

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 Clarifying Financing Authority

ORDER NO. 24,437

February 25, 2005

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. On October 22, 2004, the Commission issued its Order No. 24,386 approving a Stipulation between Hampstead, the Office of the Consumer Advocate (OCA) and the Commission Staff (Staff). That Stipulation requested Commission approval of Hampstead's petition in this docket, specifically for authority to borrow up to \$1,383,887 from the State Revolving Loan Fund (SRF) administered by the New Hampshire Department of Environmental Services (DES) for construction of a new 500,000 gallon water storage facility and a tank level monitoring and telemetry system. The Stipulation also endorsed Hampstead's request for Commission authority to seek recovery of the project through a step adjustment to its rates once construction was complete. A full procedural history of this docket is provided in Order No. 24,386.

On February 22, 2005, Hampstead filed a letter with the Commission requesting issuance of a supplemental order in this docket. Hampstead's letter indicates that it seeks clarification of Order No. 24,386. Specifically, Hampstead requests that the Commission clarify that the authorization for Hampstead to borrow includes authority for Hampstead to grant a security interest in its real and personal property to secure the loan. In support of its request,

Hampstead notes that Hampstead, OCA and Staff were aware that the SRF loan would be secured by Hampstead's assets, although the Stipulation presented at hearing and approved by the Commission did not expressly indicate that fact. Thus, the Commission's Order No. 24,386 did not provide Hampstead the express authority to grant a security interest that it needs in order to complete the financing transaction for the SRF loan. So that Hampstead may complete the financing transaction as contemplated in its petition and as approved by the Commission, it seeks a supplemental order clarifying that the Commission approves the granting of a security interest in Hampstead's real and personal property.

On February 23, 2005, Staff filed a letter with the Commission indicating that it concurred with Hampstead's request for a supplemental order. OCA authorized Staff to represent in that letter that OCA concurred with Hampstead's request as well.

We have reviewed Order No. 24,386, Hampstead's February 22, 2005 letter and Staff and OCA's February 23, 2005 concurrence. Hampstead's request for authority to secure its property is made pursuant to RSA 369:2 which allows for a security interest in utility property but only upon Commission approval. Financings of this type generally require that security interests be provided by the borrower and it was our expectation that such interest would in fact be granted. The Order was silent on the granting of a security interest not because of any disapproval of such an action but simply due to an oversight. We hereby expressly authorize Hampstead to grant a security interest in its real and personal property in order to obtain the financing required for the storage tank and tank level monitoring and telemetry system project.

Based upon the foregoing, it is hereby

ORDERED, that Hampstead Area Water Company, Inc. is authorized, pursuant to RSA 369:2, to provide a security interest in its real and personal property to the New Hampshire Department of Environmental Services for purposes of borrowing under the State Revolving Loan Fund, as contemplated by our Order No. 24,386, issued October 22, 2004.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of February, 2005.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Michael D. Harrington
Commissioner

Attested by:

Lori A. Normand
Assistant Secretary