

DW 06-155

HAMPSTEAD AREA WATER COMPANY INC.

Petition for Approval of Fire District and Fire Protection Rates

Order Approving Stipulation on Fire District and Fire Protection Rates

ORDER NO. 24,747

May 4, 2007

APPEARANCES: Robert C. Levine, Esq., for Hampstead Area Water Company; and Marcia A.B. Thunberg, Esq., on behalf of Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY AND BACKGROUND

Hampstead Area Water Company (HAWC) is a regulated water utility pursuant to RSA 362:2 and 362:4 and provides water service to approximately 2,700 customers in Atkinson, Hampstead, Nottingham, Danville, Sandown, Fremont, East Kingston, Kingston, Chester, Salem, and Plaistow. HAWC also provides public fire protection service to the Town of Atkinson.

On November 13, 2006, HAWC filed with the New Hampshire Public Utilities Commission a petition seeking: (1) approval of a fire district and fire protection rates for the town of Hampstead, (2) general private fire protection rates on a system-wide basis, (3) an increase in its public fire protection hydrant fee, and (4) a change in its quarterly base charge applied to customers that have larger supply lines and meters which require more capacity to serve.

On November 30, 2006, HAWC filed tariff pages reflecting the proposed rates. According to the filing, the fire protection rates are intended for approximately 26 commercial customers of HAWC that have private fire protection systems and are not currently being charged a fire protection rate. In its petition, HAWC stated that the Town of Hampstead requested, and HAWC installed, hydrants. The Town of Hampstead also asked HAWC to

provide fire protection water supply upon completion of the Smith Mountain water tank, which is completed and is currently operational. According to the petition, this tank is a 500,000 gallon supply tank located on HAWC premises. The Town of Hampstead and HAWC have entered into a contract for public fire protection water supply and hydrant installation and maintenance.

With respect to rates, HAWC seeks to raise the annual hydrant charge for municipalities from \$160.00 per hydrant, a rate that has been static for over thirteen years, to \$200.00 per hydrant. HAWC seeks to increase the annual availability fee from \$1,925.00 to \$2,000.00. In summary, the proposed rates appear as follows:

a. Water Rates (Quarterly Rate)

i. ¾ inch meter	\$ 50.00
ii. 1 inch meter	\$ 75.00
iii. 1 ½ inch meter	\$150.00
iv. 2 inch meter	\$250.00

b. Private Fire Service (Annual Fee)

i. 1 ½ diameter pipe	\$ 100.00
ii. 2 inch diameter pipe	\$ 200.00
iii. 3 inch diameter pipe	\$ 400.00
iv. 4 inch diameter pipe	\$ 600.00
v. 6 inch diameter pipe	\$1,500.00

c. Public Fire Service (Annual Fee)

i. Per Hydrant	\$200.00
ii. Availability Fee	\$2,000.00

The foregoing rates for private fire service would not apply to residential customers nor would the base charge for residential meters (5/8") increase as a result of this petition. The change would affect the approximately 26 current commercial customers who have private fire protection systems. These customers previously have been paying a customer charge equivalent to that charged to residential customers.

According to HAWC, the company is providing private fire protection to various larger water users without a comparable rate structure other than its general consolidated rate as approved by the Commission by Order No. 24,626 (May 26, 2006). In that order, a system-wide consolidated rate was approved for HAWC. These users are receiving fire protection services without paying for the standby capacity, even though the supply lines and meters are of larger diameter. These larger supply lines and meters put a greater burden on existing plant in order to provide private fire protection.

On December 8, 2006, the Commission issued an order of notice scheduling a pre-hearing conference in this docket for January 2, 2007. Following the Pre-hearing Conference, the Commission Staff and HAWC met in a technical session to formulate a procedural schedule to govern discovery and other matters. On January 3, 2007, Staff, on behalf of the parties, submitted to the Commission the proposed procedural schedule for Commission approval. There were no intervention requests.

Staff and HAWC conducted discovery pursuant to the procedural schedule and entered into a stipulation agreement that was filed on March 23, 2007. On April 5, 2007, the Commission held a duly noticed hearing, at which time Staff and HAWC presented testimony in support of the stipulation. On April 11, 2007, Staff filed a letter with the Commission responding to questions raised by the Commission during the April 5, 2007 hearing.

II. STIPULATION

Staff and HAWC's resolution of issues in this docket was formalized in a stipulation filed with the Commission on March 23, 2007. The terms of the agreement are as follows:

A. Fire District — Staff and HAWC agreed that it is just and reasonable for HAWC to operate a fire protection district in the Hampstead franchise territory and recommended that

the contract between the Town of Hampstead and HAWC be approved.

In support of these rates, Stephen P. St. Cyr testified at hearing on behalf of HAWC that the Company had recently completed the Smith Mountain water tank project and thus was now in a position to provide fire protection service to the Town of Hampstead. Mr. St. Cyr also clarified that HAWC, in proposing a fire protection district, did not intend to establish a municipal district as defined in RSA 52. According to Mr. St. Cyr, HAWC intends the fire protection franchise boundary to be identical to its water service franchise boundary.

B. Fire Protection Rate – Town of Hampstead — Staff and HAWC agreed that the fire protection rate based upon the contract terms between the Town of Hampstead and HAWC is just and reasonable. That fire protection rate consists of an annual base charge of \$2,000.00 plus an annual maintenance charge of \$200.00 per hydrant. Staff and HAWC noted that the \$2,000.00 base charge was erroneously indicated in part of HAWC’s petition as \$1,925.00 and Staff and HAWC agreed that the correct amount, per HAWC’s contract with the Town of Hampstead, is \$2,000.00.

At hearing, Mr. St. Cyr testified that the increase in rates was necessitated by HAWC entering into a contract with the Town of Hampstead to provide fire protection services. Mr. St. Cyr testified that HAWC has not previously provided fire protection services to Hampstead and thus has not had rates for this service.

C. Fire Protection Rate – System-Wide – Staff and HAWC agreed that the following system-wide fire protection rates are just and reasonable:

- i. Water Rates (Quarterly Rate)
 - i. ¾ inch meter \$50.00
 - ii. 1 inch meter \$75.00
 - iii. 1 ½ inch meter \$150.00
 - iv. 2 inch meter \$250.00

- ii. Private Fire Service (Annual Fee)
 - i. 1 ½ diameter pipe \$100.00
 - ii. 2 inch diameter pipe \$200.00
 - iii. 3 inch diameter pipe \$400.00
 - iv. 4 inch diameter pipe \$600.00
 - v. 6 inch diameter pipe \$1,500.00

- iii. Public Fire Service (Annual Fee)
 - i. Per Hydrant \$200.00
 - ii. Availability Fee \$2,000.00

In support of these rates, Mr. St. Cyr testified that HAWC needed to update its current fire protection rates for the Town of Atkinson since those rates and fees have not changed since 1993. After reviewing its rates, HAWC also realized that it was providing fire protection services to a number of large water users without charging them for the service. Mr. St. Cyr testified that HAWC is seeking to change its quarterly base charge for its approximately 26 commercial customers because HAWC believes those customers are receiving a higher level of service than residential customers due to the need for a greater available capacity to provide fire protection services. Mr. St. Cyr also stated that the cost of providing service to the larger customers is more and, as a result, the cost to those larger customers should also be more.

Utility Analyst James L. Lenihan testified on behalf of Staff in support of an increased quarterly base charge for larger customers because there is the potential for those customers to draw more water. Mr. Lenihan stated that the water industry in general establishes graduated meter charges based on typical customer meter and service-equivalent ratios that vary with the size of the meters and thus account for the larger potential water use. Mr. Lenihan stated that HAWC, up to this point, has been charging residential rates to commercial customers.

Mr. Lenihan testified further as to why, after having recently completed a rate case before the Commission, HAWC was now seeking rates for fire protection. Mr. Lenihan explained that in discovery, Staff learned that the Town of Hampstead requested fire protection services after the Commission approved HAWC's last rate case in Docket No. DW 05-112 and approved fire protection rates for the Town of Atkinson in Docket No. DW 05-177, two proceedings that were ultimately consolidated. *See Hampstead Area Water Co.*, Order No. 24,626 (May 26, 2006). In fact, the contract with the Town of Hampstead is dated November 21, 2006.

D. Revenue Impact – Staff and HAWC agreed that the proposed rates would increase HAWC's annual revenues by \$24,775, as summarized on Attachment A to the stipulation. Mr. Lenihan testified that the increase in revenues associated with the fire protection charges amounts to only about 1.9 percent of the overall company revenues and, therefore, would not be a large increase. Mr. Lenihan stated that, more importantly, revenues received from the fire protection rates would reduce future rates increases for metered customers. In a letter filed with the Commission on April 11, 2007, Staff further analyzed the impact the fire protection rates would have on HAWC's rate of return. HAWC's presently authorized rate of return, incorporating the stipulated changes to rate base and revenue from DW 05-112 step increases and the DW 04-132 step increase, is 5.85 percent. Staff stated that adding these fire protection revenues would effectively translate to an authorized rate of return of 6.54 percent on a pro-forma basis, but that based on its 2006 Annual Report HAWC's achieved rate of return was only 3.42 percent. By adding the expected net revenues from the fire protection charge to its 2006 operating results, HAWC's achieved rate of return would have increased to a 4.25 percent rate of return, still well below their authorized rate of return.

III. COMMISSION ANALYSIS

RSA 374:22 requires utilities to seek Commission approval before expanding the scope or territorial reach of a franchise. 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. *Lower Bartlett Water Precinct*, 85 NH PUC 635, 641 (2000).

Pursuant to RSA 378:7 the Commission has the authority to determine just, reasonable and lawful rates for utilities. In making such a determination, the Commission balances the consumers' interests in paying rates no higher than are required with the investors' interests in obtaining a reasonable return on investment. *Eastman Sewer Co.*, 138 N.H. 221, 225 (1994). When a utility seeks to increase rates, the utility bears the burden of proving the necessity of the increase pursuant to RSA 378:8.

HAWC has been providing water service in Atkinson, Hampstead and the surrounding area for over 40 years. The Commission has previously determined that HAWC has the requisite managerial, technical, and financial ability to provide water service in the areas within which it seeks to provide fire protection services. *See Hampstead Area Water Co.*, Order No. 24,608 (March 24, 2006); Order No. 24,592 (February 24, 2006); and 90 NH PUC 517 (2005). The evidence adduced in this docket supports the Company's petition on this point. Accordingly, we find it is for the public good to grant HAWC a franchise to provide fire protection service in Hampstead in an area coincident with their water service franchise and we approve the franchise request.

We next turn to the proposed fire protection rates. Staff testified that residential metered water usage rates have previously included some portion of the total cost of fire protection service. By establishing fire protection rates that reflect customers' service lines and meter sizes, HAWC can more accurately assign fire protection charges to those customers actually benefiting from the service. Staff further testified that it was satisfied that HAWC was now bringing its fire protection rates more in line with the graduated meter rate structures commonly found in the water industry and that the rates better reflected the cost to provide that service. Our review of HAWC's current tariff shows that the Company presently does not charge for fire protection according to the size of the meter. We thus agree with Staff and HAWC that HAWC's existing fire protection rates do not account for the potential for its commercial and industrial customers to draw more water than residential customers and do not reflect that fire protection customers are receiving a higher level of service than residential customers. We conclude that that the proposed graduated meter rate better reflects the cost of providing the fire protection service among those customers who benefit from the service. Accordingly, we approve the proposed fire protection rates.

At hearing, we expressed concern that the additional revenues from the fire protection rates might cause HAWC earnings to exceed its presently authorized rate of return, which is 5.85 percent. Having reviewed Staff's April 11, 2007 letter and Staff's estimate that HAWC's actual rate of return on rate base for 2006 would have been 4.25% had fire protection revenues been collected, we are satisfied that the additional revenues from the new fire protection rates are not likely to place HAWC in an over-earnings position and may help avoid or delay the need and expense for a new rate case due to a potential under-earning position.

In conclusion, having reviewed the filing as well as the testimony and supporting exhibits provided at hearing, we find that HAWC's proposed fire protection rates are just and reasonable and that HAWC's request to provide fire protection service within its water service franchise in the Town of Hampstead is for the public good.

Based upon the foregoing, it is hereby

ORDERED, that the stipulation entered into between Commission Staff and Hampstead Area Water Company, Inc. is approved; and it is

FURTHER ORDERED, that Hampstead Area Water Company, Inc. is hereby authorized to provide fire protection service within its Hampstead franchise; and it is

FURTHER ORDERED, that Hampstead Area Water Company, Inc. is authorized to charge fire protection rates, as described above, in its Atkinson and Hampstead franchises; and it is

FURTHER ORDERED, that Hampstead Area Water Company, Inc. file a compliance tariff within fourteen (14) business days from the date of this order.

By order of the Public Utilities Commission of New Hampshire this fourth day of May, 2007.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

Lori A. Normand
Assistant Secretary