

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6652

Joint Petition of Forrestbrook Water Corporation)
and Brandon Fire District No. 2 seeking Board)
approval of the sale of all of the assets of)
Forrestbrook Water to the Brandon Fire District)

Order entered: 7/1/2002

I. INTRODUCTION

A joint petition was filed by Forrestbrook Water Corporation ("Forrestbrook") and the Brandon Fire District No. 2 ("Fire District") on February 25, 2002. The petition seeks a Vermont Public Service Board ("Board") ruling under 30 V.S.A. §§ 109 and 231, without hearing, approving the sale of Forrestbrook's water system to the Fire District and revoking Forrestbrook's Certificate of Public Good ("CPG").

On April 3, 2002, the Vermont Department of Public Service ("Department") recommended that the petition be granted, as filed, without hearing or investigation, and that the Board issue an order permitting the sale of the water system, and revoking Forrestbrook's CPG upon receipt of confirmation of the sale and transfer of title to the assets.

II. FINDINGS

1. On May 13, 1976, Forrestbrook received a CPG to operate a water system in Brandon, Vermont. *See* Docket No. 4111, Order of 5/13//76; Petition at 1.
2. Forrestbrook serves approximately 43 residential homes. *See* Docket No. 6324, Order of 5/26/00 at 2.
3. On February 25, 2002, Forrestbrook and the Fire District jointly submitted a petition for an order approving the sale of all assets owned by Forrestbrook and used in the operation of the community public water supply system ("Petition"). The assets that Forrestbrook proposes to sell to the Fire District include:

- (A) All real estate presently owned, occupied or used by Forrestbrook in connection with its water system, including, without limitation:
- (i) All easements and rights of way located in public highways or upon private lands;
 - (ii) Lands and premises owned or occupied by Forrestbrook or any affiliate and used in the operation of its water system, including isolation zones and protection areas;
 - (iii) A discharge or release of any unexercised rights or entitlements of Forrestbrook, or any affiliate, to connect to Forrestbrook's water system; and
 - (iv) All spring, water and related rights incident to Forrestbrook's ownership or use of its water system.

(B) All pipes, wells, mains, valves, fittings, appliances and appurtenances connected to or forming a part of Forrestbrook's water system, regardless of their classification as realty, personalty or fixtures. Petition at exh. A.

4. The Fire District agrees to pay Forrestbrook the purchase price of twelve thousand dollars (\$12,000). *Id.*

5. The Fire District was established by Order of the Selectmen of the Town of Brandon, Vermont dated June 12, 2000. Petition at exh. B.

6. A warning for voters in the Fire District to convene a meeting to elect officers, adopt a budget and to purchase Forrestbrook's assets, dated December 6, 2000, was published in the Rutland Herald. Petition at exh. C.

7. An annual meeting of the Fire District was held on January 8, 2001. The terms of office for the Members of the Prudential Committee and Officers were restarted, thereby causing terms of office to begin and end in January at the annual meeting. The budget and method of billing were voted upon and approved. *Id.*

8. The Fire District has the power to vote a tax in order to acquire, construct and maintain the water system and its assets. Voters in a Fire District elect its officers and the Fire District's Prudential Committee. *See generally* 20 V.S.A. § 2485.

9. In support of its petition with Forrestbrook, the Fire District stipulates that:
- (A) It will provide notice of its Petition to all persons presently served by Forrestbrook;
 - (B) Acquisition of the subject assets by the Fire District will be conducive to the public good;
 - (C) It has the requisite authority to own, operate and improve the water system; and
 - (D) It has undertaken and completed studies, surveys and analyses incident to constructing improvements to the water system necessary to bring it into compliance with standards promulgated by the Secretary of the Vermont Agency of Natural Resources, and is prepared to construct such improvements upon approval of its voters.

Petition at 1.

III. DISCUSSION

The Department has reviewed the Petition and its supporting documents. It recommends that the Board grant the Petition without hearing, consent to the sale of Forrestbrook's water system assets to the Fire District, and revoke Forrestbrook's CPG upon receipt of confirmation of the sale and transfer of title to the assets.

On the basis of the findings above, we conclude that the proposed transfer will promote the general good of the State. The proposed transfer of Forrestbrook's water system to the Fire District will result in the water system being taken over by an entity with potential access to the funding necessary to maintain the water system. It will also enable Fire District voters to influence management decisions that affect their water supply.

IV. ORDER

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

- 1. The sale of Forrestbrook Water Corporation to the Brandon Fire District No. 2, as described in the above Findings, will promote the general good of the State of Vermont, and is approved.
- 2. The Certificate of Public Good of Forrestbrook Water Corporation shall be revoked upon receipt by this Board of confirmation of the sale and transfer of title to the assets.
- 3. A Certificate of Consent to the sale shall be issued.
- 4. The Petitioners shall notify the Board and the Department in writing when the transfer of the Forrestbrook Water Corporation to the Brandon Fire District No. 2 is complete.

Dated at Montpelier, Vermont, this 1st day of July, 2002.

<u>s/Michael H. Dworkin</u>)	
)	
)	PUBLIC SERVICE
<u>s/David C. Coen</u>)	
)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: July 1, 2002

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 in writing) of any apparent 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.

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CERTIFICATE OF CONSENT ISSUED
PURSUANT TO 30 V.S.A. SECTION 109

IT IS HEREBY CERTIFIED that the Public Service Board of the State of Vermont has this date found and adjudged that the sale of the assets of Forrestbrook Water Corporation to the Brandon Fire District No. 2 will promote the general good of the State of Vermont. Petitioner shall file this Certificate of Consent with the Vermont Secretary of State, pursuant to 30 V.S.A. § 109.

DATED at Montpelier, Vermont, this 1st day of July, 2002.

s/Michael H. Dworkin)
) PUBLIC SERVICE
)
s/David C. Coen) BOARD
)
) OF VERMONT
s/John D. Burke)

OFFICE OF THE CLERK

Filed: July 1, 2002

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

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