

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 07-060

MANCHESTER WATER WORKS

Petition to Extend Service Area in Town of Hooksett

Order *Nisi* Granting Petition

ORDER NO. 24,775

July 12, 2007

I. BACKGROUND

Manchester Water Works (MWW) is a municipal water utility serving the City of Manchester and the surrounding towns of Auburn, Bedford, Goffstown, Hooksett, and Londonderry. MWW also provides wholesale water to the Town of Derry, Grasmere Village Water Precinct, Central Hooksett Water Precinct, and Pennichuck Water Works, Inc.

On May 7, 2007, MWW filed a petition to extend its service area in the Town of Hooksett, submitting a corrected map on May 24, 2007, which shows it is authorized to provide water service currently to areas that bound three sides of the proposed expansion area. MWW states that it has been approached by the developer of the Beaver Brook residential subdivision near Smyth Road in Hooksett to provide water service to the development. The subdivision runs between Jacob Avenue and the Route 28 by-pass, or Londonderry Turnpike in Hooksett.

In support of its request, MWW states that there is no other water utility providing water service in this area and that MWW is able and willing to supply water service in the proposed service area under rates on file, or to be filed, with the Commission. MWW also supplied a copy of a notification form it had sent to the Hooksett town council. The notification described the

franchise properties¹ and sought the council's assent by asking it to return signed copies. The notification was signed by the chairman of the Hooksett town council on April, 27, 2007.

On June 19, 2007, the Department of Environmental Services (DES) filed a letter in which it expressed support for expanding the water service franchise of the Manchester Water Department in the Smyth Road area of Hooksett. DES also stated that MWW meets the suitability and availability requirements of RSA 374:22, III.

On July 5, 2007, Staff filed a letter indicating that it had reviewed the petition and recommended approval. According to Staff, the requested franchise area would allow MWW to provide service to the proposed subdivision and that the additional proposed franchise territory in tax maps 43, 48 and 49 would allow future expansion and, importantly, for interconnection of MWW's existing water facilities in the adjacent franchise area to the proposed franchise area.

II. COMMISSION ANALYSIS

Pursuant to RSA 374:22, I, “[n]o person or business entity shall commence business as a public utility within this state . . . or shall exercise any right or privilege under any franchise not theretofore actually exercised in such town, without first having obtained the permission and approval of the commission.” We approve such requests upon a determination that the franchise is for the public good. RSA 374:26. In so determining, we assess, among other things, the managerial, financial, and technical expertise of the petitioners. *See Lower Bartlett Water Precinct*, 85 NH PUC 635, 641 (2000). RSA 374:26 authorizes the Commission to grant requests for franchise authority without a hearing “when all interested parties are in agreement.”

¹ MWW described the properties subject to its instant franchise request as: Hooksett Tax Map 43, Lots 36-1, 36-2, 36-3, 37-2, 38, 39, 40, and 40-1; Tax Map 48, Lots 17-19, 21 thru 26, 23-2, 25-1, 26-1, 26-2, 28 thru 47, 42-1, 71 and 72; Tax Map 49, Lots 57, 59-1, 59-2, and 59-3.

Regarding whether MWW possesses the requisite managerial, financial, and technical expertise to provide water service in the proposed franchise area, MWW has demonstrated its ability to manage future water needs by its exploration of the Merrimack River as a source and it has demonstrated its technical and financial ability to provide water by undertaking and funding a \$36 million construction project to upgrade its water treatment plant. In addition, extension of MWW's franchise is permissible under RSA 374:22 inasmuch as MWW meets the suitability and availability requirements of DES. Finally, we find it for the public good pursuant to RSA 374:26 for MWW to expand its service area to the proposed franchise area because: it has water system infrastructure in its franchise area immediately surrounding the proposed franchise area that it expects to interconnect with the infrastructure it will place in the proposed franchise area; it has successfully provided water service on a residential, commercial, and wholesale basis in southern New Hampshire for many years; and, the Commission has previously found it for the public good to grant MWW franchise territory outside of its city limits.²

MWW represents that it will apply its existing tariff to the customers in the proposed franchise area. According to the tariff, customers will be charged \$13.73 per month for 5/8 inch service (or \$25.15 per quarter) plus a volumetric rate of \$1.50 per 100 cubic feet. Consequently, pursuant to RSA 362:4, III-a (a), MWW is not considered a public utility by extending its water service in the Town of Hooksett.

Although RSA 374:26 authorizes the Commission to grant requests for franchise authority without a hearing when all interested parties are in agreement, we will issue this order

² *Manchester Water Works*, 89 NH PUC 293 (2004) (authorizing expansion into an area of Hooksett), *Manchester Water Works*, 83 NH PUC 351 (1998) (authorizing expansion into an area of Hooksett), *Manchester Water Works*, 83 NH PUC 382 (1998) (authorizing expansion into an area of Londonderry).

on a *nisi* basis in order to ensure that interested parties in addition to MWW and the Town of Hooksett receive notice of the proposal and have an opportunity to request a hearing.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that subject to the effective date below, Manchester Water Works is granted permission pursuant to RSA 374:22 and 26 to extend its service area into a limited area of Hooksett consisting of Hooksett Tax Map 43, Lots 36-1, 36-2, 36-3, 37-2, 38, 39, 40 and 40-1; Tax Map 48, Lots 17 through 19, 21 through 26, 23-2, 25-1, 26-1, 26-2, 28 through 47, 42-1, 71 and 72; and Tax Map 49, Lots 57, 59-1, 59-2 and 59-3, as shown on a map on file with the Commission; and it is

FURTHER ORDERED, that Manchester Water Works is authorized to provide such service under its existing tariff to customers within the above-described franchise area; and it is

FURTHER ORDERED, that Manchester Water Works 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, and shall send a copy of same to the Hooksett town clerk by first class mail, such actions to occur no later than July 23, 2007 and to be documented by affidavit filed with this office on or before August 10, 2007; 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 July 30, 2007 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 August 6, 2007; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective August 10, 2007, unless Manchester Water Works 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 twelfth day of July, 2007.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary