

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6783

Petition of Burke Mountain Operating)
Company for approval of the acquisition)
of all the issued and outstanding shares)
of stock of Burke Mountain Water)
Company)

Order entered: 1/8/2003

I. INTRODUCTION

This case involves a petition filed on November 5, 2002, by Burke Mountain Operating Company ("BMOC"), seeking Vermont Public Service Board ("Board") approval, under 30 V.S.A. § 107, of a transaction whereby BMOC will acquire 100% of the stock of Burke Mountain Water Company ("BMWC"), a certified company providing water service in West Burke, Vermont.

On December 4, 2002, the Vermont Department of Public Service ("Department") submitted a letter to the Board noting that BMOC represents that the stock transfer will not detrimentally impact consumers and should not cause them inconvenience or confusion, and that no charges or fees will be imposed and no rate increase will occur as a result of the transaction. Accordingly, the Department recommended that the Board approve the transaction without further investigation or hearing, upon the condition that BMOC notify the Board in writing within one week of the closing that the transaction was completed.

II. FINDINGS

1. BMWC is a Vermont corporation that provides water service to approximately 190 customers, including seven condominium complexes, the Burke Mountain Academy,

twenty-nine single family residences and lots, and the two base lodges of the Burke Mountain Ski area, located in the Town of Burke, Vermont. Petition at 1.

2. BMWC provides water service under an Amended Certificate of Public Good issued on July 11, 2001, in Docket 6510. Docket 6063, Order of 2/17/99; petition at 2; Department letter of December 4, 2002.

3. BMOC is a corporation duly organized and existing under the laws of the State of Vermont. Petition at 1.

4. BMOC intends to acquire all of the issued and outstanding stock of BMWC. Petition at 2.

5. The proposed transfer will result in operational economies of scale and an organizational structure that has clear lines of responsibility. Petition at 3.

6. BMWC will continue to provide services at the existing rates, terms, and conditions, and without material change. Petition at 2.

7. The staff of BMWC will remain the same. Petition at 2.

8. Customers of BMWC will not experience any inconvenience or confusion by the transfer. Petition at 2; Department letter of December 4, 2002.

III. CONCLUSION

The proposed transaction requires Board approval under 30 V.S.A. § 107, which applies to a direct or indirect acquisition of a controlling interest in a Vermont utility. Under Section 107, a "controlling interest" is defined as 10% or more of the outstanding voting securities of a company. Section 107 requires that the transfer of control promote the public good. The proposed transfer of stock will not cause inconvenience or confusion to BMWC's customers, since BMWC will continue to provide services at the existing rates, terms and conditions. The proposed transfer will result in operational economies of scale and clearer lines of responsibility. Thus, the proposed transaction meets the public good standard.

For all of the above reasons, the Board concludes that the proposed transfer of control of BMWC to BMOC, through the acquisition of 100% of all the issued and outstanding shares of stock of BMWC, should be approved.

IV. ORDER

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

- 1. The transfer of control of Burke Mountain Water Company to Burke Mountain Operating Company is approved.
- 2. Petitioner shall notify the Board, within one week, upon completion of the transfer of control.

DATED at Montpelier, Vermont, this 8th day of January, 2003.

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

OFFICE OF THE CLERK

Filed: January 8, 2003

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.