

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 13-323

HAMPSTEAD AREA WATER COMPANY, INC.

Request for Franchise, Rates, and Financing Approval for Little River Village, Plaistow

Order *Nisi* Granting Request

ORDER NO. 25,636

March 14, 2014

I. BACKGROUND

Hampstead Area Water Company, Inc. (HAWC) is a regulated public utility pursuant to RSA 362:2 and RSA 362:4 and provides water service to over 3,120 customers in 11 towns in southern New Hampshire, including the Town of Plaistow. On November 13, 2013, HAWC filed a petition to expand its franchise in Plaistow to include a proposed residential development known as Little River Village. HAWC also seeks approval to acquire assets associated with the Little River Village water system, to charge its currently authorized tariff rates in this new franchise area, and to finance the purchase.

The petition and subsequent docket filings, other than any 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/2013/13-323.html>.

In support of its petition, HAWC filed the testimony of Harold Morse, president of HAWC, and John Sullivan, controller for HAWC affiliate Lewis Builders, Inc. According to Mr. Morse's testimony, the developer, Torromeo Trucking Co., Inc. (Torromeo) of Methuen, Massachusetts, requested that HAWC purchase the water system. Petition Exhibit 11. Torromeo expects to construct five homes per year. Full build out is authorized at twenty-five single

family homes. Torromeo hired R.E. Prescott Co., Inc. to install the water system and obtain the necessary approvals from the Department of Environmental Services (DES). *Id.* The DES permits are transferrable to HAWC. The development is located within Tax Map 29, Lot 28, off of Main Street, Route 121A. It will be served by a well and pump house located within the franchise area. A detailed map of the easement for the community well was provided as Exhibit 2 to HAWC's petition. The first home was expected to be occupied by January 1, 2014. The development will not be connected to HAWC's core system. Fire protection service will be provided by the Plaistow municipal fire system.

HAWC provided a metes and bounds description of the proposed franchise area as Exhibit 3 to its petition and later revised the description during discovery. In addition to the Little River Village development, the proposed franchise area encompasses Tax Map 43, Lot 43; Tax Map 43, Lot 44; and Tax Map 29, Lot 23 and comprises approximately 94 acres.

On December 24, 2013, HAWC notified the Town of Plaistow selectmen of the proposed petition and requested the selectmen sign an acknowledgement. As of the date of Staff's recommendation, discussed below, HAWC had not received the acknowledgement.

The Little River Village water system is complete aside from the service lines to the un-built homes. The sales agreement provides for HAWC to acquire the water system for a sale price of \$25,000, to be paid by HAWC in \$1,000 per hook up installments. As part of the sales agreement, Torromeo agrees to grant HAWC a Water Rights Deed and Easement to secure HAWC's access to the water system and right to enforce the protective well radius easement. Torromeo and HAWC executed that deed and easement on October 22, 2013. See Petition Exhibit 1. Pursuant to the bill of sale, Torromeo's cost of construction totals \$251,500. See

Petition Exhibit 7. Because HAWC is only paying \$1,000 per hook up, with a cap of \$25,000, approximately \$226,500 will be booked as Contribution in Aid of Construction (CIAC) from the developer and will not be included in rate base.

HAWC provided a copy of the DES approval for the well and water system as Exhibit 4 to its filing. In 2005, DES permitted the well for a production volume of not more than 47,520 gallons per 24-hour period. As build out of the development occurs and well production meets 20,000 gallons, DES will require usage reporting through DES's Water Use Registration Program. Petition Exhibit 4 at 2. HAWC, as owner of the water system, will be responsible for this reporting pursuant to RSA 488:3 and N.H. Code Admin. Rule Env-Wq 2101.03.

HAWC proposes to charge its existing consolidated metered rates in the franchise. According to Mr. Morse's testimony, the rate is a \$10.00 base charge per month with a consumption charge of \$5.02 per 100 cubic feet of water consumed. The Commission found this rate to be just and reasonable pursuant to RSA 378:28 and approved it in 2013. *See Hampstead Area Water Company, Inc.*, Order No. 25,519 (June 7, 2013).

On February 19, 2014, Staff recommended that the Commission approve HAWC's petition. Staff stated that it had reviewed HAWC's filing and had conducted discovery, which it attached to its recommendation. Staff noted that HAWC revised Exhibit 3, map and written description of the proposed expansion, during discovery. The revised exhibit depicts the proposed franchise area on the Town of Plaistow's tax maps. Staff also noted that because DES had approved the well and water system, it believed HAWC satisfies the requirements of RSA 374:22, III regarding the suitability and availability of water. Staff concluded that HAWC has the requisite technical, managerial, and financial capability to operate a water utility in the

proposed franchise area. Staff added that HAWC already successfully operates water systems in southern New Hampshire, including Plaistow.

II. COMMISSION ANALYSIS

Our review of HAWC's petition is guided by the following authorities. 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, (July 21, 1989), 74 NH PUC 262, 263. 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. Pursuant to RSA 369:1, public utilities engaged in business in this state may issue evidence of indebtedness payable more than 12 months after the date thereof only if the Commission finds the proposed issuance to be "consistent with the public good." Analysis of the public good involves looking beyond actual terms of the proposed financing to the use of the proceeds of those funds to ensure the public good is protected. *See Appeal of Easton*, 125 N.H. 205, 211 (1984). We have previously found that "certain financing related circumstances are routine, calling for more limited Commission review of the purposes and impacts of the financing, while other requests may be at the opposite end of the spectrum, calling for vastly greater exploration of the intended uses and impacts of the proposed financing." *In re PSNH*, Order No. 25,050 at 14 (December 8, 2009).

We address HAWC's financing request first. HAWC seeks to enter into a promissory note with Torromeo in the amount of \$25,000, which represents the sale price of the water system. HAWC is to pay Torromeo over time, without interest, at \$1,000 per hook up until the development is fully built out. According to the testimony of Mr. Sullivan, the promissory note is for a term of 20 years although it appears that completion of the development will likely occur well before 20 years. This arrangement is straightforward, and the dollar amount per customer connection is similar to the cost method HAWC has used in past system acquisitions. *See Hampstead Area Water Company, Inc.*, Order No. 24,856 (May 19, 2008) (HAWC based its \$113,000 purchase price on 113 customers at \$1,000 per hook up rather than on the developer's actual cost of construction, which was higher.)

Our review of the proposed financing falls on the more routine end of the spectrum and does not warrant vastly greater exploration of the intended uses and impacts of the proposed financing. The purposes and use of the financing are to complete HAWC's acquisition of the water system from Torromeo, which we find to be an appropriate use of utility funds. The terms of the promissory note are reasonable and favorable to HAWC and its customers. Accordingly, we find the proposed financing to be consistent with the public good and, consistent with *Easton*, we approve the financing request.

With respect to HAWC's request for franchise approval, we find that HAWC's request to provide water service to customers in the Little River Village development is for the public good. HAWC has the requisite managerial, technical, and financial abilities to operate a regulated water utility. HAWC has been providing water service to customers since 1989 and already provides water service to approximately 3,120 customers in eleven towns in southern New

Hampshire, including Plaistow. HAWC has demonstrated sound financial planning by periodically taking advantage of low-cost financing through the State Revolving Loan fund to install water mains, and wells, and to address leakage.¹ HAWC has also regularly filed rate cases, which demonstrates its ability to ensure it earns a revenue requirement sufficient to cover its expenses and capital investments.² For the Little River Village development, HAWC secured rights to control and access the water system by executing an easement with Torromeo. Additionally, HAWC has negotiated favorable financing terms for its incremental payment of the purchase price and the major cost of the assets will be booked as CIAC. HAWC is prepared to carry out the reporting obligations to the DES. Based on our findings above, we find that HAWC has the requisite managerial, technical, financial, and legal expertise to operate a regulated water utility.

An additional requirement we must consider is RSA 374:22, III, which states that no water company shall obtain the permission or approval of the Commission to operate as a public utility without first satisfying any requirements of DES concerning the suitability and availability of water. As evidenced in the filing, Torromeo secured the requisite DES permits for the water system through its contractor, R.E. Prescott Co., Inc. We, therefore, find that the Little River Village water system satisfies the suitability and availability requirements of RSA 374:22, III.

We approved HAWC's current rates in 2013. These are consolidated rates. In *Hampstead Area Water Company, Inc.*, Order No. 24,626 (May 26, 2006), we observed that "eliminating disparities among the individual systems is ... consistent with the long-term best

¹ See *Hampstead Area Water Company, Inc.*, Order No. 24,720 (December 28, 2006); *Hampstead Area Water Company, Inc.*, Order No. 24,937 (February 6, 2009); and *Hampstead Area Water Company, Inc.*, Order No. 25,299 (December 8, 2011).

² See *Hampstead Area Water Company, Inc.*, Order No. 25,000 (August 4, 2009); *Hampstead Area Water Company, Inc.*, Order No. 25,519 (June 7, 2013).

interests of the utility's customers" and that, "consolidation will help insulate those individual systems from future rate shock when significant investments are made to comply with environmental mandates or for other reasons." *Id.* at 10. Neither Staff nor the parties have requested system-specific rates and we see no reason to deviate from this rationale in the instant case. Accordingly, we find that the rates are just and reasonable for the Little River Village development and we will authorize HAWC to charge its rates to its customers within this franchise.

HAWC did not request a specific date by which to implement rates although it is implicit from the record that customers will not be charged the rates until they obtain service from HAWC. One customer may have begun taking service as of January, however, to be consistent with N.H. Code Admin. Rules Puc 1203.05, we authorize HAWC to charge its consolidated rates 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 developer are in agreement that HAWC should operate the Little River Village water system. Although the Town of Plaistow approved the development and the DES has approved a public water supply for the development, we cannot assume that the Town of Plaistow is in agreement that HAWC should be granted a franchise to operate the water system. As such, we will approve HAWC's petition on a *nisi* basis with a delayed effective date, to ensure that all interested parties, including the Town of Plaistow, receive notice of the proposed franchise, financing, and rates and have an opportunity for a hearing.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that subject to the effective date below, HAWC's petition is granted and HAWC is authorized to provide regulated water service in the proposed franchise area, including to the development of Little River Village in the Town of Plaistow and to acquire the assets identified above as necessary to provide such service; and it is

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

FURTHER ORDERED, that HAWC is hereby authorized to undertake the proposed financing, under the terms and conditions contained in HAWC's petition, and for the purpose as outlined herein; and it is

FURTHER ORDERED, that HAWC shall cause a copy of this Order *Nisi* to be mailed by first class mail to the Plaistow Town Clerk, and to any known or prospective customers in the Little River Village development, as well as cause a summary 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 March 24, 2014 and to be documented by affidavit filed with this office on or before April 14, 2014; and it is

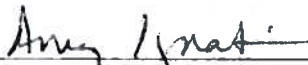
FURTHER ORDERED, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than April 2, 2014 for the Commission's consideration; and it is

FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than April 9, 2014; and it is

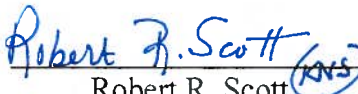
FURTHER ORDERED, that this Order *Nisi* shall be effective April 14, 2014, unless HAWC fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

FURTHER ORDERED, that HAWC shall file a compliance tariff with the Commission on or before April 28, 2014, in accordance with N.H. Code Admin. Rules Puc 1603.02(b).

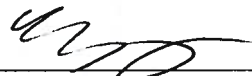
By order of the Public Utilities Commission of New Hampshire this fourteenth day of March, 2014.



Amy Ignatius
Chairman

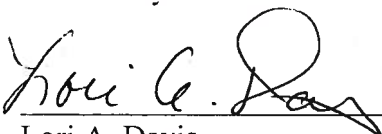


Robert R. Scott
Commissioner



Martin P. Honigberg
Commissioner

Attested by:



Lori A. Davis
Assistant Secretary