

DW 00-143

VALLEYFIELD/NORTHLAND WATER SYSTEM

**Order to Show Cause Why Reconsideration and Revocation of
Exemption Under NH RSA 362:4 Should Not Be Effected**

O R D E R N O. 23,533

July 7, 2000

Valleyfield/Northland Water System (Valleyfield) is a water company providing services to customers in the town of Plaistow, New Hampshire. In May 1990, Valleyfield filed a petition under RSA 362:4, I. seeking exemption from our regulation under RSA 362:2. The relevant provisions of RSA 362:4, I state:

If the whole of such water or sewage disposal system shall supply a less number of consumers than 10, each family, tenement, store or other establishment being considered a single consumer, the commission may exempt any such water or sewer company from any and all provisions of this title whenever the commission may find such exemption consistent with the public good.

Valleyfield represented that it served three customers, including a strip mall, a condominium association, and an apartment building.

The Commission granted the exemption on July 31, 1990, by Order No. 19,897. The Commission also ordered Valleyfield to notify the Commission if and when it expands

the water system to service ten or more customers, and to maintain adequate records to fulfill the accounting obligations of a public utility.

The Commission has no record of any contact with Valleyfield or any of its customers for approximately ten years. However, it has recently come to the Commission's attention that the Company has stated a refusal to supply the strip mall, consisting of over 10 stores, with service if the mall is sold to a new owner.

This raises questions and concerns regarding Valleyfield's authority to discontinue service to a long-time customer without good cause. See RSA 374:28. Moreover, RSA 362:4 gives this Commission the discretion to grant an exemption from any or all of the provisions of Title 34 when such an exemption is consistent with the public good. The public good may be affected by the Company's forewarning regarding the discontinuation of services to the strip mall. Accordingly, this Commission will open an investigation into whether the continuation of the exempt status continues to be in the public good.

Based upon the foregoing, it is hereby

ORDERED, that pursuant to RSA 362:2, 362:4, 365:5, 374:28, Valleyfield/Northland Water System appear before the

New Hampshire Public Utilities Commission at its offices at 8 Old Suncook Road, Concord, New Hampshire, at 1:30 p.m., on August 24, 2000, to respond to the allegations noted above, and to show cause why its exemption under RSA 362:4 should not be reconsidered and/or revoked; and it is

FURTHER ORDERED, that pursuant to RSA 365:6, RSA 374:7, RSA 374:18, and Order No. 19,897, the principals of Valleyfield, and/or its representative, bring to said hearing any and all books, records, customer account information, income tax returns for the past five years, and any other records pertaining to the business of Valleyfield/Northland Water System; and it is

FURTHER ORDERED, that Valleyfield send, by first class U.S. mail, a copy of this Order to each of its individual customers and the Plaistow Town Clerk, on or before July 21, 2000; and it is

FURTHER ORDERED, that Valleyfield send, by first class U.S. mail, a copy of this Order to Earl R. Brown, Jr., Trustee, 108 Realty Trust/Brookfield Realty Trust, 1861 Saddle Hill Road, S., Dunedin, Florida 34698, on or before July 21, 2000; and it is

FURTHER ORDERED, that Valleyfield provide the Commission, by August 24, 2000, affidavits reporting that

copies of this Order have been sent to each customer, to the Plaistow Town Clerk; and it is

FURTHER ORDERED, that, pursuant to N.H. Admin. Rules Puc 203.01, Valleyfield shall notify, no later than July 21, 2000, all persons desiring to be heard at this hearing by publishing, in a newspaper with statewide circulation or of general circulation in those portions of the state in which Valleyfield operations are conducted, a copy of this Order, which publication shall be documented by affidavit filed with the Commission on or before August 24, 2000; and it is

FURTHER ORDERED, that, pursuant to N.H. Admin. Rules Puc 203.02, any party seeking to intervene in the proceeding shall submit to the Commission, on or before August 21, 2000, an original and eight copies of a Petition to Intervene with copies sent to Valleyfield and the Office of the Consumer Advocate, such Petition stating the facts demonstrating how its rights, duties, privileges, immunities, or other substantial interests may be affected by the proceeding, as required by N.H. Admin. Rule Puc 203.02 and NH RSA 541-A:32,I(b); and it is

FURTHER ORDERED, that any party objecting to a Petition to Intervene make said objection by sending an original and eight copies to the Commission on or before

August 24, 2000.

By order of the Public Utilities Commission of New
Hampshire this seventh day of July, 2000.

Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary