds providing lot owners with "the perpetual right in common with others to take water for domestic use from the water system" Correspondence was also received from 26 individual Birchview residents and Utility customers contesting the position of the Association and supporting the acquisition of the system by the Precinct.

Because of the various views being expressed by the system's customers and others, and the continued concern over the operation, maintenance and condition of the water system, the Commission issued an order of notice setting a hearing for July 16, 1998. At the July 16, 1998, hearing, interested parties including the Association, the New Hampshire Department of Environmental Services (DES) and a number of customers expressed their views and concerns about the future of the system and alternatives for the provision of water service to the subdivision.

Following the hearing, the Association, other customers, the system operator, the Precinct, representatives of from DES and Staff met for a technical session to discuss the

existing condition of the water system and available alternatives to return the system to a level of adequacy.

Following the technical session, Staff provided the Commission with a memorandum indicating that the Association, other customers, DES and the Precinct had engaged in constructive dialogue which they planned to continue in Bartlett with the entire board of directors of the Association. The Association, DES, other customers and Staff also agreed that a public informational meeting should be held in Bartlett to answer customers' questions and to provide customers with as much information as possible relative to available alternatives.

On October 17, 1998, an informational meeting was held by Commission Staff and DES in the Town of Bartlett. At that meeting presentations of available options and cost estimates for the future of the water distribution system were made by Commission Staff, representatives of DES, Birchview customers Karen and George Weigold, and the Precinct. Staff also presented a brief cost overview of different options prepared by the North Country Council (NCC)² because a representative of NCC was unable to attend the meeting.

On November 16, 1998, the Commission received a letter

² NCC is the regional planning commission for the northern third of the State. Its mission is to encourage effective community and regional planning for the development of economic opportunity and the conservation of natural, cultural and economic resources.

form the board of directors of the Association indicating that the Board had voted 6 to 2 in favor of interconnection with the Precinct. The Board noted, however, that as it had been unable to come to a unanimous decision to endorse the take-over of the water system by the Precinct, it would prefer that the Commission contact customers to determine the majority preference for the future of the water system. The Commission acquiesced in this request and on February 18, 1999, Staff mailed all customers a survey asking if they would prefer a water system owned and operated by the Association, the Precinct or some other option. The survey, which could be completed anonymously, also requested any comments customers might have regarding the subject.³

On November 17, 1998, a hearing was held to review the status of the receivership, customer progress toward a permanent resolution to the water supply needs of the community and the need to continue the existing receivership. Following the November 17, 1998, hearing the Commission received correspondence from two customers concerning their positions with regard to the future of this water utility. At this hearing the Commission heard conflicting testimony from Commission Staff, George Weigold and the Receiver regarding the condition of the existing system,

³ Fifty-nine percent of the customers responded to the survey. The survey results indicated that 62% of the responding customers favored transferring the system to the Precinct, 27% favored transferring it to a homeowners' association and 11% favored other solutions.

the cost to repair the system to appropriate utility standards, and the desire of customers to interconnect with the Precinct or form some association of homeowners or not-for-profit corporation to own and operate the existing system.

By Order No. 23,105 (January 12, 1999), the Commission determined that it was apparent from the hearings in this matter and the correspondence it had received from customers that there was no mutually agreeable long term resolution to the utility's inadequacies among the customers. The Commission further found that, "disagreement over the future of the water distribution system [was] having a negative and divisive effect upon the community." Order No. 21,305 at 6.

Based on these conclusions, the Commission established a procedural schedule to determine what course of action regarding the water distribution system best served the public interest. The schedule set February 3, 1999, for the filing of testimony reflecting the various points of view concerning the future of the water distribution system, February 4, 1999, for a technical session for discovery purposes and a hearing on the merits for February 16, 1999.

On February 2, 1999, NCC filed testimony with the Commission and on February 3, 1999, Staff filed testimony with the Commission. On February 4, 1999, George Weigold (Weigolds)⁴

⁴ At various times motions and documents were filed with the Commission under either George Weigold's name or Karen

requested a continuance in order to conduct further discovery and to prepare testimony. On February 9, 1999, the Weigolds' request for a continuance was accommodated and the Commission established a new procedural schedule. The new schedule provided for data requests from the Weigolds to any party (February 12, 1999), data requests from the Weigolds to any party or Staff, responses to the Weigolds' data requests (February 22, 1999), the filing of a proposed plan for the future of water service to the subdivision by the Weigolds (March 1, 1999), and March 4, 1999 for a hearing on the merits of the case.

On March 8, 1999 the Weigolds filed another motion for continuance and a motion to compel answers to discovery requests from Staff and other parties. A hearing on the motions was held on March 11, 1999, and on March 19, 1999, the motion to continue was granted and a final hearing was scheduled for April 1, 1999. On March 23, 1999, the Weigolds filed a motion to remove FX Lyons, Inc. as receiver because FX Lyons, Inc. was also employed as the Precinct's operator allegedly making it incapable of acting as receiver for the Utility.

On March 26, 1999, DES informed the Receiver that no new service connections would be allowed to the water distribution system until such time as the system's deficiencies

Weigold's name. Because Karen and George Weigold comprise the household receiving service from the Utility and because they presented a unitary case at the hearing on the merits we will treat them as one party for the purposes of this order.

as noted by DES in its most recent Sanitary Survey had been rectified. Thus, as of March 26, 1999, undeveloped lots located in the subdivision could not obtain water service from the existing distribution system.

Hearings on the merits of the case were heard on April 1, 1999 and April 7, 1999. On April 9, 1999, the Weigolds filed a post hearing statement. On May 3, 1999, the Commission determined at its public meeting that the interests of the customers were best served through interconnection with the Precinct. By letter dated June 25, 1999, the Precinct notified the Commission that on June 8, 1999, the Precinct Commissioners voted unanimously to seek the necessary financing and any available grants to provide for the extension of its mains to Birchview and the construction of a new distribution system within the subdivision.

II. POSITIONS OF THE PARTIES AND STAFF

A. Lower Bartlett Water Precinct

On May 28, 1998 the Precinct notified the Commission by mail that over the course of several months it had been approached by members of the staffs of DES and the Commission, the owner of the Utility and residents of Birchview regarding the Precinct's willingness to take over the existing system and ultimately interconnect the system with its own. The Precinct indicated that it had considered this action and was willing to

move forward with the acquisition of the system and interconnection. The Precinct noted, however, that it was aware of some opposition to this course of action, notably by the Weigolds, but that it remained willing to proceed with the interconnection because it was "willing and able to help a system struggling and facing major mandated upgrades." The letter also set forth the terms and conditions of service and the estimated timing for financing and construction.

Pursuant to the terms and conditions of service, the Precinct indicated it would charge the same rates to Birchview customers it charged customers within the Precinct boundaries including a \$3,000 connection fee which would be amortized over 30 years to pay the cost of constructing the new distribution system and the main to interconnect the system. The Precinct also agreed to provide the same quality of service outside the Precinct boundaries as it provides inside the Precinct boundaries.

Subsequently, the Precinct clarified and modified its commitment to take over the Utility and interconnect it the Precinct system. By letter dated February 12, 1999, and through the testimony of Mr. Lyons, the Precinct informed the Commission that in light of concerns expressed by some Birchview customers the Precinct would not provide service to the subdivision until construction of a new distribution system and interconnection of that system to its existing system. The Precinct indicated that

because of the need to obtain financing for the project this would probably not occur until 2000 or 2001 and that, therefore, receivership should continue until such time as the new system had been constructed and customers were being provided service from the main extension.

B. The Weigolds

The Weigolds objected to FX Lyons, Inc. continuing as receiver of the system because the firm also acted as operator and manager of the Precinct's system. The Weigolds argued that FX Lyons, Inc. could not act objectively in operating and managing the Birchview system while the Precinct was one of the main long term options for continued water service to Birchview. The Weigolds also maintained that because the Utility owed FX Lyons, Inc. approximately \$2,500 plus interest for services rendered prior to its coming under receivership, FX Lyons, Inc. could not act objectively in operating and managing the Birchview system. Finally, the Weigolds maintained that because FX Lyons, Inc. operated and managed the Precinct system it stood to gain financially from the takeover of the system by the Precinct, and could not, therefore, act objectively in operating and managing the Birchview system.

With regard to the long term resolution of the continuing provision of water service to the area, the Weigolds

objected to the Precinct acquiring the Utility and providing water service to Birchview. The Weigolds set forth three main arguments in opposition to the Precinct providing service.

First, the Weigolds asserted that the clause in their deed, and the deeds of a number of other homeowners and customers in the Birchview subdivision gave them the perpetual right to water from the water distribution system installed and operated by the original developer, its successors and assigns and that this prohibited the assignment of the system to the Precinct.

Second, the Weigolds maintained that a group of homeowners could, and would, form a not-for-profit corporation to own and operate the water distribution system to provide service to the members of the corporation and any other customers in the subdivision who chose not to become a member of the corporation. The Weigolds testified that this not for profit corporation would secure financing to guarantee safe and adequate service to customers. In support of this alternative, the Weigolds introduced evidence of a line of credit they had personally obtained from a financial institution based on their credit in the amount of \$10,000 which they pledged to use to initially fund the corporation and make necessary repairs to the system. Although the Weigolds put forth this position at the hearings on the merits they subsequently withdrew their offer to put up their

own funds as collateral for the system. Closing Statement of George and Karen Weigold, April 9, 1999.

The Weigolds argued that DES Staff, Commission Staff, NCC and the Receiver had greatly inflated the cost to bring the system into compliance with applicable SDWA and DES requirements. In support of this position the Weigolds challenged the cost estimates for repairs and the necessity of repairs to certain alleged inadequacies put forward by Staff, NCC and the receiver.

The Weigolds presented an exhibit indicating the need for \$145,000 of immediate improvements and \$420,000 of improvements within ten years. They also offered a cost estimate prepared by Lakes Region Water Company, Inc. (Lakes Region) on their behalf. Lakes region estimated that it would cost approximately \$201,000 to bring the system up to DES standards.

Finally, the Weigolds indicated a preference for the acquisition of the system by a private investor-owned water utility to the Precinct's provision of service to the subdivision. Among other things, the Weigolds objected to: the level of rates charged by the Precinct; the rate design used to assess rates; Birchview customers' inability to vote on Precinct matters because they reside outside the Precinct boundaries; the level of qualifications of the Precinct Commissioners and their operator; the ability of land owners along the route of Precinct expansion to access water service should the Precinct extend its mains to provide service to Birchview which might lead to the development of new homes and businesses; and the Town of Bartlett's stated objection to the expansion of the Precinct or

its provision of service outside Precinct boundaries. The Weigolds also testified that a private utility would be subject to Commission oversight and regulation and would not provide for the expansion of water service in the Town of Bartlett.

C. Kathleen O'Neil

Ms. O'Neil concurred with the positions taken by the Weigolds.

D. FX Lyons, Inc.

FX Lyons, Inc. was employed as the operator of the Birchview system by the Utility prior to receivership and is the current Receiver of the system. Francis Lyons, a principal of FX Lyons's, Inc., provides managerial and operational support to the corporation and his wife maintains the books. FX Lyons Inc. is also the manager and operator of the Precinct's municipal water supply and distribution system. Mr. Lyons offered testimony regarding both the current condition of the Birchview system and the Precinct's intentions with regard to providing water service to the Birchview subdivision should the Commission grant it that authority.

Mr. Lyons testified that the Precinct would charge the customers in Birchview the same rates being charged within the Precinct and explained the rate design employed by the Precinct. He testified that if the Precinct extended its mains to Birchview it planned to construct a new distribution system in the subdivision capable of handling fire flows and to install fire hydrants for fire protection, a service that cannot be offered by the current system due to design constraints.

Mr. Lyons offered further testimony to support the cost estimates derived by Mr. Brogan and the NCC. He also testified regarding the poor condition of the plastic pipe that comprises the majority of the distribution system and the extensive modifications that would be required to bring the supply and distribution system up to good utility standards.

E. Staff

Mr. Brogan testified that the Birchview system had been installed in two initial phases as the subdivision grew. The first phase was installed early in the 1960's and the second phase in the early 1970's. He testified in detail regarding the deficiencies of the system including, among other things, concerns with the age and life of the storage tanks, the current supply situation and the poor construction and deteriorating condition of the distribution system. He noted the brittle state of the nylon fittings that connected the plastic piping and

service lines. He concluded that this was contributing to leaks throughout the distribution system, as evidenced by the atypical amount of water being pumped out of the single operable well. He testified regarding occlusions in the one section of galvanized pipe that were reducing flows to certain parts of the system. He presented photographs showing the general disrepair of the pump stations.

Mr. Brogan testified that a "bare-bones" estimate to repair this system would be approximately \$160,000, but that this would not address all of the system's deficiencies and that the system would remain in need of constant repair as those aspects of the system that were not replaced began to fail.

Mr. Brogan also presented a cost estimate to repair this system developed by the engineers at NCC. NCC estimated that the repairs to the system would cost at the low-end approximately \$230,000 and at the high-end, approximately \$745,000. Mr. Brogan presented information on ultimate rate impacts under the NCC and his "bare-bones" estimates.

In conclusion, Mr. Brogan compared the need for substantial investment in almost every aspect of the existing, deficient stand-alone system, with service by the Precinct system. In his opinion, the Precinct would offer: superior service and fire protection; would address existing supply concerns; eliminate completely the need for Birchview's existing tanks, pump stations, any on-site treatment, new transmission

main, and concerns from adjacent septic systems; and replace the entire Birchview distribution system with long life, high quality mains, all at reasonable rates. Thus, Mr. Brogan concluded that the Precinct offered the most cost effective, safe and reliable option to provide water service to the Birchview subdivision.

III. COMMISSION ANALYSIS

The issue for our consideration is what water service option is in the best interests of the Birchview customers. See eg., RSA 374:30. The alternatives include: allowing the Precinct to provide service to the development; continuing receivership to allow time for other potentially viable alternatives, such as takeover of the existing system by another investor-owned utility, such as Lakes Region⁵; or the establishment of a group of customers to take over the system.

⁵ There was testimony in this proceeding that Lakes Region Water Company, Inc., an investor-owned utility regulated by this Commission that operates a number of systems in central and northern New Hampshire, may be willing to take over this system. We note, however, that the average rate for Lakes Region Water Company, Inc.'s customers is \$464, before making the necessary capital improvements to the existing system, while the Precinct's customers' average rate is \$444.

Pursuant to RSA 374:30, the Commission may authorize the transfer of any utility's "franchise, works or system . . . when the Commission shall find that it will be for the public good and shall make an order assenting thereto"

Where, as in the case at hand, the Commission must consider more than one transfer option under the public good standard of RSA 374:30, it must determine which option will be more beneficial to customers. See, Parker-Young Co. v. State, 83 N.H. 551 (1929); Cf., Grafton County Electric Light and Power Co. v. State, 77 N.H. 539 (1915)(application of "no net harm" test where there is only one transfer or acquisition option under consideration).

Under this standard of review, we have concluded that the Precinct alternative is in the best interest of customers. First, we do not believe it is economic for this system to be operated on a stand-alone basis any longer. The testimony in this case establishes that it would take a minimum of \$200,000 to bring the existing system into compliance with State and federal drinking water standards and acceptable utility practices. Further, based on this Commission's experience with similarly constructed and operated water utilities in the southern part of the State, the costs to maintain and operate this system will increase over time as the components of the system fail, and as drinking water standards become progressively more stringent. See eg., Re Southern New Hampshire Water Company, 76 NH PUC 521

(1991).

Second, the only alternative presented to the Commission for operation of the water system, a homeowners' cooperative, is unworkable in this case. To make this proposal viable, a source of financing for needed upgrades would have to be identified. However, in their Closing Statement filed on April 9, 1999, the Weigolds withdrew their offer of putting up the collateral needed for the homeowners' group to raise the necessary funding. No other financing method was presented. Further, the record raises significant questions as to the managerial and technical ability of the homeowners' group to operate a modern water system.

In the case at hand, the Utility has proposed to transfer the system, its franchise and works to the Precinct, and the Precinct has agreed to accept the system, franchise and works once it has obtained the necessary financing, physically constructed the new distribution system and extended its mains to the subdivision. The only other viable alternative is to continue this receivership while customers, the Commission and the utility look for other economically viable solutions to provide water service to the customers of the utility.

In its orders placing this utility under receivership, the Commission emphasized that "neither the Utility nor its customers should consider [receivership] a long term solution to the problems they face", and that "receivership under RSA 374:47-

a is a 'temporary' measure designed to maintain safe and adequate service while customers and the Utility examine and implement a long term solution to continued service." Re Birchview by the Saco, Inc., Order No. 23,002 at 9 (August 31, 1998), citing, Re Beaver Village Realty Trust, 80 NH PUC 31 (1995). The Commission further stressed that,

[i]n the event customers are unable to reach a reasonable resolution concerning the future of this water supply and distribution system, we will determine what is in the public interest for the future of this water utility and implement that course of action.

Id., at 10.

Thus, we do not believe leaving the Utility under receivership while other economically viable options are explored is in the public interest. Moreover, based on the record before us we do not believe such other alternative options exist. Thus the customers of the system would be best served through the abandonment of the existing system and the provision of service by the Precinct. In fact, a survey of Birchview customers conducted by Commission Staff indicated that a majority of the customers who responded to the survey favored transferring the system to the Precinct.

In reliance on the New Hampshire Supreme Court's decision in Richter, et al. vs. Mountain Springs Water Company, 122 NH 850 (1982), the Weigolds asserted that the covenant in the property owners' deeds, which provides them with the "the perpetual right in common with others to take water for domestic

use from the water system . . . ,” precludes the Commission from approving the proposed transfer of the franchise, system and works to the Precinct. We disagree.

In the Richter case, a water utility requested, and was granted by the Commission, authority to charge a standby rate of \$60 per year for all vacant lots it served. The water utility was a subsidiary of the original grantor. The deed covenants for the vacant lots at issue provided that either no standby rates would be charged, or set the standby rate at twenty-five (\$25.00) dollars.

The Court held that due to “special factors present in the case” where the water utility was a subsidiary of the developer and there was, therefore, privity of contract between the utility and the lot owners, it would be inequitable to allow the utility to use the authority of the Commission to abrogate the contract. Richter, et al. vs. Mountain Springs Water Company, 122 NH 850 at 852.

The facts of this case are, however, distinguishable, from the circumstances of the Richter case. Here, the Utility is not using the Commission’s authority to abrogate rights under the contract. Rather, the Commission is exercising its authority to ensure safe and adequate service to customers at reasonable rates. In this case, the water distribution system has deteriorated to such an extent that it is no longer capable of providing safe and adequate service at an economically viable

cost to ratepayers. Moreover, the Commission's decision to approve the transfer of the franchise, works and system to the Precinct does not result in an inequity to customers because the least expensive alternative for service to the subdivision is the Precinct. In addition, the alternative selected by the Commission involves the construction of a new water distribution system, thereby bypassing the water system originally installed and presumably the one referred to in the deed.

Certain intervenors questioned whether the current Receiver has a conflict of interest that should disqualify it from serving as receiver of this system. The conflict of interest alleged stems from the fact that FX Lyons, Inc. also serves as the operator and manager of the Precinct system. FX Lyons, Inc. competence to operate the system was also questioned.

We believe FX Lyons, Inc. is well qualified to continue as receiver to operate and manage the Birchview system in the interim period while the Precinct extends service to Birchview. FX Lyons, Inc. has been the receiver and operator of this system for some time and is very familiar with its operational characteristics. Moreover, based on Mr. Lyons' testimony and a review of his qualifications, we are convinced that he is an appropriate receiver and that he should continue to operate the water system.

In addition, we do not believe that the position of FX

Lyons, Inc. as manager and operator of both the Precinct and the Birchview systems affects his ability to competently operate or manage either system.

We have concluded based on the record before us that once the Precinct is ready to provide service to the subdivision it will qualify for exemption from Commission jurisdiction pursuant to RSA 362:4 so long as it offers the same quality of service and rates offered to customers within the boundaries of the Precinct. We agree with customers, however, that they would be best served if they were given an opportunity to participate in the business of the Precinct through the expansion of the precinct boundaries. Unfortunately, the authority to expand the Precinct boundaries is outside the authority of this Commission. We would encourage the Selectmen of Bartlett to provide these customers with the opportunity to become part of the Precinct. In any event, however, customers have the right to petition the Commission to invoke its regulatory authority should rates or service be provided in a discriminatory manner.

We would like to thank all of the customers, DES, Commission Staff, the Precinct and the NCC for their participation and work in this proceeding. We hope that they can all continue to work together to bring safe and adequate water service to this portion of the Town of Bartlett.

