

DW 04-184  
DW 04-196

HAMPSTEAD AREA WATER COMPANY, INC.

**Petition for Order to Acquire Assets and Incur Debt - Cricket Hill/Maplevale  
and  
Permanent Rate Filing for Camelot Court, Cornerstone Estates, Lamplighter Estates, and  
Cricket Hill/Maplevale**

**Order Approving Stipulation**

**ORDER NO. 24,470**

**May 27, 2005**

**APPEARANCES:** Stephen P. St. Cyr & Associates by Mr. Stephen P. St. Cyr, on behalf of Hampstead Area Water Company; Office of the Consumer Advocate by F. Anne Ross, Esq., on behalf of residential ratepayers; and Marcia A.B. Thunberg, Esq., for the Staff of the New Hampshire Public Utilities Commission.

**I. BACKGROUND**

**A. DW 04-184 – Asset Acquisition/Financing for Cricket Hill/Maplevale**

Hampstead Area Water Company, Inc. (HAWC) is a public utility authorized to serve customers in the franchises known as Cricket Hill/Maplevale Farms and Woods and Residences at Maplevale (Cricket Hill/Maplevale). Cricket Hill/Maplevale is anticipated to serve a total of 128 customers in the Town of East Kingston, New Hampshire. *Hampstead Area Water Company, Inc.*, Order No. 24,299 (March 26, 2004). That order also approved an initial rate of \$25.49 per customer per quarter which was based on operation and maintenance costs only, as the assets of that system had not yet been purchased by HAWC. The water system assets are presently owned by Lewis Builders Development, Inc. (Lewis Builders).

On October 6, 2004, HAWC filed with the New Hampshire Public Utilities Commission (Commission) a Petition for Order to Acquire Assets and Incur Debt (Petition). The assets to be acquired include: a well house; two bedrock wells; 435 feet of 4” water pipe

extending from the well house to the main water line; pumps, piping and valves within the well house; two 25,000 gallon storage tanks; 6,825 feet of 4" and 2,860 feet of 3" transmission and distribution mains; and 106 1" service lines. The 128 customers would be separately metered, pursuant to the Stipulation described below. The cost of the meters, however, is not included in the asset purchase or financing in this proceeding, as HAWC has either purchased these meters already.

HAWC plans to finance the asset purchase with a \$128,000 loan from Lewis Builders, payable over a 20-year term at an interest rate equal to 2.25% above the prime rate published in the *Wall Street Journal* on the last business day of the calendar quarter preceding this order (March 31, 2005) and will be adjusted every three years on the anniversary date of the loan.

**B. DW 04-196 - Permanent Rate Filing**

On March 19, 2004, by Order No. 24,296 in Docket No. DW 02-198, the Commission approved franchises for the Camelot Court, Cornerstone Estates (Cornerstone), and Lamplighter Estates (Lamplighter) systems. No initial rates were established for those systems. Camelot Court is a 20-lot subdivision in Nottingham, New Hampshire. Cornerstone Estates is a 58-lot subdivision in Sandown and Fremont, New Hampshire. Lamplighter Estates is a 56-unit condominium complex in Kingston, New Hampshire. HAWC proposed the following permanent rates for these and the Cricket Hill/Maplevale franchises:

Cricket Hill/Maplevale	\$100 annual per customer charge \$3.72 per hundred cubic feet consumption charge
Camelot Court	\$100 annual per customer charge \$4.57 per hundred cubic feet consumption charge
Cornerstone Estates	\$100 annual per customer charge \$3.74 per hundred cubic feet consumption charge

Lamplighter Estates	\$100 annual per customer charge
	\$2.46 per hundred cubic feet consumption charge

## **II. PROCEDURAL HISTORY**

On October 6, 2004, Hampstead Area Water Company (HAWC) filed a petition with supporting attachments requesting approval to purchase the assets of the water system serving two condominium developments in the Town of East Kingston, New Hampshire known as Cricket Hill / Maplevale. The petition also asked for authority to incur debt in order to purchase these assets, pursuant to RSA 369. This petition was docketed by the Commission as DW 04-184. On October 11, 2004, the Office of the Consumer Advocate (OCA) notified the Commission of its intent to participate in DW 04-184.

On October 19, 2004, HAWC filed with the Commission a permanent rate filing for Cricket Hill/Maplevale, Camelot Court, Cornerstone, and Lamplighter. This filing was docketed by the Commission as DW 04-196. On November 19, 2004, the Commission issued Order No. 24,406 scheduling a single Prehearing Conference for both dockets for January 12, 2005 and suspending imposition of the proposed permanent rates. On December 22, 2004, customers of Cricket Hill/Maplevale filed petitions with the Commission requesting water rates at about \$235 per year, rather than the proposed \$402 HAWC had filed.

On January 12, 2005, HAWC filed with the Commission a revised rate filing for Cricket Hill/Maplevale which adjusted the number of customers and lowered the rate sought. On the same date, the OCA filed a notice of its intent to participate in DW 04-196 and Staff, on behalf of itself and the Parties, submitted to the Commission a proposed procedural schedule, which the Commission approved. On March 16, 2005, Staff filed testimony of Staff witness Jayson P. Laflamme. On April 21, 2005, Staff, HAWC, and the OCA filed a Stipulation with the

Commission, the details of which were presented to the Commission at a hearing on April 28, 2005.

### **III. SUMMARY OF STIPULATION**

Staff, HAWC, and the OCA expressed their support for the proposed Stipulation.

The details of the Stipulation are set forth as follows:

With respect to assets, Staff, HAWC, and the OCA agreed that it is in the public interest for HAWC to purchase the assets of Cricket Hill/Maplevale. Staff, HAWC, and the OCA agreed that HAWC may accept, as Contributions in Aid of Construction (CIAC), certain identified assets of the Camelot Court, Cornerstone, and Lamplighter systems.

With respect to financing, Staff, HAWC, and the OCA agreed to support HAWC's request for financing up to \$128,000 from Lewis Builders. Staff, HAWC, and the OCA agreed that the interest rate on the loan from Lewis Builders shall be an adjustable rate of 2.25% above the prime rate published in the Wall Street Journal on March 31, 2005, which currently comes to 8%. The loan interest rate shall be adjusted every three years on the anniversary date of the loan, using the Wall Street Journal prime rate as of March 31 of that year plus 2.25%.

With respect to permanent rates, Staff, HAWC, and the OCA agreed to the following:

Cricket Hill/Maplevale	
Rate Base	\$163,822
Rate of Return	8%
Operating Income Requirement	\$13,106
Revenue Requirement	\$50,173
Qtrly. Base Charge per Customer	\$25
Consumption Rate per 100 cu ft	\$3.40

Camelot Court		
Rate Base		\$5,195
Rate of Return		8.14%
Operating Income Requirement		\$423
Revenue Requirement		\$9,119
Qtrly. Base Charge per Customer		\$25
Consumption Rate per 100 cu ft		\$4.15
Cornerstone		
Rate Base		\$9,342
Rate of Return		8.14%
Operating Income Requirement		\$761
Revenue Requirement		\$15,336
Qtrly. Base Charge per Customer		\$25
Consumption Rate per 100 cu ft		\$3.67
Lamplighter		
Rate Base		\$13,659
Rate of Return		8.14%
Operating Income Requirement		\$1,112
Revenue Requirement		\$17,085
Qtrly. Base Charge per Customer		\$25
Consumption Rate per 100 cu ft		\$2.39

With respect to a step adjustment for local property taxes not yet assessed, Staff, HAWC and the OCA agreed that HAWC is likely to incur liabilities for local property taxes from the Towns of East Kingston, Freemont, Kingston, Nottingham, and Sandown in the near future for the systems in this proceeding and that recovery of local property tax liabilities through rates is appropriate. Staff, HAWC, and the OCA agreed that HAWC shall be entitled to a step adjustment in rates for each system at the time the liability is imposed by the municipality in which the system is located. If a general rate case is subsequently filed by HAWC which includes any of the systems that are the subject of this docket, Staff, HAWC, and the OCA agreed that consideration of recovery of property taxes will be undertaken in that rate proceeding. If any municipality has yet to assess a property tax by the conclusion of a rate case,

Staff, HAWC and the OCA intend to provide for a continuation of HAWC's ability to seek recovery of the local property taxes assessed through a step adjustment in the future.

#### **IV. COMMISSION ANALYSIS**

##### **A. Financing**

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." Analysis of 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 that the public good is protected. *Appeal of Easton*, 125 N.H. 205, 213 (1984). We have previously reviewed the intended use of the financing proceeds. In Order No. 24,299, Docket No. DW 03-150, we approved HAWC's franchise for Cricket Hill/Maplevale and rates to cover operation and maintenance expenses associated with maintaining the water system until such time as HAWC filed for a new rate. We also approved a Stipulation whereby HAWC agreed to file a petition with the Commission to purchase the assets of Cricket Hill/Maplevale. We are, thus, very familiar with the intended use of the proceeds of the financing. HAWC's purchase of the assets from Lewis Builders will provide HAWC with greater control over the water system assets than is presently the case and we believe utility ownership of utility assets is in the best interest of customers.

We have scrutinized HAWC's relationship with Lewis Builders and the common elements of ownership between the two in Docket No. DW 02-128. In that docket, we reviewed how HAWC should book water system assets constructed by Lewis Builders and approved certain booking methods for three different construction circumstances. *Hampstead Area Water*

*Company, Inc.*, Order No. 24,362 (August 19, 2004). The intent was to ensure that ratepayers provide a return on assets only once. Order No. 24,362, slip op. at 14. In the Cricket Hill/Maplevale asset purchase before us, Lewis Builders is agreeing to sell the assets to HAWC based on a fixed payment per connection. Under this fact pattern and in accordance with Order No. 24,362, HAWC is only allowed to include in rate base its purchase price based on the fixed payment per connection. The difference between the original cost of construction and the purchase price is recorded as CIAC, which is not included in rate base for ratemaking purposes. Here, the connection charge of \$1,000 is multiplied by 128 customers and results in the total purchase price of \$128,000. This amount is allowed in rate base and is the same amount being financed. According to Exhibit 6, Lewis Builders' construction cost for the Cricket Hill/Maplevale water system was \$209,521. Subtracting the \$128,000 purchase price from the \$209,521 total construction cost results in \$81,521 recorded as CIAC, not as rate base. Exh. 6 at 3. We believe this accurately follows the guidelines established in DW 02-128. For these reasons, we find HAWC's purchase of the utility assets in the Cricket Hill/Maplevale water system is consistent with the public good.

We next review the reasonableness of the proposed rate and its impact upon ratepayers. According to the Stipulation, the interest will be calculated based on the prime rate published in the *Wall Street Journal* on March 31<sup>st</sup> of each year, plus a margin of 2.25%. We have, in the past, approved interest rates for small water companies where the margin has ranged from 1.5 to 2.75% over the index.<sup>1</sup> Presumably, the rate variation can be attributed in part to economic conditions and to the water company's perceived risk. Here, HAWC has a capital structure that is predominantly debt, rather than equity. In Docket No. DW 02-198, we approved

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<sup>1</sup> *Lakes Region Water Company, Inc.*, Order No. 24,401 (November 19, 2004), 3% over FHLBB; *Tilton-Northfield Aqueduct Company*, Order No. 24,169 (May 9, 2003), 2.75% over FHLBB; *West Swanzey Water Company*, Order No. 24,206, (September 5, 2003), 1.5% over prime.

an interest rate for a HAWC loan with Lewis Builders that was 2.25% above prime. *Hampstead Area Water Company, Inc.*, Order No. 24,296 (March 19, 2004). Based on our review of the record and discussion above, we agree with Staff and the Parties that an 8% interest rate on the \$128,000 loan is reasonable. For these reasons, we find that the financing proposed by HAWC is reasonable.

**B. Permanent Rates and Step Adjustment**

New Hampshire RSA 378:7 authorizes the Commission to fix rates pursuant to an order after a hearing. The Commission is obligated to investigate the justness and reasonableness of the proposed rate and balance the consumers' interest in paying no higher rates than are required with the investor's interest in obtaining a reasonable return on investment. *See, Eastman Sewer Company, Inc.*, 138 N.H. 221, 225 (1994). Traditional rate-of-return principles permit a utility to recover prudently incurred operating expenses along with "the opportunity to make a profit on its investment, in an amount equal to its rate base multiplied by a specified rate of return." *See, Appeal of Conservation Law Foundation*, 127 N.H. 606, 634 (1986). We apply these principles to our analysis of the rates proposed by HAWC.

Proposed rates identified in the Stipulation for Cricket Hill/Maplevale, Camelot Court, Cornerstone, and Lamplighter consist of \$100 annual charges, billed at \$25 per quarter, plus consumption rates of \$3.40, \$4.15, \$3.67, and \$2.39, respectively. Based on these rates, witness Jayson P. Laflamme testified at hearing that, estimating consumption of 8,578 cubic feet of water per customer, an annual residential customer's bill would be \$392, \$456, \$414, and \$305 respectively, for Cricket Hill/Maplevale, Camelot Court, Cornerstone, and Lamplighter, respectively. Hearing Transcript of April 28, 2005 (4/28/05 Tr.) at 18 lines 8-20. When asked to compare the proposed rates to other HAWC rates, witness Stephen P. St. Cyr explained that



HAWC core customers pay roughly \$247.24, but that HAWC considers the core system rates low. 4/28/05 Tr. at 45-46 lines 18-4. Both Mr. Laflamme and Mr. St. Cyr testified that Staff and HAWC believed these rates were just and reasonable. 4/28/05 Tr. at 18 lines 21-23 and at 19 lines 11-12. Having fully reviewed the record before us and based on the testimony explaining the details of the stipulation, we accept the rates as proposed. Accordingly, we find the proposed rates for Cricket Hill/Maplevale, Camelot Court, Cornerstone, and Lamplighter are just and reasonable.

At hearing, HAWC requested waiver of N.H. Code Admin. R. Puc 1203.05 and requested it be allowed to implement the rates on a bills-rendered basis, rather than a service-rendered basis. Specifically, HAWC proposes to issue bills for the first quarter based on May 15, 2005 meter readings. 4/28/05 Tr. at 25 lines 13-16 and at 30 line 14. In support of this request, HAWC stated that three of the systems, Camelot Court, Cornerstone, and Lamplighter, were constructed in 2002 and HAWC has not billed any amount for these systems. 4/28/05 Tr. at 25 lines 3-9. Cricket Hill/Maplevale was constructed in 2002 – 2003 and HAWC has rates to cover operation and maintenance only. *Id.* HAWC has been absorbing the costs of these systems during this time period and believes that it does not make sense to wait another quarter before billing under the new rates. 4/28/05 Tr. at 26 lines 14-18.

In Order No. 24,299 (March 29, 2004) in Docket No. 03-150, we approved implementation of the \$25.49 per quarter charge in Cricket Hill/Maplevale on a bills-rendered basis. We cited as support for the decision the fact that customers had been receiving water service without charge. Order No. 24,299 slip op. at 11. A similar situation exists in Camelot Court, Cornerstone, and Lamplighter, where customers have been receiving water service without charge. We believe these circumstances warrant similar treatment. HAWC did not

request temporary rates for the duration of this proceeding, and that fact also supports waiving Puc 1203.05 and allowing bills-rendered implementation of the new rates. Accordingly, we find implementation of the new rates on a bills-rendered basis and waiver of Puc 1203.05 to be reasonable and in the public good.

Lastly, HAWC stated in its rate case Petition that it intended to seek recovery of rate case expenses. Exh. 2 at 21. To conclude this case, we will require HAWC to submit to the Commission, within 30 days, a total of its rate case expenses for Docket No. DW 04-196, a proposed recovery period, and an estimate of a proposed surcharge for each of the water systems. We will await Staff and any other party's recommendations as to the reasonableness of the expenses sought and we will issue an order thereafter addressing the surcharge.

Having reviewed the record in this proceeding, including the Stipulation and supporting testimony presented at the April 5, 2005 hearing, we find the terms of the Stipulation to be reasonable and in the public good. We find that the terms will result in just and reasonable rates and represent an appropriate balancing of utility and ratepayer interests. Accordingly, we will approve the Stipulation.

Based upon the foregoing, it is hereby

**ORDERED**, that the Stipulation reached between HAWC, Staff and, the OCA is **APPROVED**; and it is

**FURTHER ORDERED**, that HAWC shall file with the Commission compliance tariffs for Camelot Court, Cornerstone Estates, Lamplighter Estates, and Cricket Hill/Maplevale within five business days in conformance with this order; and it is

**FURTHER ORDERED**, that HAWC shall file with the Commission within 30 days a total of its rate case expenses for DW 04-196, a proposed recovery period, and an estimate of a proposed surcharge for Camelot Court, Cornerstone Estates, Lamplighter Estates, and Cricket Hill/Maplevale.

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

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Thomas B. Getz  
Chairman

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Graham J. Morrison  
Commissioner

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Michael D. Harrington  
Commissioner

Attested by:

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Debra A. Howland  
Executive Director & Secretary