

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 14-022

HAMPSTEAD AREA WATER COMPANY, INC.

Request to Expand Franchise in Atkinson, New Hampshire

Order *Nisi* Granting Request

ORDER NO. 25,672

May 30, 2014

This order grants HAWC authority to provide water service in the town of Atkinson, in the Emery Drive area and in an area east of Route 121. It also authorizes Pennichuck East Utility to transfer to HAWC an unserved portion of its franchise in Atkinson to enable HAWC's delivery of water service in the Emery Drive area.

I. BACKGROUND

Hampstead Area Water Company, Inc. (HAWC), is a regulated public utility pursuant to RSA 362:2 and RSA 362:4 that provides water service to over 3,200 customers in 12 towns in southern New Hampshire. On January 23, 2014, HAWC filed a petition for authority to provide water service to proposed franchise areas in the Town of Atkinson. According to HAWC, the groundwater in the vicinity of one of the proposed franchise areas has been contaminated with 1, 4-Dioxane. The U.S. Environmental Protection Agency (EPA) requested HAWC to provide water service to the affected area. The project is known as the Emery Drive Extension. HAWC also requests to expand its franchise in an additional area, as described below. The two additional areas would add 1,125 acres to HAWC's franchise territory in Atkinson.

In support of its Petition, HAWC also filed the following exhibits: (1) testimony of Harold Morse, president of HAWC, and John Sullivan, controller for HAWC affiliate Lewis Builders, Inc., (2) Water Supply Extension Agreement between the EPA and HAWC, (3) technical specifications, (4) list of utility assets to be transferred from EPA to HAWC, (5) proposed franchise map, and (6) franchise transfer agreement between Pennichuck East Utility, Inc., (PEU) and HAWC, among other documents (together, Petition Exhibits). The Petition, Petition Exhibits, 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/2014/14-022.html>.

The Emery Drive Extension project would serve up to thirty (30) homes north of West Side Drive along Emery Drive, Oak Ridge Drive, and Deer Run Road in Atkinson. Petition Exhibit at 201, Testimony of Harold Morse at 1. HAWC plans to serve this area through a water main connecting its Atkinson-Hampstead core system, at Main Street and West Side Drive. *Id.* at 202 and 2. The EPA has agreed to construct the extension which will consist of 10,800 linear feet of 8", 6", and 4" polyvinyl chloride (PVC) water main pressure pipe with associated valves, fittings and fire hydrants. Petition Exhibit at 4. The EPA will quitclaim the assets to HAWC in exchange for HAWC's agreement to provide potable domestic water in the contaminated area to homes as identified by the EPA. *Id.* at 189, Quitclaim Transfer of Water Utility Assets. Because the EPA, not HAWC, is constructing the Emery Drive Extension, HAWC will book the value of the project assets as Contributions in Aid of Construction (CIAC) in the amount of \$1,224,300. *Id.* at 200, Testimony of John Sullivan at 2. As CIAC, HAWC will not earn a return on that

investment. HAWC expects its out-of-pocket costs associated with the project to total \$10,000.

Id.

A portion of the Emery Drive Extension project involves a small area of PEU's franchise. PEU does not actively provide service in this area and has agreed to surrender the area necessary for the project to HAWC. The area is depicted as Franchise Area 12A on HAWC's proposed franchise map. See, Petition Exhibit at 207-208, December 26, 2013, letter from PEU to HAWC.

In addition to the franchise for the Emery Drive Extension, HAWC seeks authority to provide water service in a proposed franchise area east of Route 121. HAWC states that its related affiliate, Centerview Hollow Land Company, LLC, owns a large, developable, tract of land located on Tax Map 17, Lot 54. *Id.* at 202, Testimony of Harold Morse at 2. HAWC would provide service to future developments on that tract. HAWC states that it has also received numerous requests for hookups in this area. Petition at 2. HAWC would provide service to this area through its Atkinson-Hampstead core system. It would charge its current tariff rates. *Id.* at 203, Testimony of Harold Morse at 3.

On January 30, 2014, the Town of Atkinson, Board of Selectmen filed a letter acknowledging that HAWC had notified it of the franchise request. The acknowledgement pertained only to the EPA project. On March 25, 2014, the Board filed a second acknowledgment letter stating that it understood the franchise request to involve both the EPA project as well as other developable land in Atkinson. The Board also acknowledged that it would be charged for fire hydrant service installed as part of EPA's Emery Drive Extension project.

On April 17, 2014, Commission Staff (Staff) recommended approval of HAWC's request. Staff stated that it had reviewed HAWC's filing and had conducted discovery, which it attached to its recommendation. Staff concluded that HAWC has the requisite technical, managerial, and financial capability to operate a water utility in the proposed franchise area and recommended that the Commission approve HAWC's current tariff rates for the new franchise.

II. COMMISSION ANALYSIS

Our review of HAWC's franchise request 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." We review franchise petitions to ensure that they are consistent with the orderly development of the region. *Pennichuck Water Works, Inc.*, Order No. 18,952 (Dec. 31, 1987). We will grant a request for franchise authority if we find that it is for the public good. RSA 374:26. In considering whether a request is for the public good, we assess, among other things, the managerial, technical, and financial abilities of the petitioner. *See Lower Bartlett Water Precinct*, Order No. 23,562, (Sept. 25, 2000). Pursuant to RSA 374:30, "Any public utility may transfer its franchise, works or system ... when the commission shall find that it will be for the public good and shall make an order assenting thereto." Pursuant to RSA 374:22, III, no water company shall obtain the permission or approval of the Commission to operate as a public utility without first satisfying any requirements of the Department of Environmental Services (DES) concerning the suitability and availability of water. HAWC has also requested authority to charge its current tariffed rates in the new franchise area and, pursuant to RSA 378:5 and

RSA 378:7, the Commission is authorized to investigate whether the rates a utility proposes to put into force are just and reasonable.

We have previously found that HAWC possesses the requisite capabilities to provide water service. HAWC has been providing water service to customers since 1989. 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, ensuring that it earns a revenue requirement sufficient to cover its expenses and capital investments.² Considering these factors and based on our review of the filings, we find that HAWC has the requisite managerial, technical, and financial, expertise to operate a regulated water utility and to provide water service to the proposed franchise area.

HAWC's request in this case will secure deeded access to the Emery Drive Extension project from the EPA. The project will meet HAWC's technical specifications. HAWC will book the project assets as CIAC which means HAWC will not earn a return on the value of those assets. HAWC will serve up to 30 new customers as identified by the EPA. HAWC plans to serve additional customers in the developable land held by its affiliate. HAWC's out-of-pocket costs for this franchise request are approximately \$10,000, and if HAWC seeks to earn a return on this additional rate base at its next rate case, it will have a minimal impact on customer rates.

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).

The water service will be provided from HAWC's core system which we find satisfies the requirements of RSA 374:22, III for suitability and availability.

To fulfill its service obligations under the EPA agreement, HAWC seeks to acquire a portion of PEU's franchise in the vicinity of the Emery Drive Extension project. PEU does not actively provide water service in this area. As stated above, EPA is constructing the main extension to address contamination concerns. HAWC has agreed to own and operate that extension. PEU and HAWC are not exchanging monetary consideration in this transfer. Both PEU and HAWC agree that it is in the best interest of the customers for PEU to surrender that portion of its franchise. In light of the circumstances of this transfer, we find that transferring the portion of PEU's franchise, shown as Franchise 12A in HAWC's filing, is for the public good. In light of our finding that HAWC possesses the requisite capabilities to provide water service, we find it in the public good to grant HAWC's franchise request.

HAWC seeks to charge its existing consolidated rates in the proposed franchise. The rates for residential, general metered service consist of a \$10.00 base charge per month with a consumption charge of \$5.02 per 100 cubic feet of water consumed. The municipal hydrant rate is \$200 per annum per hydrant and an annual availability fee of \$2,000. The Commission previously found these rates to be just and reasonable for HAWC's core and satellite systems. *See Hampstead Area Water Company, Inc.*, Order No. 25,519 (June 7, 2013). The proposed franchise area will be served by HAWC's core system and HAWC has utility-wide consolidated rates. Accordingly, we find it reasonable to authorize HAWC to charge these rates in the proposed franchise area. 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.

Finally, 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 Town of Atkinson are in agreement that HAWC should provide water service in the proposed franchise area. The EPA and PEU agree HAWC should provide water service for the Emery Drive Extension franchise area. While we are not aware of any parties opposed to the franchise petition, we will nonetheless approve HAWC’s petition on a *nisi* basis with a delayed effective date, 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’s petition is granted and HAWC is authorized to provide regulated water service in the proposed franchise area, 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; and it is

FURTHER ORDERED, that HAWC’s request to acquire a portion of PEU’s franchise in the Town of Atkinson, as described above, is APPROVED; and it is

FURTHER ORDERED, that PEU is relieved of its obligations to provide regulated utility service within a portion of its authorized franchise boundary effective as of the date of the transfer to HAWC; and it is

FURTHER ORDERED, that HAWC shall cause a copy of this Order *Nisi* to be mailed by first class mail to PEU, the Atkinson Town Clerk, and to any known or prospective customers in the proposed franchise area, 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 June 10, 2014 and to be documented by affidavit filed with this office on or before June 30, 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 June 17, 2014 for the Commission's consideration; and it is

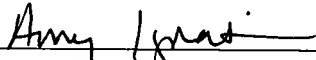
FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than June 24, 2014; and it is


FURTHER ORDERED, that this Order *Nisi* shall be effective June 30, 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

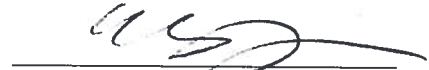
FURTHER ORDERED, that HAWC shall file a compliance tariff with the Commission on or before July 10, 2014, in accordance with N.H. Code Admin. Rules Puc 1603.02(b).

By order of the Public Utilities Commission of New Hampshire this thirtieth day of May,

2014.


Amy L. Ignatius
Chairman


Robert R. Scott
Commissioner


Martin P. Honigberg
Commissioner

Attested by:


Debra A. Howland
Executive Director