

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 10-061

HANOVER WATER WORKS COMPANY

Order *Nisi* Approving Request to Terminate Franchise

ORDER NO. 25,096

April 29, 2010

I. BACKGROUND

Hanover Water Works Company, Inc. (HWW) supplies water to approximately 2,132 customers in the Town of Hanover (Town) and has a rate base of approximately \$11 million. On March 19, 2010, HWW filed with the Commission a request to terminate its franchise and discontinue retail water service effective June 30, 2010. HWW is currently owned 52.8% by Dartmouth College and 47.2% by the Town.

HWW's filing included a copy of a purchase agreement with the Town wherein HWW would convey the water system assets to the Town, a 2008 operations and maintenance agreement between the Town and HWW, and a copy of the warrant announcing the special town meeting held to acquire the assets and debt of HWW. The HWW assets to be conveyed to the Town include, among other things, three reservoirs, as well as a 250-yard buffer around Reservoirs 1 and 2 and all the land surrounding Reservoir 3, reservoir-related dams and earthwork, equipment, filtration plant, water storage tanks, pump stations, water distribution lines, fire hydrants, customer records, accounts receivable, licenses, permits, and all rolling stock and operational equipment presently owned by HWW. HWW will continue to exist and will own some watershed land. The Town has been operating the utility and performing all customer billing functions since 2000 pursuant to an operations and maintenance agreement.

The Town will pay one dollar and will assume existing debt obligations for HWW's assets. On May 12, 2009, pursuant to RSA Chapter 38, two-thirds of the voters authorized the Town to purchase the utility assets. The Town held other town meetings where voters approved warrant articles to raise and appropriate funds to assume HWW's loans. The first article raised and appropriated the sum of \$8,570,916 to allow the Town to assume two of HWW loans from the Drinking Water State Revolving Loan Fund. The second article raised and appropriated the sum of \$550,000 to allow the Town to assume a loan HWW has with Citizen's Bank. On September 11 and October 9, 2009, the Town mailed flyers describing the transaction to its residents. The Town expects to issue bonds for the cost of the loans by approximately June 30, 2010, the anticipated closing date. The Town expects to make payments in lieu of taxes from its water fund into its general fund.

On April 13, 2010, Staff filed a letter recommending the Commission approve HWW's petition. Staff stated that transfer of the utility assets should be seamless and operation of the utility should not be affected by the transfer in that Town employees have been operating the utility for a number of years and will continue to do so after the transfer.

II. COMMISSION ANALYSIS

Pursuant to RSA 374:30, "[a]ny public utility may transfer or lease its franchise, works or system, or any part of such franchise, works or system, exercised or located in this state . . . when the commission shall find that it will be for the public good and shall make an order assenting thereto," In determining whether a proposed franchise or franchise transfer is for the public good, the Commission assesses, among other things, the managerial, financial, and technical expertise of the petitioners. *See Lower Bartlett Water Precinct*, Order No. 23,562, 85 NH PUC 635, 641 (2000). In addition, pursuant to RSA 374:28, the Commission may authorize a public

utility to permanently discontinue service “whenever it shall appear that the public good does not require the further continuance of such service.” Finally, pursuant to RSA 38: 1, any town may acquire plant for the distribution of water for municipal use or for the use of its inhabitants and, pursuant to RSA 38:4, a favorable town vote to acquire such plant “shall create a rebuttable presumption that such action is in the public interest.”

We have reviewed the petition, supporting attachments, and Staff’s recommendation and find that the Town has the requisite managerial, financial, and technical expertise to operate the water system. The Town has been operating the system and has been managing billing and customer service functions for approximately ten years. The Town presently supplies all of the employees necessary to operate the water treatment plant and the distribution system. The Town has demonstrated its financial capabilities by seeking bonds to effectuate the acquisition of the assets and associated debt. For these reasons, we find that the transfer of HWW’s utility assets to the Town, as described in the purchase agreement, and the corresponding transfer in control are for the public good. Furthermore, we find that the discontinuance of service by HWW as a regulated public utility is for the public good and, consistent with the action taken by the Town pursuant to RSA 38:4, we agree that service by the Town to its inhabitants is for the public good. With respect to the Commission’s continued jurisdiction over the water system, the Town is a municipal corporation and, pursuant to RSA 362:2, the term “public utility” does not include “municipal corporations . . . operating within their corporate limits . . . any plant or equipment or any part of the same for the . . . furnishing of . . . water for the public . . .” Thus, following this acquisition, to the extent the Town provides water service within its corporate limits, it is not subject to Commission regulation.

Based upon the foregoing, it is hereby

ORDERED, that the transfer of HWW's utility assets to the Town, as described in the purchase agreement, is hereby approved; and it is

FURTHER ORDERED, that HWW's franchise to provide water service in the Town of Hanover is hereby terminated as of the date that transfer of utility assets pursuant to the purchase agreement is complete; and it is

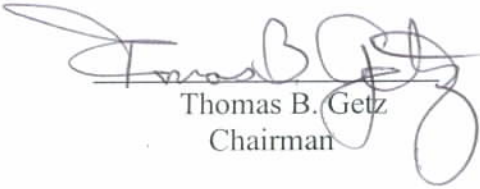
FURTHER ORDERED, that HWW shall cause a copy of this Order *Nisi* to be published once in those newspapers with circulation in those portions of the state where operations are conducted, such publication to be no later than May 10, 2010 and to be documented by affidavit filed with this office on or before May 28, 2010; and it is

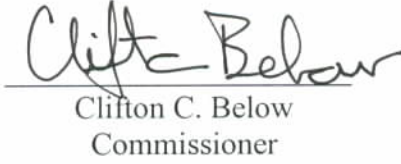
FURTHER ORDERED, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than May 17, 2010 for the Commission's consideration; and it is

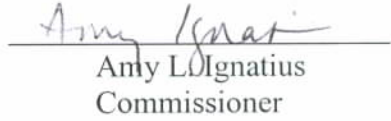
FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than May 24, 2010; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective May 28, 2010, unless HWW 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-ninth day of
April, 2010.


Thomas B. Getz
Chairman


Clifton C. Below
Commissioner


Amy L. Ignatius
Commissioner

Attested by:


Debra A. Howland
Executive Director

