

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 11-218

HAMPSTEAD AREA WATER COMPANY, INC.

Petition to Acquire Assets, Establish Franchise, and Charge Rates

Order *Nisi* Granting Petition

ORDER NO. 25,318

January 18, 2012

I. BACKGROUND

Hampstead Area Water Company, Inc. (HAWC) is a regulated public utility pursuant to RSA 362:2 and RSA 362:4 and serves in numerous communities in southern New Hampshire. On September 26, 2011, HAWC filed a petition for authority to provide water service in a fifteen-unit residential development located on Fairfield Lane in the Town of Sandown. HAWC also filed testimony and supporting schedules. HAWC also seeks authority to charge its currently authorized tariff rates in this new franchise area. 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 www.puc.nh.gov/Regulatory/Docketbk/2011/11-218.html.

The Fairfield Homeowners Association requested that HAWC acquire and operate its existing water system. To that end, HAWC seeks to expand its franchise area by approximately 21.97 acres. HAWC states that the original cost of the water systems assets to be acquired is \$60,400, and that HAWC will record that amount as a Contribution in Aid of Construction (CIAC). As such, the \$60,400 will not be included in the calculation of future rates. HAWC's only cost related to this acquisition is \$3,500 related to expenses incurred to file the instant

petition, and expenses to secure appropriate easement rights. The water service is presently unmetered and HAWC plans to install meters within one month of acquisition. HAWC requests that, upon acquisition of the system, it be authorized to charge its current tariff rates of a \$10 per month fixed charge and \$4.74 per one hundred cubic feet of water consumed.

HAWC included with its petition a copy of a Water Rights Deed and Easement; a Permit to Operate a Public Water System, issued by the New Hampshire Department of Environmental Services (DES) on June 28, 2011; a Subdivision Plan of the Fairfield development; a description of the proposed franchise area with a copy of the original deed; a letter from HAWC to the Town of Sandown Board of Selectmen, providing notice that HAWC would be seeking approval of the Commission for this franchise; a Bill of Sale of Water Utility Assets, detailing the water system assets to be acquired; a copy of a letter from HAWC to the Fairfield Homeowners Association, providing its proposal for acquisition of the water system; and copies of Continuing Property Records that HAWC proposes to establish once it has acquired the water system. On October 12, 2011, the Commission received a letter from the Sandown Selectmen acknowledging it had been notified of HAWC's pending petition to acquire the Fairfield water system.

On January 9, 2012 Staff filed a letter recommending the Commission approve HAWC's request to acquire the utility assets of the Fairfield Homeowners Association, establish a new franchise area in Sandown, and to charge its currently authorized tariff rates. Staff stated that it had reviewed the petition and testimony and had conducted discovery. Staff attached HAWC's responses to discovery requests to its letter. Staff stated that the existing water system meets the requirements of RSA 374:22, III with respect to the availability and suitability of water within the proposed franchise area by virtue of its current permit to operate. Staff noted that the system

assets to be acquired will be at no cost and will be considered as CIAC. Staff stated that HAWC, has demonstrated by its operation of other water systems, that it has the requisite managerial, technical, and financial capabilities to serve the proposed franchise area.

On January 12, 2012, Staff filed a letter stating that it had learned that the correct CIAC amount was \$70,055, not \$60,400. Staff stated that this correction did not change its recommendation that the Commission approve HAWC's request.

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 HAWC's filing and Staff's recommendation, we find that HAWC's acquisition of assets and its request to establish a franchise to provide water service to customers in Fairfield are for the public good. The record demonstrates that HAWC has the requisite managerial, technical, and financial abilities to provide water service within the requested franchise. HAWC serves some 3,000 customers currently in a number of water systems throughout southern and southeastern New Hampshire, and was requested by the Fairfield homeowners to consider acquiring and operating the water system which they heretofore owned

and operated. The Fairfield system has an active permit to operate and meets the suitability and availability requirements of DES as required by RSA 374:22, III. HAWC intends to install water meters at each home following its acquisition of the water system, and we find that application of HAWC's current rates to Fairfield customers after acquisition is just and reasonable. Pursuant to 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, HAWC, and the Fairfield Homeowners Association are in agreement that HAWC should operate the Fairfield system. The Selectmen in the Town of Sandown were notified in October of the petition and have not rendered an objection. Notwithstanding this apparent agreement, we will approve HAWC'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, HAWC is authorized to operate the Fairfield water system as a public water utility in the Town of Sandown; and it is

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

FURTHER ORDERED, that HAWC shall cause a copy of this Order *Nisi* to be mailed by first class mail to the Sandown 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 publication to be no later than January 27, 2012 and to be documented by affidavit filed with this office on or before February 17, 2012; and it is

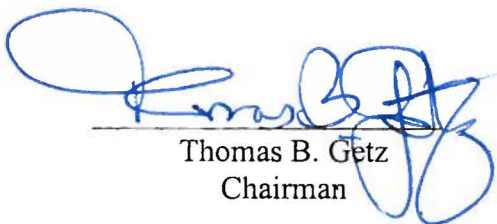
FURTHER ORDERED, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than February 3, 2012 for the Commission's consideration; and it is

FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than February 10, 2012; and it is


FURTHER ORDERED, that this Order *Nisi* shall be effective February 17, 2012, unless HAWC 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 HAWC shall file a compliance tariff with the Commission on or before March 2, 2012, in accordance with N.H. Code Admin. Rules Puc 1603.02(b).


By order of the Public Utilities Commission of New Hampshire this eighteenth day of
January, 2012.



Thomas B. Getz
Chairman

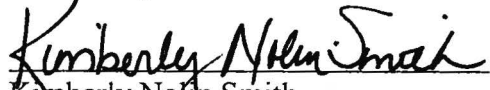


Clifton C. Below
Commissioner



Amy L. Ignatius
Commissioner

Attested by:



Kimberly Nolin Smith
Assistant Secretary