

DW 01-217

LAKES REGION WATER COMPANY, INC.
CONSOLIDATED WATER COMPANY, INC.

Petition for Authority to Purchase and Sell Assets and
Transfer Franchise Rights

Order Nisi Approving Purchase and Sale of Assets and Transfer
of Franchise Rights Subject to Certain Conditions

O R D E R N O. 23,930

March 8, 2002

I. PROCEDURAL HISTORY AND BACKGROUND

The Petitioners, Lakes Region Water Company, Inc. (Lakes Region) and Consolidated Water Company, Inc. (Consolidated), both public utilities regulated by the New Hampshire Public Utilities Commission (Commission) pursuant to RSA 362:2 and RSA 362:4, on November 2, 2001, filed a joint petition to transfer Consolidated's Hidden Valley Shores franchise and 175 Estates franchise to Lakes Region. Hidden Valley Shores is a water distribution system providing service to 26 customers in the Town of Tuftonboro, New Hampshire. It is adjacent to but separate from a water system also known as Hidden Valley, owned by Lakes Region, which is located in both the Towns of Tuftonboro and Wolfeboro, New Hampshire. 175 Estates is a water distribution system providing service to 42 customers in the Town of Thornton, New Hampshire.

On September 17, 2001, the Petitioners signed agreements whereby Consolidated agreed to transfer, and Lakes Region agreed to purchase, subject to Commission approval, the Hidden Valley Shores and 175 Estates systems as well as the franchise rights in the Tuftonboro and Thornton franchise areas. The agreed upon purchase price for the Hidden Valley Shores system is \$7,000 and the purchase price for the 175 Estates system is \$30,000.

The Petitioners stated that Lakes Region intends to operate the systems in accordance with the Tariff currently in effect in the franchise areas, including the rate schedules in effect pursuant to the Commission's Order No. 21,872 (October 18, 1995) in Docket No. DR 95-028, *Re Carleton Water Company Trust*, 80 NH PUC 661 (1995). (See Joint Petition at para. 6) The Petitioners also indicated that Lakes Region seeks to acquire the systems so it can offer all of its customers, including the customers in Hidden Valley Shores and 175 Estates, the advantages of greater economies of scale. (See Joint Petition at para. 10) Further, the Petitioners asserted that Lakes Region possesses the requisite technical, managerial and financial capability to own and operate the systems. (See Joint Petition at para. 11)

The Petitioners provided the Commission with copies of letters from the Boards of Selectmen for the Towns of Tufonboro and Thornton stating that there was no objection from either of those communities to Lakes Region's proposed acquisition of the respective systems.

On December 4, 2001, the Commission issued an Order of Notice scheduling a prehearing conference on December 31, 2001. No requests for intervention were received. Immediately following the prehearing conference, a technical session between the parties and Staff was held. The parties and Staff agreed to an abbreviated discovery schedule which Staff submitted to the Commission for approval. On January 17, 2002, the Commission issued Order No. 23,901 approving that discovery schedule.

On January 24, 2002, the New Hampshire Department of Environmental Services (NH DES) issued a letter to the Commission that stated, in accordance with RSA 374:22, III, the operation of the Hidden Valley and 175 Estates systems as public utilities satisfies the requirements of NH DES concerning the basic suitability and availability of drinking water.

Staff submitted data requests to the Petitioners on January 11, 2002. Responses to those data requests were

received by the Commission Staff on January 22 and February 5, 2002. Staff's review of those responses revealed certain issues relevant to the proposed sale and transfer of the two systems. Chief among these was the fact that the majority of the fixed plant in service in the 175 Estates system consists of Contributions in Aid of Construction (CIAC). This will precipitate Lakes Region having to record a significant Utility Plant Acquisition Adjustment in accordance with Section 610.01(e)(4) of the NH PUC Uniform System of Accounts for Water Utilities. The resulting Acquisition Adjustment will, in turn, significantly reduce Lakes Region's rate base value in the 175 Estates assets. Despite the issues raised during discovery, Staff indicated its support of the acquisition of the Hidden Valley Shores and 175 Estates systems by Lakes Region.

On February 8, 2002, the Commission issued Order No. 23,919 in Docket No. DW 01-236 approving, pursuant to RSA 369, a \$136,000 loan for Lakes Region. That order indicated a portion of the loan proceeds would be used to purchase the Hidden Valley Shores and 175 Estates systems.

II. COMMISSION ANALYSIS

RSA 374:22,I and more specifically RSA 374:30, grants the Commission the authority to review transactions of

the nature being contemplated in the instant docket, and to provide its approval if it finds that such transactions will ultimately result in the public good. In the case at hand, the Commission sees three issues in need of consideration with regard to the proposed transfer of the Hidden Valley Shores and the 175 Estates systems from Consolidated to Lakes Region.

The first issue concerns the technical, managerial and financial capabilities of Lakes Region to own and operate the two water systems. The Commission has previously supported Lakes Region's acquisition of community water systems and is familiar with its operations as a public utility.¹ Lakes Region submitted, with its petition, letters of support from the Boards of Selectmen for the Towns of Tuftonboro and Thornton. Lakes Region also submitted a letter from the NH DES confirming the water systems' water met suitability and availability requirements of NH DES. We therefore find Lakes Region possesses the requisite technical,

¹ In DR 98-112, Order No. 23,146 (February 11, 1999), the Commission approved Lakes Region's petition to consolidate certain water systems into a single tariff and approved a general rate increase. In DF 96-249, Order No. 22,320 (September 17, 1996), the Commission approved Lakes Region's petition to issue stock. In DE 95-271, Order No. 22,304 (September 4, 1996), the Commission appointed Lakes Region as operating agent for Beebe River Water System. In DE 94-187, Order No. 21,475 (December 22, 1994), the Commission approved Lakes Region's petition to purchase Brake Hill Acres Water System.

managerial and financial capability to own and operate the Hidden Valley Shores and 175 Estates water systems.

The second item to be considered concerns the Utility Plant Acquisition Adjustment issue which was raised during Staff discovery. Looking toward the potential future rate impact on customers as a result of this transaction, it is clear that Commission approval of the transfer of assets should be made subject to the establishment of an appropriate Utility Plant Acquisition Adjustment in accordance with Section 610.01(e)(4) of the NH PUC Uniform System of Accounts for Water Utilities. Upon completion of the sale and after the transfer of the fixed plant records, Lakes Region should consult with Staff in order to determine the appropriate entry to record on its books that properly reflects this transaction in accordance with Commission rules.

The final issue that we address relative to the proposed transfer of the systems concerns the assertion made by the Petitioners that Lakes Region intends to operate the systems in accordance with the Tariff currently in effect in the franchise areas, including the rate schedules in effect pursuant this Commission's order in *Carleton Water Company Trust*, 80 NH PUC 661, October 18, 1995. We accept that intention on the part of Lakes Region and further make our approval of the proposed transaction contingent upon it. We also point out that any future consideration regarding a

proposed consolidation of the two systems into Lakes Region's current single tariff will take into account the substantial difference between that consolidated rate and the much lower rates currently charged by Hidden Valley Shores and 175 Estates.

Based on the foregoing information, we find the proposed transfer of the Hidden Valley Shores and the 175 Estates water systems along with the associated franchise rights in the Tuftonboro and Thornton franchise areas from Consolidated Water Company, Inc. to Lakes Region Water Company, Inc. to be in the public good.

Based upon the foregoing, it is hereby

ORDERED NISI, that pursuant to RSA 374:22,I and RSA 374:30, the proposed transfer of the Hidden Valley Shores and 175 Estates water systems, upon the terms and conditions indicated in the Joint Petition and Sales Agreements, and subject to the terms and conditions specified in this Order, is consistent with the public good; and it is

FURTHER ORDERED, that, pursuant to RSA 374:22,I and RSA 374:30, Consolidated Water Company, Inc. is authorized to sell and Lakes Region Water Company, Inc. is authorized to purchase the Hidden Valley Shores and the 175 Estates water systems along with the associated franchise rights in the

Tuftonboro and Thornton franchise areas under the terms and conditions set forth in the Sales Agreements between the two companies; and it is

FURTHER ORDERED, that, upon completion of the sales transaction and after the property records of the two systems have been transferred, Lakes Region Water Company, Inc. will consult with the Commission Staff regarding the appropriate accounting entry for this transaction with specific attention paid to the Utility Plant Acquisition Adjustment in order that its books and records will properly reflect the purchase of these assets in accordance with Section 610.01(e)(4) of the NH PUC Uniform System of Accounts for Water Utilities; and it is

FURTHER ORDERED, that, Lakes Region Water Company, Inc. will operate the systems in accordance with the Tariff currently in effect in the franchise areas, including the rate schedules in effect pursuant to the Commission's Order No. 21,872 dated October 18, 1995 in Docket No. DR 95-028. See *Re Carleton Water Company Trust*, 80 NH PUC 661 (1995); and it is

FURTHER ORDERED, that the Petitioner shall cause a copy of this Order Nisi to be mailed to the Town Clerks in Tuftonboro and Thornton and published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such

mailing and publication to take place no later than March 18, 2002 and to be documented by affidavit filed with this office on or before April 1, 2002; and it is

FURTHER ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than March 25, 2002; and it is

FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than April 1, 2002; and it is

FURTHER ORDERED, that this Order Nisi shall be effective April 8, 2002, unless the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

FURTHER ORDERED, that the Petitioner shall file a compliance tariff with the Commission on or before May 6, 2002, in accordance with N.H. Admin. Rules, Puc 1603.02(b).

By order of the Public Utilities Commission of New
Hampshire this eighth day of March, 2002.

Thomas B. Getz
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary