

DW 05-114

CITY OF DOVER

Petition to Expand Water Service into Rollinsford

Order *Nisi* Granting Petition

ORDER NO. 24,506

August 26, 2005

I. BACKGROUND

On June 10, 2005, the City of Dover (Dover) filed a petition with the New Hampshire Public Utilities Commission (Commission) to expand its franchise area into the Town of Rollinsford. Dover was approached by representatives of the Peterborough Oil Company, Inc. to extend a Dover water line approximately 900 feet into Rollinsford. The proposed line would serve homes whose private wells have been contaminated as a result of a gasoline leak at a gas station. Dover's petition includes a map that illustrates the proposed new service area in Rollinsford.

In its petition, Dover avers that its City Utilities Commission, at its May 16, 2005 meeting, voted to extend permission for an extension of City water. The new line into Rollinsford, once installed and inspected, will be accepted by Dover and Dover will assume responsibility for future maintenance. Dover's new customers in Rollinsford will be provided service under the same terms and conditions as those of Dover residents. Also with its petition, Dover provided a letter from the Rollinsford Board of Selectmen supporting the proposed expansion, as well as a letter from the Department of Environmental Services indicating that the Dover water system meets the availability and suitability requirements of RSA 374:22, III.

On August 24, 2005, Commission Staff (Staff) submitted a letter recommending the Commission approve the request. Staff indicated that it had submitted discovery requests to Dover, and Dover's responses were attached to the Staff letter. Staff noted that it requested clarification of the lot numbers of the properties to be served in Rollinsford, and that Dover provided those lot numbers in its discovery responses. Staff indicated that, since Dover proposes to provide service to the Rollinsford customers on the same terms and conditions as provided to Dover residents, Dover would not be subject to ongoing Commission jurisdiction pursuant to RSA 362:4. Staff recommended the Commission approve Dover's request through the issuance of an order *nisi*.

II. COMMISSION ANALYSIS

Pursuant to RSA 362:4, II, municipal corporations furnishing water service outside their municipal boundaries shall not be considered a public utility for purposes of accounting, reporting, or auditing functions with respect to said service. Pursuant to RSA 362:4, III-a(a) (1), municipal corporations still must comply with franchise application requirements of RSA 374:22. RSA 374:22, in turn, requires Commission approval of the franchise expansions. It is the policy of this Commission that granting of new franchise areas be consistent with the orderly development of the region. *Pennichuck Water Works*, 72 N.H. P.U.C. 589, 593 (1987). The Commission shall grant such franchise approval whenever, after due hearing, the Commission finds the action would be for the public good.

Having reviewed the record before us, we find that Dover's proposal to extend water service to customers in Rollinsford is in the public good, and we will approve the request.

Dover is reacting to a situation where customers on private wells have had their supplies contaminated with gasoline, and are in need of water service. Dover will accept the water main after installation and inspection, and will treat the new Rollinsford customers in the same way as its existing Dover customers. All relevant parties are in agreement that this proposal is in the public interest, and we agree. With this order we provide our approval for expansion of Dover's water service franchise into Rollinsford as outlined in its petition.

Pursuant to RSA 374:26, permission to expand a franchise may be granted without hearing when all interested parties are in agreement. The record indicates that the City of Dover, Town of Rollinsford, DES, and Staff all agree that approval of Dover's proposed expansion is in the public good. While it appears that all interested parties are in agreement, we will nonetheless afford interested parties the opportunity to comment. Accordingly, we will issue our decision on a *nisi* basis.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that subject to the effective date below and pursuant to RSA 374:22 and 26, the City of Dover is authorized to extend water service into the limited area of the Town of Rollinsford as set forth on the map included with Dover's petition which includes Rollinsford tax map #3 lot numbers 10, 21, 21-1, 21-2, 22, 20, 22-1A, 20-1, 18, 19, 28, 24, 47, 48, 49, 45, 46, and 42; and it is

FURTHER ORDERED, that the City of Dover's provision of water service remains exempt from Commission regulation according to RSA 362:4,III-a(a)(1); and it is

FURTHER ORDERED, that the City of Dover 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 September 6, 2005 and to be documented by affidavit filed with this office on or before September 26, 2005; and it is

FURTHER ORDERED, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than September 13, 2005 for the Commission's consideration; and it is

FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than September 20, 2005; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective September 26, 2005, 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-sixth day of August, 2005.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Michael D. Harrington
Commissioner

Attested by:

Lori A. Normand
Assistant Secretary