

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DW 12-170**

**HAMPSTEAD AREA WATER COMPANY, INC.**

**Notice of Intent to File Rate Schedules**

**Order Granting Motion to Amend Petition**

**ORDER NO. 25,463**

**February 8, 2013**

**I. BACKGROUND**

Hampstead Area Water Company, Inc. (HAWC) is a regulated public utility that provides water services to approximately 3,000 customers in the communities of Atkinson, Chester, Danville, East Kingston, Fremont, Hampstead, Kingston, Newton, Nottingham, Plaistow, Salem, and Sandown. In July 2012, HAWC filed for temporary and permanent rates and on August 21, 2012, the Commission suspended the rate schedules by way of Order No. 25,401 (Aug. 21, 2012) and scheduled a prehearing conference and technical session for September 18, 2012. Following the technical session, Staff filed a proposed procedural schedule, which the Commission approved on September 24, 2012. HAWC requested temporary rates and after a hearing held on October 19, 2012, the Commission issued Order No. 25,437 on November 8, 2012 approving existing rates as temporary rates.

On December 28, 2012, HAWC filed a motion to amend its filing to add additional information pertaining to its request for a step increase. HAWC seeks to include consideration of additional expenses relating to a new employee and additions to rate base. HAWC supported its motion with testimony of Mr. John Sullivan, controller for Lewis Builders. On January 7,

2013, Staff filed an objection to HAWC's Motion. On January 11, 2013, HAWC filed a reply to Staff's objection.

## **II. POSITIONS OF THE PARTIES AND STAFF**

### **A. HAWC**

In its motion, HAWC states that it wishes to amend its permanent rate petition to include expenses associated with the addition of a new employee. HAWC states that this new position was necessitated by the increase in workload experienced by its administrative personnel due to the increase in HAWC's customer base. HAWC requests that the cost of the newly-hired employee be added to the current request for a step increase.

In addition, HAWC requests that its currently-requested capital additions be amended to include rate base additions pertaining to its Black Rocks and Fairfield systems. HAWC states costs relating to Black Rocks were added as of January 1, 2012; and that it purchased the Fairfield system in 2012.

HAWC explains that its original petition included the plant, related Contribution in Aid of Construction (CIAC), and pro forma adjustments for the operating expenses for the Fairfield system, but that acquisition and engineering costs were inadvertently omitted from its rate filing.

### **B. Staff**

Staff objected by noting that HAWC filed its schedules five and a half months ago and that Staff and HAWC are now well into the discovery phase of the proceeding. Staff stated that the procedural schedule approved by the Commission calls for only one more round of discovery prior to Staff filing testimony. Staff explained that Audit Staff has conducted its audit of HAWC's test year, as filed, and that Audit Staff is currently preparing its final audit report. Staff stated that the remaining discovery schedule is insufficient to conduct a review of the impact of

HAWC's proposed changes to its rate request. Staff further noted that the Audit Staff is now engaged in other assignments and would need to schedule time for additional audit review if this amendment is allowed. Staff asserts that proper review of the amended information would require substantial modifications to the existing procedural schedule. The existing schedule sets a hearing on the merits for May 23, 2013 and an extension to allow for additional discovery would likely push the schedule out beyond the twelve month suspension authority which expires on August 21, 2013. *See* RSA 378:6.

Staff further noted that the Commission approved temporary rates in this proceeding by way of Order No. 25,437 (November 8, 2012) and those rates were effective for service rendered on or after September 1, 2012. Staff stated that if a hearing is held on May 23, 2013 and the Commission issues an order by the end of June 2013, customers will be subjected to a temporary and permanent rate recoupment, pursuant to RSA 378:29, of ten months. Staff argued that extending the schedule may result in customers paying a larger recoupment surcharge.

Finally, Staff argued that the traditional review of a utility's revenue requirement involves a historical test year. Pursuant to N.H. Code Admin. Rule Puc 1602.07, a test year is defined as "a utility's actual financial data for a 12-month period." Staff noted that HAWC submitted a 2011 test year. Therefore, HAWC's request that the Commission allow review of only certain 2012 expenses, without a review of other changes in costs and revenues which may benefit customers, essentially proposes to change the test year methodology and to add costs and plant additions outside of the test year. Staff concluded that if the 2011 test year no longer represents HAWC's financial circumstances, then HAWC is free to withdraw its current case and file new rate schedules and other documents, in compliance with N.H. Code Admin. Rule Chapter Puc 1600 in support of a 2012 test year.

### **C. HAWC's Reply**

On January 11, 2013, HAWC responded to Staff's objection and asserts that there is ample time for Staff to include discovery on HAWC's request in the next round of discovery. In addition, HAWC states that information relating to Black Rocks and Fairfield has already been provided to and reviewed by the Audit Staff and that Audit Staff has already partially reviewed the expenses associated with the new full-time position. HAWC states that Audit Staff brought the Black Rocks expense to HAWC's attention as being an oversight for inclusion in this rate case. Additionally, HAWC states that while the Fairfield expenditures were reflected in its filing, one piece was inadvertently omitted.

HAWC further states that the additional expense of the new employee is actually a request for inclusion of an incremental increase in expense that it had been incurring throughout the test year and in 2012; the charges for the work performed were services provided by Lewis Builders Development, Inc. under the management agreement. HAWC states these services reached a point in 2012 where it was prudent to hire a full-time person rather than pay under the management agreement. HAWC states that the inclusion of the new employee is reasonable under this rate case since it is directly related to expenses incurred in the test year and the year following the test year.

Finally, HAWC states that it is not proposing changes to the procedural schedule. HAWC avers that the requested amendments are known and measurable, are responsive to the Audit Staff, and are neither burdensome nor outside the usual and customary scope of items included in similar proceedings.

### III. COMMISSION ANALYSIS

Pursuant to N.H. Code Admin. Rule Puc 203.10, the Commission may permit amendments provided the party requesting the amendment shall give notice of the request to all persons on the service list of the proceeding and when the Commission determines that the amendment shall encourage the just resolution of the proceeding and will not cause undue delay. The Commission shall not allow any amendment that has the effect of broadening the scope of the proceeding unless it provides notice to those affected and an opportunity to comment prior to final Commission action. *Id.* Pursuant to RSA 541-A:31, in adjudicative proceedings, the Commission shall provide an opportunity to all parties to respond and present evidence and argument on all issues involved.

Having reviewed HAWC's and Staff's arguments, we find it reasonable to grant HAWC's motion. The scope of this rate proceeding is governed by RSA Chapter 378 and the issues noticed, pursuant to RSA 541-A:31, III, include "issues regarding operating expenses, pro forma adjustments, and rate of return" as well as "proposed rate base additions including those proposed to be included in a step adjustment." *Hampstead Area Water Company, Inc.*, Order No. 25,401 (August 21, 2012) at 2. We conclude that HAWC's request to include additional rate base items and operating expenses falls within the noticed scope of this proceeding.

With respect to whether the new information will encourage the just resolution of the proceeding and will not cause undue delay, we understand Staff's concern that it needs additional time for discovery. To afford Staff an opportunity to review the new information we direct Staff to propound discovery on HAWC no later than February 7, 2013 and direct HAWC to provide responses no later than February 19, 2013. This will provide Staff, the only other participant in this proceeding, an opportunity for two rounds of discovery on this and other issues

relating to the rate case. We recognize that Audit Staff may not be able to audit the expenses HAWC seeks to now include and that Staff may be unable to fully review these expenses in discovery; however, these are consequences which affect the weight of the evidence supporting the new expenses and are the risks HAWC bears by amending its filing late in the proceeding. We expect Staff's testimony will address the additional expenses and opine on whether it is appropriate to include them in HAWC's revenue requirement.

In conclusion, we find that HAWC's request complies with N.H. Code Admin. Rule Puc 203.10 and that the new information is within the scope of this proceeding and will encourage the just resolution of this proceeding. Although we discourage changes to petitions late in a proceeding, we find these changes, along with the opportunity to conduct discovery as noted above, will not result an undue delay in the proceeding. Accordingly, we approve HAWC's request.

**Based upon the foregoing, it is hereby**

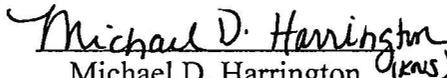
**ORDERED**, that HAWC's motion to amend its permanent rate filing is hereby granted; and it is

**FURTHER ORDERED**, that the approved procedural schedule in this proceeding is amended to include discovery requests from Staff no later than February 7, 2013 and responses from HAWC to Staff's requests no later than February 19, 2013.

By order of the Public Utilities Commission of New Hampshire this eighth day of

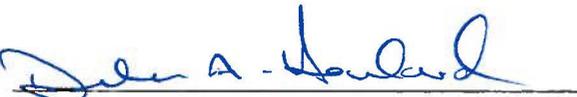
February, 2013.

  
\_\_\_\_\_  
Amy L. Ignatius  
Chairman

  
\_\_\_\_\_  
Michael D. Harrington (KMS)  
Commissioner

  
\_\_\_\_\_  
Robert R. Scott  
Commissioner

Attested by:

  
\_\_\_\_\_  
Debra A. Howland  
Executive Director