

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DW 14-319

HAMPSTEAD AREA WATER COMPANY, INC.

Request for Franchise, Rates, and Financing Approval for Snow's Brook, Plaistow

Order *Nisi* Granting Approval of Franchise, Acquisition of Assets, and Application of Existing Permanent Rates

ORDER NO. 25,757

January 16, 2015

In this order *nisi*, the Commission approves the petition of Hampstead Area Water Company, Inc., to expand its franchise in Plaistow, New Hampshire, and provide service to residents of Snow's Brook Elderly Community. The Commission also approves the company's request to acquire and finance the purchase of the Snow's Brook distribution system and to apply its existing, consolidated rates to Snow's Brook customers.

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 3,220 customers in eleven towns in southern New Hampshire, including the Town of Plaistow. HAWC's rates are consolidated and applied to customers in and across all of HAWC's systems. *Hampstead Area Water Company*, Order No. 24,734 (March 23, 2007),

On November 13, 2014, HAWC filed a petition to expand its franchise in Plaistow to include Snow's Brook Elderly Community (Snow's Brook), a proposed residential development of Hillcrest Estates, LLC (Hillcrest). HAWC also seeks approval to acquire and finance the

assets associated with the Snow's Brook water distribution system and to charge its existing consolidated rates to the Snow's Brook customers. The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted to the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2014/14-319.html>.

In support of its petition, HAWC filed the testimony of Harold Morse, president of HAWC (Exhibit 11), and John Sullivan, controller for HAWC affiliate Lewis Builders, Inc. (Exhibit 12). HAWC also filed copies of documents referenced in its petition and testimony: a water rights deed and easement (Exhibit 1), a detailed map of the Snow's Brook development and wells (Exhibit 2), a description of the proposed franchise area (Exhibit 3), a Department of Environmental Services (DES) letter of conditional approval of Snow's Brook wells (Exhibit 4), a contract to install water system assets (Exhibit 5), a schedule of costs of acquisition (Exhibit 6), a bill of sale of water utility assets (Exhibit 7), a promissory note (Exhibit 8), a project cost schedule (Exhibit 9), a continuing property record (Exhibit 10), and HAWC's letter to the Plaistow Board of Selectman with a draft Selectmen's letter to the Commission (Exhibits 13 and 14).

According to the petition and supporting documents, HAWC received a request from Hillcrest to construct the water distribution system for, and provide water service to, Hillcrest's proposed, new development, Snow's Brook. When construction is completed ("build out"), Snow's Brook will consist of thirty-four single-family condominiums and two new wells.

Hillcrest has granted HAWC a water rights and easement deed. Exhibit 1. The Snow's Brook development, and the condominiums and wells within Snow's Brook, are visually

depicted in Exhibit 2, and the proposed franchise expansion area is described in writing in Exhibit 3.

According to the contract between Hillcrest and HAWC, Exhibit 5, HAWC will acquire the Snow's Brook water distribution system for \$34,000. HAWC will pay Hillcrest that amount over time, in \$1,000 per-hook-up installments, until full build-out of the development. Petition at 2, para. 6 and Exhibit 8. In exchange for those payments and other consideration, Hillcrest will contribute approximately \$342,400 to HAWC as Contribution in Aid of Construction (CIAC). Petition at 2, para. 6, and Exhibits 6 and 7. The CIAC will not be included in rate base for the purpose of setting HAWC's rates in any future rate proceeding.

Hillcrest received necessary water-system and well approvals from DES in 2013. Exhibit 4. The DES permits are transferrable to HAWC. *Id.* The two new wells in the proposed franchise area will serve the Snow's Brook customers, and an easement granted to HAWC secures its access to the water system and its right to enforce the protective well radius. Exhibit 1.

The Snow's Brook water system will not be connected to HAWC's core system, and HAWC will not provide fire protection service to Snow's Brook customers. Instead, fire protection service will be provided by the Plaistow municipal fire system.

For service other than fire protection, HAWC proposes to charge the Snow's Brook customers its existing consolidated rates. The rate includes a \$10.00 base charge per month and a consumption charge of \$5.02 per 100 cubic feet of water consumed. In 2013, in HAWC's last full rate case, the Commission found those charges to be just and reasonable under RSA 378:28. *See Hampstead Area Water Company, Inc.*, Order No. 25,519 (June 7, 2013).

Commission Staff (Staff) reviewed HAWC's filing and, on January 9, 2015, filled its recommendations. Based on HAWC's years of experience operating New Hampshire water utilities, Staff concluded that HAWC has the requisite technical, managerial, and financial capability to serve the proposed Snow's Brook development and customers. Staff also concluded that HAWC's proposed acquisition and financing of the Snow's Brook distribution system is reasonable and consistent with the public good. Based on its conclusions, Staff recommended that the Commission approve the relief requested in HAWC's petition.

II. COMMISSION ANALYSIS

A. Franchise Expansion Approval

“No 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.” RSA 374:22. In addition, 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. RSA 374:22, III.

The Commission reviews franchise petitions to ensure that they are consistent with the orderly development of the region. *Pennichuck Water Works, Inc.*, Order No. 18,952 (December 31, 1987). The Commission grants requests for franchise authority upon a finding that such permission is for the public good. RSA 374:26. In so determining, the Commission assesses, among other factors, the petitioner's managerial, technical, and financial abilities. *See Lower Bartlett Water Precinct*, Order No. 23,562 (September 25, 2000). RSA 374:26 authorizes the Commission to grant requests for franchise authority without a hearing “when all interested parties are in agreement.”

As Staff observed, HAWC has demonstrated, through its years of operating other New Hampshire water utilities, that it has the requisite managerial, technical, and financial abilities to expand its franchise to serve the Snow's Brook development and its thirty-four customers. Through that experience, HAWC is well acquainted with the duties and responsibilities associated with providing safe, adequate, and just and reasonable service to customers, including securing capital for necessary maintenance and improvements, filing rate cases, and securing necessary approval from DES. Accordingly, we find that HAWC's request to provide water service to customers in the Snow's Brook development is consistent with the public good. We also find that, by providing DES approval of the Snow's Brook water sources, HAWC has satisfied the suitability and availability requirements of RSA 374:22, III.

B. Acquisition and Financing Approval

Public utilities engaged in business in this state may issue evidence of indebtedness payable more than twelve months after the date of issuance only if the Commission finds the proposed issuance to be "consistent with the public good." RSA 369:1. Determination of the public good involves looking beyond the actual terms of the proposed financing to the use of the proceeds of those funds and the effect on rates. *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).

HAWC seeks permission to enter into a promissory note with Hillcrest in the amount of \$34,000. The terms of HAWC and Hillcrest's agreement include \$1,000 per-hook-up installment payments over time, without interest, until the development is fully built out. This arrangement is straightforward, and the dollar amount per-customer-connection is similar to the cost method HAWC has used to accomplish past system acquisitions. *See, e.g., Hampstead Area Water Company, Inc.*, Order No. 25,636 (March 14, 2014) (\$25,000 purchase price based on 25 customers at \$1,000 per hook-up). Accordingly, we find the intended use and terms of the proposed financing to be reasonable and consistent with the public good.

C. Permanent Rate Approval

The Commission's statutory authority includes the power to limit customers' rates to a level that is "just and reasonable" and that recovers only the costs of prudent, used and useful capital improvements. *See* RSA 374:2 (public utilities to provide reasonably safe and adequate service at "just and reasonable" rates); RSA 378:7 (Commission required to determine and fix the utility's just and reasonable or lawful rates); RSA 378:28 (permanent utility rates shall only include a "just and reasonable" return on "just and reasonable" plant, equipment, or capital improvements which the Commission finds are 'prudent, used, and useful'). A "reasonable" rate results from a ratemaking process "that appropriately balances the interests of ratepayers who desire the lowest possible rates and investors who desire rates that are higher." *Appeal of Conservation Law Foundation of New England, Inc.*, 127 N.H. 606, 633, 639 (1986). The Commission is the arbiter of this balance. *See* RSA 363:17-a.

We approved HAWC's consolidated rates in its last full rate case. *Hampstead Area Water Company, Inc.*, Order No. 25,519 (June 7, 2013). Since then, we have approved HAWC's

use of existing rates for other franchise expansions. *See Hampstead Area Water Company, Inc.*, Order No. 25,704 in DW 14-107 (August 7, 2014) (Town of Newton); *Hampstead Area Water Company, Inc.*, Order No. 25,672 in DW 14-022 (May 30, 2014) (Town of Atkinson); and *Hampstead Area Water Company, Inc.*, Order No. 25,636 in DW 13-323 (March 14, 2014) (Town of Plaistow). Similarly, we find that HAWC's consolidated rates are also just and reasonable for the Snow's Brook development, and we authorize HAWC to charge those rates to its customers within this new portion of its franchise.

HAWC did not request a specific date by which to implement rates. 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, as defined below.

Based upon the foregoing, it is hereby

ORDERED NISI, that subject to the effective date defined below, HAWC's petition is granted and HAWC is authorized to expand its franchise within the Town of Plaistow, to provide regulated water service to the development of Snow's Brook, and to acquire the assets identified in its petition and supporting documents as necessary to provide such service; and it is

FURTHER ORDERED, that HAWC is authorized to charge its existing, consolidated rates to customers in the Snow's Brook development, on a service-rendered basis, effective as of the effective date of this order defined below; 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 in its petition and supporting documents; 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 Snow's Brook 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 January 26, 2015, and to be documented by affidavit filed with this office on or before February 10, 2015; 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 2, 2015, 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 9, 2015; and it is


FURTHER ORDERED, that this Order *Nisi* shall be effective February 13, 2015, unless HAWC fails to acquire the Snow's Brook system as proposed, or 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 February 27, 2015, in accordance with N.H. Code Admin. Rules Puc 1603.02(b).

By order of the Public Utilities Commission of New Hampshire this sixteenth day of
January, 2015.




Martin P. Honigberg
Chairman



Robert R. Scott
Commissioner

Attested by:



Debra A. Howland
Executive Director