

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 11-191

PENNICHUCK WATER WORKS, INC.

**Petition for Authority to Provide Water Service and Charge Rates in the Harvest Estates
Development in Derry**

Order *Nisi* Granting Petition

ORDER NO. 25,297

December 5, 2011

I. BACKGROUND

Pennichuck Water Works, Inc. (PWW) is a regulated public utility pursuant to RSA 362:2 and RSA 362:4 and serves some 26,000 customers in 12 municipalities in southern New Hampshire. On August 31, 2011, PWW filed a petition for authority to provide water service to the Harvest Estates development in the Town of Derry. The petition was accompanied by the prefiled testimony of Donald L. Ware, President of PWW, and other supporting documents. Harvest Estates is a 30 unit single family residential development located in the vicinity of Hampstead and Oleson Roads in East Derry. PWW proposes to serve the development by a water main extension from PWW's adjacent Drew Woods water system, to run along a proposed Harvest Road within the development. The main extension will be constructed by Keystone Builders, LLC (Keystone), the developer of Harvest Estates, and turned over to PWW in accordance with a Main Extension Agreement (Agreement) between Keystone and PWW attached to the filing. Included in the transfer will be all necessary equipment and easements to operate and maintain the expanded system. The petition and subsequent docket filings, other

than information for which confidential treatment is requested of or granted by the Commission, is posted to the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2011/11-191.html>.

The franchise area to be served consists of current or former lots 10-15, 10-24, and 10-25, as shown on plans and as further described in a Foreclosure Deed, all as attached to the filing. The Derry Town Council approved a motion on October 5, 2010 supporting the proposed franchise. While the Harvest Estates water main itself has been constructed, house services will be installed as individual housing units are built, with first service anticipated by the end of this year.

PWW proposes to charge its existing general metered rates in Harvest Estates, as it does in Drew Woods. The Agreement also provides that PWW pay Keystone a one-time amount equal to the anticipated annual revenue for each connection made within five years of acceptance of the main extension by PWW, as well as a one-time payment of the anticipated total annual fire protection revenue associated with the project if the main extension is accepted as part of the Derry municipal fire system within five years of its acceptance by PWW. These payments are in accordance with Section 33(B) of PWW's tariff.

The Drew Woods water system is supplied by wells and a recent interconnection with the Town of Derry system, and the same sources will provide the supply for Harvest Estates. The Agreement further provides that Keystone pay PWW a System Upgrade Fee of \$1,253 per connection in accordance with Section 33(C) of PWW's tariff, to assess proportional costs of the Derry system interconnection. The fee is applicable because the Drew Woods system could not

have served Harvest Estates apart from the additional water supply available from the Derry system interconnection. The calculation of the fee is included in the filing.

On November 30, 2011, Staff filed a letter recommending the Commission approve PWW's petition. Staff stated that it had reviewed PWW's filing and had conducted discovery, which is attached to its recommendation. Staff noted that the Drew Woods system serves over 500 customers and operates under a permit issued by the NH Department of Environmental Services (DES); and that the interconnection with Derry's water system, which was the subject of docket DW 10-105, resulted in sufficient supply and the elimination of water use restrictions in Drew Woods. Staff indicated the Harvest Road extension will impose a minimal additional impact on system demands, and that these factors collectively satisfy the requirements of RSA 374:22, III regarding the suitability and availability of water for the development. Staff stated that PWW has the requisite technical, managerial, and financial capability to operate the expanded system since it successfully operates the Drew Woods system as well as other water systems in the state.

II. COMMISSION ANALYSIS

Pursuant to RSA 374:22, “[n]o person or business entity shall commence business as a public utility within this state . . . without first having obtained the permission and approval of the commission.” The Commission grants requests for franchise authority upon a finding that it is for the public good pursuant to RSA 374:26. In determining whether a franchise is for the public good, the Commission assesses the managerial, technical, and financial abilities of the petitioner. *See, Southern New Hampshire Water Co., Inc.*, Order No. 19,487, 74 NH PUC 262,

263 (1989). Pursuant to RSA 378:5 and RSA 378:7, the Commission is authorized to investigate whether rates, fares, charges, or prices a utility proposes to put into force are just and reasonable.

Having reviewed PWW's filing and Staff's recommendation, we find that PWW's acquisition of assets and its request to provide water service to customers in Harvest Estates are for the public good. The record demonstrates that PWW has the requisite managerial, technical, and financial abilities to obtain the requested franchise. PWW will secure the proper easements and access associated with the water system expansion. PWW and its regulated affiliates, Pennichuck East Utility, Inc. and Pittsfield Aqueduct Company, Inc., provide water service to some 34,000 customers in various systems throughout New Hampshire, and PWW currently operates the adjacent Drew Woods system. The Harvest Estates water system also meets the suitability and availability requirements of DES as required by RSA 374:22, III. We find that application of PWW's rates to Harvest Estates is just and reasonable. PWW did not request a specific date by which to implement rates and therefore, consistent with N.H. Code Admin. R. Puc 1203.05, we will approve the rate on a service-rendered basis as of the effective date of this order.

RSA 374:26 authorizes the Commission to grant requests for franchise authority without a hearing "when all interested parties are in agreement." Here, Staff, PWW, Keystone, and the Town of Derry are in agreement that PWW should operate the Harvest Estates water system. Notwithstanding this apparent agreement, we will approve PWW's petition on a *nisi* basis in order to ensure that all interested parties receive notice of the proposed franchise and rates and have an opportunity to request a hearing.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that subject to the effective date below, PWW is authorized to operate as a public water utility in the area known as Harvest Estates located in Derry; and it is

FURTHER ORDERED, that PWW is authorized to charge its tariff rates in Harvest Estates, on a service-rendered basis, effective as of the date of this order, or the date of acceptance of the water system by PWW, whichever is later; and it is

FURTHER ORDERED, that PWW shall cause a copy of this Order *Nisi* to be mailed by first class mail to the Derry Town Clerk and to any known or prospective customers as well as published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such mailing and publication to be no later than December 15, 2011 and to be documented by affidavit filed with this office on or before January 4, 2012; and it is

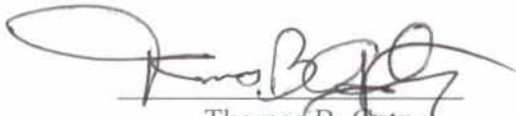
FURTHER ORDERED, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than December 22, 2011 for the Commission's consideration; and it is

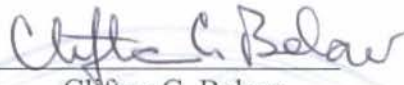
FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than December 29, 2011; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective January 4, 2012, unless PWW fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

FURTHER ORDERED, that PWW shall file a compliance tariff with the Commission on or before January 18, 2012, in accordance with N.H. Code Admin. Rules Puc 1603.02(b).

By order of the Public Utilities Commission of New Hampshire this fifth day of December, 2011.


Thomas B. Getz
Chairman


Clinton C. Below
Commissioner


Amy L. Ignatius
Commissioner

Attested by:


Debra A. Howland
Executive Director

