STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6205

Petition of Montgomery Village Water Works for authority to abandon its water system located in Montgomery, Vermont	)))	Hearings held at Montgomery, Vermont June 11, 1999 and July 18, 2000

Order entered: 11/1/2000

PRESENT: John P. Bentley, Esq.
Hearing Officer

APPEARANCES: Arthur S. Onge,[1]
pro se

Geoffrey A. Commons, Esq.
For the Vermont Department of Public Service

Ray Heimbecker,
pro se

INTRODUCTION

This case originated as a petition by the owner, Arthur St. Onge, for authority to abandon the Montgomery Village Water Works ("MVWW"). Because there were still many customers connected to the water system who had no ready alternative, the Town of Montgomery ("Town") stepped forward to take over operation of the system. The docket now concerns a petition[2] to sell the water system to the Town and to surrender the existing certificate of public good.

FINDINGS OF FACT

1. MVWW has supplied water to customers in the Village of Montgomery for at least 30 years. However, costs for repairs necessitated by a flood in the Village in 1997, combined with

1. Petitioner did not attend 7/18/2000 hearing.
2. As amended to conform to the evidence pursuant to V.R.C.P. 15(b).

the increasing costs of compliance with drinking water regulations, placed the company in a financial position from which Mr. St. Onge believed it could not recover. Petition at 1.

2. The supply of water from the MVWW system has been inadequate, so that customers have sometimes been without water. Tr. 6/11/1999 at 6.

3. The Town of Montgomery owns and operates a water system in the village of Montgomery Center. Water from the Town water system is now being provided to the MVWW system by a temporary connection, so the customers are being provided an adequate supply. Tr. 7/18/2000 at 4.

4. The Town has hired Dufresne Henry to rebuild the connection to, and the mains of, the distribution system, and has obtained funding for the rebuild, including a grant of 75% of the cost. Tr. 7/18/2000 at 9, 15.

5. The ownership of MVWW has been conveyed to the Town and the select board has accepted the deed, but it has not been recorded pending Public Service Board approval. Tr. 7/18/2000 at 17-18.

6. The Town is paying Mr. St. Onge a monthly maintenance fee during a transition period. Tr. 7/18/2000 at 8.

DISCUSSION AND CONCLUSION

The situation of the owner of MVWW is one that the Board encounters regularly: a water system has recently become a financial burden upon its owners due to aging of the system combined with increasing costs, including those from water quality regulation. In the present case, these problems were exacerbated by damage caused during and after the destructive flooding of the Trout River in the summer of 1997. The anticipated financial demands upon the company to upgrade and repair the system led the owner to petition the Board for permission to abandon the system. However, the users of the system had no ready alternative. Fortunately, the Town select board has rescued the customers, Mr. St. Onge, and the state from what could have been a protracted, expensive, and unsatisfying process of attempting to force the owner to restore the system to efficient operation. Instead, the system will be connected to, and integrated with, the larger system already owned by the Town and serving Montgomery Center. This appears to

be the best solution that could have been found, and has quickly provided both adequate water service to the customers and, if approved, an exit for the owner.

I conclude that the sale of the MVWW system to the Town of Montgomery will benefit all parties, and that the Public Service Board ought to approve that sale and revoke the Certificate of Public Good now held by Mr. St. Onge.

I want to highlight that in the interest of acting on the petition expeditiously, I employed an abbreviated procedure in which the Board did not provide specific advanced notice of the technical hearing. The hearing held on July 18, 2000, in Montgomery was noticed as a status conference. All parties to the docket attended except the owner, who had expressed a lack of interest in attending further regulatory proceedings. Since the status of the docket turned out to be that customers were being served and that a conveyance of the property had been fully completed, subject to Board approval, the parties agreed that I should take evidence at the status conference. Therefore, I proceeded to swear in witnesses and collect evidence sufficient to support the above findings and these conclusions. As no party opposed the petition or the outcome, there seemed to be no point in duplicating the expense of transporting four state employees plus a court reporter, to say nothing of the time, expense, and inconvenience to the Town officers and the witnesses. As noted, however, the petitioner was not present, although the outcome of this docket grants the relief that he sought.[3]

The foregoing is reported to the Public Service Board in accordance with the provisions of 30 V.S.A. § 8.

This Proposal for Decision has been served on all parties to this proceeding in accordance with 3 V.S.A. § 811.

DATED at Montpelier, Vermont, this 25th day of October, 2000.

John P. Bentley
John P. Bentley, Esq.
Hearing Officer

3. If any party, including Mr. St. Onge, believes that the conversion of the status conference into a technical hearing was unfair to them, that party should state its objection in its comments on the proposal for decision and indicate how the absence of notice adversely affected them.

ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The findings and conclusions of the Hearing Officer are accepted.

2. A certificate of consent to the sale of the Montgomery Village Water Works to the Town of Montgomery shall be issued.

3. The Certificate of Public Good held by Arthur St. Onge for the ownership of a water system in the Village of Montgomery is revoked.

DATED at Montpelier, Vermont, this 1st day of November, 2000.

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s/Michael H. Dworkin	)	PUBLIC SERVICE
	)	
	)	BOARD
s/David C. Coen	)	
	)	OF VERMONT
	)	
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OFFICE OF THE CLERK

Filed: November 1, 2000

Attest: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or mail) of any technical errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.