

DW 04-132

HAMPSTEAD AREA WATER COMPANY, INC.

**Petition for Authority to Issue Long Term Debt to Construct Water Storage Facility, and
to Increase Rates Following Construction**

Order Nisi Approving Stipulation Agreement Regarding Financing and Rate Recovery

ORDER NO. 24,386

October 22, 2004

I. BACKGROUND AND PROCEDURAL HISTORY

On July 26, 2004, Hampstead Area Water Company, Inc. (Hampstead), filed with the New Hampshire Public Utilities Commission (Commission) a petition requesting approval to issue long term debt and to increase rates. Hampstead is a regulated public utility serving more than 2,500 customers in a number of communities in southern New Hampshire. Hampstead requested authority, pursuant to RSA 369, to issue long term debt to finance the construction of a 500,000 gallon water storage facility in Hampstead; install a Supervisory Control and Data Acquisition System (SCADA) for all its water supply sources and pump stations; and purchase appropriate easements and water rights. On October 1, 2004, Hampstead amended its petition to eliminate the SCADA project and add a tank level monitoring and telemetry system for the water storage facility (together, the Project). Hampstead now proposes to borrow up to \$1,400,000 from the Drinking Water State Revolving Loan Fund (SRF) administered by the New Hampshire Department of Environmental Services (DES) to construct the Project. Hampstead had previously received approval from DES to borrow up to \$1,724,800. Amended Petition, October 1, 2004, at 4.

Hampstead states the Project will benefit the Hampstead Core system and Kent Farm system. The Hampstead Core system comprises all customers in the Town of Hampstead, with the exception of Kent Farm and one other system, Brickett's Mill. Presently, Kent Farm and Brickett's Mill are not connected to the Hampstead Core system. The Project will allow Hampstead to interconnect Kent Farm with the Hampstead Core, thereby allowing Kent Farm customers to benefit from efficiencies of a larger water system.

In support of its request, Hampstead states the Core system wells experience heavy stress during summer peak periods. Hampstead states construction of a central storage tank will help temper the effects of peak demand over the entire Hampstead Core system, and will increase system reliability. Hampstead states the Project is necessary to continue to provide safe and reliable service to its customers. In addition, the tank will facilitate the interconnection of the Hampstead Core system with the adjacent Kent Farm system.

Along with its financing request, Hampstead requests approval for an increase in its rates once the Project is completed and in service. According to its amended filing, Hampstead anticipates a rate increase of approximately 37 percent for the Hampstead Core and Kent Farm customers.

Hampstead states the terms by which it would borrow up to \$1,400,000 from the SRF involve an interest rate of no higher than 3.728 percent and a term of 20 years. Interest would accrue at a rate of 1 percent on amounts outstanding during construction. Hampstead requests the Commission approve the financing petition prior to November 1, 2004 in order to maintain its eligibility for funding under the SRF through DES.

On September 14, 2004 the Commission issued an Order of Notice which: announced a public hearing would be held in the Town of Hampstead on September 30, 2004; established a procedural schedule for discovery; and invited interventions from interested parties. As a part of the procedural schedule, the Commission indicated to the Staff and parties that it would entertain a report or reports, together or separately from the Staff and parties, to be filed no later than October 15, 2004 containing recommendations on the disposition of the matters raised in this docket.

On September 30, 2004, the Commission held a public hearing in the Town of Hampstead for the purpose of taking public comments on the Project. At the public hearing, an abutter noted that a rehearing concerning the variance granted for the Tank Project was presently pending before the Town of Hampstead's local zoning board. Hearing Transcript of September 30, 2004 at 7 lines 8-21.

On October 15, 2004, Hampstead, the Commission's Staff (Staff) and the Office of the Consumer Advocate (OCA) (together Staff and the Parties) filed a Stipulation Agreement (Agreement) with the Commission, recommending approval of Hampstead's amended filing, with certain modifications, through the issuance of an Order *nisi*.

II. TERMS OF STIPULATION AGREEMENT

The October 15, 2004 Agreement filed by Staff and the Parties recommends the Commission approve Hampstead's petition, as amended, with certain modifications. The Agreement avers that the Project is a prudent means of providing adequate, safe, and reliable water service to the Hampstead Core and Kent Farm customers, and represents prudent management and good utility practice. The Agreement indicates the belief of the signatories that

the SRF financing as proposed is in the public good and that Hampstead should be authorized to issue securities in an amount up to \$1,383,887 for the Project. Hampstead agrees to submit the final terms of the financing to the Commission as soon as they become available. The Staff and Parties agree that if the final terms and conditions of the financing vary materially from those described above, such new or modified terms and conditions should be subject to Commission approval.

In order to repay the issued securities, the Staff and Parties recommend the Commission approve Hampstead's request for a step adjustment to its rates. Hampstead agrees to file with the Commission detailed actual costs of the Project, as well as the return on the assets, the depreciation expense on those assets, and the direct expenses related to the Project to be recovered through the rate increase.

In contrast to Hampstead's initial request for a bills rendered implementation date for the rate increase, the Staff and Parties recommend the increase be implemented on a service rendered basis once the Project is completed and in service, and once customer meters are read. The step adjustment to rates is made contingent on review and approval from the Commission of the actual costs of the Project to confirm that such costs are consistent with Hampstead's petition. Any costs in excess thereof would be reviewed for prudence.

The Agreement further indicates that Hampstead will implement the step adjustment to rates to its Hampstead Core and Kent Farm customers only and proportionately across all customer classes. Staff and the Parties agree Hampstead should be entitled to recover its direct expenses incurred in requesting its step adjustment, in an amount and over a time period to be determined by the Commission. The Staff and Parties also agree that Hampstead is not

prevented from filing a full rate proceeding at any time, as long as any such filing is consistent with the Stipulation in DW 02-128, as approved by the Commission in Order No. 24,362 dated August 19, 2004.

III. COMMISSION ANALYSIS

Pursuant to the provisions of RSA 369:1, public utilities engaged in business in this State may issue evidences of indebtedness payable more than 12 months after the date thereof only if the Commission finds the proposed issuance to be “consistent with the public good.” The New Hampshire Supreme Court has further provided that the public good consideration involves looking beyond actual terms of the proposed financing to the use of the proceeds of those funds and the effect on rates to insure the public good is protected. See *Appeal of Easton*, 125 N.H. 205 (1984). We conduct our review of Hampstead’s petition in light of these authorities.

In the case at hand, Hampstead Area Water Company, Inc. has requested authorization to borrow up to \$1,383,887 from the State Revolving Loan Fund in order to finance the construction of a water storage tank and a tank level monitoring and telemetry system for that tank in its Hampstead Core system in the Town of Hampstead as well as purchase appropriate easements and water rights. After reviewing the petition, amended petition, and the Agreement submitted by Hampstead, Staff, and the OCA, we are satisfied that Hampstead has substantiated the need for this Project and we find that it is in the public good.

Customer usage in the Hampstead Core system during peak summer demand stresses certain supply wells, particularly daytime demand. Hampstead’s solution is to construct a 500,000 gallon storage tank. Hampstead argues the new tank will temper the peak demand and

will increase system reliability. Petition, July 26, 2004, at 7. Staff and the OCA agree with this assertion and we concur that it is a reasonable remedy. The Project will also facilitate the interconnection of the Hampstead Core system with the adjacent Kent Farm system. Petition, July 26, 2004, at 2. We have long recognized that certain efficiencies can occur when a smaller system is connected to a larger system and that these efficiencies are in the public good. We are also aware that the New Hampshire legislature has articulated its promotion of water utility interconnection and regional cooperation capabilities in the past. *See e.g.*, 2000 N.H. Laws Chapter 64 (requiring the Commission and DES to investigate whether barriers exist to water conservation and regional cooperation on water resources management); N.H. Rev. Stat. Ann. § 38:2-a (allowing the formation of regional water districts). Hampstead's interconnection of Kent Farm with its Core system is consistent with that legislative preference and we, therefore, find it reasonable and in the public good.

With respect to the request for a step adjustment to increase rates for the Hampstead Core and Kent Farm customers, we find these provisions of the Agreement are reasonable and prudent. We note that, at this juncture, we are not approving the proposed percent rate increase, rather, we are approving the method by which Hampstead may request an increase in rates to recover the costs of the Project. The Agreement requires Hampstead to file with the Commission documentation containing detailed actual costs of the Project, the allowed return on the capital assets of the Project, the depreciation expense, and the direct expenses proposed to be recovered through the rate increase. Our review of this information will assure, pursuant to RSA 378:28, that before the Project can go into rate base, the expenses proposed for recovery are prudent and the Project is used and useful for the provision of utility service. These

are appropriate measures to ensure customers are not charged for construction work in progress, which is prohibited by RSA 378:30-a. Hampstead's agreement to read meters at the time the step adjustment is to take effect will also assure that any increase will only take effect on a service rendered basis. For these reasons, we approve the method Hampstead intends to pursue to request the step increase and we will review the proposed step increase and make our final determination as to whether the rates are just and reasonable at that time.

With respect to the terms of the SRF financing, we find the proposed terms to be reasonable and in the public good. We will approve the proposed terms on the condition that the final terms be substantially similar. Hampstead must submit the final financing terms to the Commission for final review, any terms which vary substantially from the proposed terms will require a further proceeding.

Finally, we find that the proposed use of the proceeds is prudent and that the financing is consistent with the public good. We will approve the Agreement as a reasonable means of disposing of the matters raised in Hampstead's petition in this docket.

Based upon the foregoing, it is hereby

ORDERED NISI, that subject to the effective date below, the Stipulation Agreement filed by Hampstead Area Water Company Inc., the Office of Consumer Advocate and the Commission Staff is APPROVED; and it is

FURTHER ORDERED, that the Petitioner shall cause a copy of this Order Nisi to be published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to be no later than October

27, 2004 and to be documented by affidavit filed with this office on or before November 10, 2004; and it is

FURTHER ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than November 2, 2004; and it is

FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than November 5, 2004; and it is

FURTHER ORDERED, that this Order Nisi shall be effective November 10, 2004, unless the Petitioner fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of October, 2004.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary