

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7171

Joint Petition of Central Vermont Public Service)
Corporation (CVPS) and Rochester Electric Light &)
Power Company (Rochester) for: (1) approval of the)
acquisition of Rochester's electric distribution system by)
CVPS, and associated transactions; (2) the issuance of)
an accounting order which approves the deferral of)
CVPS's incremental costs associated with the acquisition)
and transition of Rochester's plant and customers; and)
(3) revocation of Rochester's Certificate of Public Good)

Order entered: 8/22/2006

I. INTRODUCTION

In this proceeding, Central Vermont Public Service Corporation ("CVPS") and Rochester Electric Light & Power Company ("Rochester") (collectively, the "Joint Petitioners") have requested the Vermont Public Service Board ("Board"), pursuant to 30 V.S.A. §§ 102, 109 and 231, to approve the transfer from Rochester to CVPS of substantially all assets and electric service territory franchise used by Rochester for the distribution of electricity and related services within the State of Vermont (the "Acquisition"). The Joint Petitioners have entered into a Memorandum of Understanding ("MOU") with the Department of Public Service ("Department") that would, if approved by the Board, resolve the issues in this proceeding. In the MOU, the parties request that the Board issue an order approving the Acquisition.

Based on my review of the record, I conclude that the Board should approve the MOU and, accordingly, should approve the Acquisition.

II. PROCEDURAL HISTORY

By a joint petition filed April 19, 2006, CVPS and Rochester requested the Board to approve the Acquisition. The April 19 filing included the prefiled testimony and exhibits of Joseph Kraus and the prefiled testimony of Thomas Pierce, all in support of the joint petition.

On April 27, 2006, CVPS filed minor revisions to the joint petition, to Mr. Kraus's prefiled testimony, and to Exhibit CVPS-JMK-1 (the Purchase and Sale Agreement).

On May 11, 2006, I held a prehearing conference at which a schedule for this proceeding was established. The schedule established a deadline for the filing of a settlement or, in the absence of a settlement, a proposed schedule for further proceedings. At the prehearing conference, I also identified a number of issues on which I requested the Joint Petitioners to provide additional information. Rochester responded to my information requests by e-mail (with copies to all parties) on May 11 and May 12, 2006. CVPS responded to the information requests by filing Exhibits CVPS-1 through 9 on June 7, 2006.

A public hearing was held on June 1, 2006, at the auditorium of the Rochester High School in Rochester, Vermont.¹ At the public hearing, four members of the public spoke. The public commenters asked a number of questions regarding CVPS's rates, service and practices, to which CVPS responded. No member of the public spoke against the proposed Acquisition.

On July 20, 2006, the parties² filed a Memorandum of Understanding ("MOU") in settlement of this proceeding. The provisions of the MOU are described in the findings, below.

On July 26, 2006, the parties filed a draft Proposal for Decision. After reviewing the MOU and the draft Proposal for Decision, I concluded that there were no remaining issues on which additional evidence would be necessary. By memorandum issued on August 4, 2006, I informed the parties that the technical hearing (which had previously been scheduled for August 9) would be canceled unless any party notified the Clerk of the Board that it wished the hearing to go forward. No party requested that the hearing be held, and thus the hearing was canceled.

In the August 4 memorandum, I also requested that the parties clarify one aspect of the MOU with respect to a proposed accounting order. By letter dated August 9, 2006, from Kenneth Picton, counsel for CVPS, the parties provided the clarification that I had requested.

1. CVPS provided individual notice of the public hearing by mail to Rochester's customers.

2. The parties of record in this docket are: Geoffrey Commons, Esq., for Vermont Department of Public Service; Carolyn Browne Anderson, Esq., Kenneth C. Picton, Esq., for Central Vermont Public Service Corporation; and Alan B. George, Esq., for Rochester Electric Light and Power Company.

III. FINDINGS

Based on the evidence of record,³ I hereby report the following findings to the Board in accordance with 30 V.S.A. § 8.

1. CVPS, with a principal place of business in Rutland, Vermont, is duly organized and existing under the laws of the State of Vermont and is a Vermont investor-owned electric utility as defined by 30 V.S.A. § 201; as such, CVPS is subject to the jurisdiction of the Board pursuant to 30 V.S.A. § 203. CVPS is engaged primarily in distributing and selling electricity in Vermont to over 152,000 customers. Kraus pf. at 2; Joint Petition at 1-2.

2. Rochester, with a principal place of business in Rochester, Vermont, is duly organized and existing under the laws of the State of Vermont and is a Vermont investor-owned electric utility as defined by 30 V.S.A. § 201; as such, Rochester is subject to the jurisdiction of the Board pursuant to 30 V.S.A. § 203. Rochester currently serves approximately 922 customers. Rochester owns and operates an electric distribution system and facilities in Rochester, Stockbridge, and Pittsfield, Vermont, and a 0.17% interest in the Highgate Converter located in Highgate, Vermont. Kraus pf. at 2; Pierce pf. at 1; Joint Petition at 2.

3. On April 6, 2006, CVPS and Rochester entered into a Purchase and Sale Agreement ("Agreement"), pursuant to which CVPS will acquire substantially all of the assets of Rochester, consisting primarily of real property, electric distribution assets, a 0.17% interest in the Highgate Converter, various contracts, and Rochester's electric service utility franchise (collectively, the "Assets"). The purchase price as stated in the Agreement is the net book value of \$256,000.00 (Two Hundred Fifty Six Thousand Dollars) for the assets and property of Rochester's plant in service and inventory, including the Highgate interest, plus \$20,000.00 (Twenty Thousand Dollars) for Rochester's right, title and interest in the Hydro-Quebec Vermont Joint Owners ("HQ/VJO") Contract as amended and in effect as of the Closing. The Agreement provides that the purchase price is subject to confirmation, and that "[t]he final Purchase Price for the assets and Property shall be determined within thirty days of execution of the contract, with allowance

3. In the MOU, the parties request that the Board issue an order "admitting into the record the testimony and exhibits filed with the Board in this Docket." All testimony and exhibits that have been filed are hereby admitted into the evidentiary record. I also admit the MOU and the joint petition into the evidentiary record, because the parties' draft Proposal for Decision includes citations to those documents in its findings.

for adjustment to Net Book Value for depreciation, removals and additions through the Closing Date." Subsequent to entering the Agreement, the \$256,000.00 purchase price referenced above was adjusted to \$212,812.00 (Two Hundred Twelve Thousand, Eight Hundred and Twelve Dollars), in accordance with Rochester's records, exclusive of inventory and the \$20,000.00 additional payment for the HQ/VJO interest. This \$212,812.00 amount is further subject to adjustment for depreciation, additions and removals plus the value of inventory, to the date of Closing. Joint Petition at 2; exh. CVPS-JMK-1 (the Agreement and associated Schedules); exh. CVPS-1 (a clarifying amendment to the Agreement); exh. CVPS-2; Kraus pf. At 3; MOU at 2.

4. In addition, CVPS will enter an Employment and Consulting Agreement with Thomas Pierce, which will provide for compensation for 26 weeks. Mr. Pierce would be an employee for four weeks, and a consultant for an additional 22 weeks after the closing. Through this agreement, Mr. Pierce will be able to elect to be placed on the CVPS medical plan, which will then enable Mr. Pierce and Ann Pierce, who are the present owners of Rochester, to be eligible for CVPS's medical benefits for employees and CVPS's retiree medical program on the same conditions and with the same contribution requirements as CVPS employees hired on the date of the Agreement and retiring on the date of Mr. Pierce's last day of employment four weeks after the closing. Joint Petition at 3; Kraus pf. at 4.

5. Rochester's decision to sell all of its electric distribution system in Vermont is part of a plan by Thomas and Ann Pierce, the owners of Rochester, to exit the business of electric distribution. CVPS and Rochester reached the Agreement through an arm's length negotiation process which spanned several months. Joint Petition at 3.

6. Presently, Rochester's customers are served under seasonal rates. Upon closing, Rochester customers' rates will be converted to CVPS's non-seasonal rates. CVPS's rates are lower than Rochester's blended yearly rates, which will lower the average Rochester customer's yearly bill.⁴ Exhibit CVPS-JMK-3 is a comparison of residential rates for Rochester and CVPS, and of monthly bills for residential customers of each utility at different consumption levels. For example, the bill for a residential customer who uses 500 kWh per month would be 6.6 percent

4. However, subsequent to the filing of the Joint Petition in this proceeding, CVPS has filed a request for a 6.15 percent rate increase. That rate request is currently pending in Board Docket No. 7191.

lower under CVPS's existing rates than under Rochester's rates; the savings are greater for customers whose consumption is higher, and less for customers with lower consumption. Exhibit CVPS JMK-4 is a similar comparison using a typical Rochester General Service customer, showing a 6.4 percent lower bill under CVPS's rates compared to Rochester's rates. Accordingly, no graduated rate path for Rochester's customers should be necessary. Joint Petition at 3; Kraus pf. at 5-6.

7. CVPS expects that it can fully transition all of Rochester's customers to CVPS's Service Quality and Reliability ("SQR") standards within thirty to sixty days following the closing. Joint Petition at 4; Kraus pf. at 6.

8. CVPS will finance this transaction with existing operating funds. No additional loans or other financing will be required to fund the acquisition. Joint Petition at 4; Kraus pf. at 4.

9. CVPS will incur the following one-time costs which are incremental to the ongoing costs of operating the Rochester system and of serving the Rochester customers:

Pole Inspection	\$65,000.00
Pole Inventory	\$5,760.00
Postage-Billing Insert	\$1,216.00
Employment/Consulting Agreement	\$51,825.00
Total	\$123,801.00

MOU at 4; exh. CVPS-4.

10. Because these costs are one-time and incremental to the ongoing costs of operating the Rochester system and of serving the Rochester customers, if they are not recovered via deferral and amortization, they will not be recovered by CVPS at all. Under current accounting rules, and absent authorization from the Board, CVPS cannot capitalize these costs for amortization into rates. MOU at 4; exh. CVPS-4.

11. Allowing CVPS the opportunity to recover its reasonable but otherwise unrecoverable costs incurred in consolidating the Rochester territory into CVPS's territory may advance the interest of the State in reducing the number of electric utilities while also benefitting the affected ratepayers. MOU at 4-5 (as revised by the parties pursuant to the letter from Kenneth Picton to the Board, dated August 9, 2006); exh. CVPS-4.

12. The parties have requested the Board to issue, as part of its Order in this docket, an accounting order which approves the deferral of the aforementioned incremental costs associated with the acquisition and transition of Rochester plant and customers to CVPS Account 186.0 Miscellaneous Deferred Debits. These costs would be eligible to be amortized to cost of service at the time of the Company's pending retail rate proceeding, and the parties hereto have agreed not to contest the reasonableness or prudence of such costs, in whole or in part, in any rate proceeding in which the subject costs are included in the cost of service. The amortization period would not exceed one year, and no carrying costs would be allowed. These costs have been included in CVPS's rate request in Docket No. 7191. MOU at 5 (as revised by the parties pursuant to the letter from Kenneth Picton to the Board, dated August 9, 2006); exh. CVPS-4.

13. While the Department agrees to the issuance of an Accounting Order in this matter for the amounts listed in Finding 12 above, the parties acknowledge and agree that the Department reserves the right to analyze and review the treatment of such costs in future acquisition transactions on a case-by-case basis. MOU at 5.

14. The Company had requested that in the event that there is a significant difference between the amount of purchase price assigned to plant assets and the book value of these assets, the Board issue an additional accounting order which approves the deferral of such costs to Account 186.0 Miscellaneous Deferred Debits. Subsequent to filing, the Company determined that there is no such difference, and an accounting order is not necessary. MOU at 5.

15. Pursuant to the terms of the Purchase and Sale Agreement, CVPS conducted its environmental due diligence. This due diligence revealed that there is soil contamination from three Rochester substation regulators requiring a clean-up and remediation of the substation. CVPS's estimated cost of that clean-up and remediation is \$23,541.00. MOU at 5.

16. Rochester will bear the cost of the environmental clean-up and remediation, except as set forth in the MOU as adopted in these Findings of Fact. MOU at 6.

17. CVPS will withhold and escrow on its books \$23,541.00 from the purchase price to be paid to Rochester, to cover the cost of environmental clean-up and remediation at the Rochester substation. If the actual cost of the environmental clean-up and remediation is less than \$23,541.00, CVPS shall refund the balance to Rochester or to Thomas and Ann Pierce if

Rochester no longer exists. CVPS will provide Thomas and Ann Pierce and the Department with a detailed accounting of the actual costs of the clean-up and remediation, and shall provide further supporting documentation if requested. MOU at 6.

18. In the event that the clean-up and remediation of the substation exceeds the estimated amount of \$23,541.00, CVPS may seek to recover these additional costs as a cost of service, and the Department may oppose such recovery. MOU at 6.

19. The Acquisition will provide benefits to the State of Vermont, to CVPS's ratepayers, and to Rochester's ratepayers. Those benefits include the following:

- a. The Acquisition can be accomplished without a rate increase or other change to the existing rate structure of CVPS.
- b. The Acquisition will expand CVPS's customer base without CVPS incurring material incremental operating costs.
- c. The Acquisition will give the current Rochester customers the opportunity to be served by CVPS with the same benefits and rights afforded to all of CVPS's existing customers.
- d. Rochester's customers will be under CVPS's SQRP standards.
- e. Rochester's customers will be served by CVPS's customer service and operations departments.
- f. The Rochester electric system will be maintained and updated in accordance with CVPS's policies and practices.
- g. One employee of Rochester will be offered a comparable full time position by CVPS, thus promoting stability both for the employee and for the current Rochester customers. The offer will be on terms consistent with what CVPS offers to similarly-qualified candidates. CVPS will negotiate, in good faith, with its union to provide the Rochester employee with one additional week of vacation per year for the first five years of such employee's employment with CVPS, provided that CVPS is able to negotiate this agreement with the union without impacting the rights of, or obligations to, present or future CVPS unionized employees. In the event CVPS is unable to negotiate this agreement by the Closing, CVPS will provide the employee a single gross payment of \$3,000 (Three Thousand Dollars) following three months' employment with CVPS.
- h. The acquisition will reduce the number of utilities serving Vermont's ratepayers, thereby reducing the number of utilities subject to Board jurisdiction and Board and Department oversight and review.

- i. The Acquisition will allow the present owners of Rochester to retire from the electric utility business with no or minimal disruption to the service received by Rochester's existing customers.

Joint Petition at 4, 5; MOU at 6, 7; Kraus pf. at 11, 12.

IV. CONCLUSIONS

Based on the above findings, I reach the following conclusions:

1. The Acquisition by CVPS of the assets and franchise of Rochester, as defined by the Agreement, will promote the public and general good of the state;
2. That the sale of the assets by Rochester contemplated in the Joint Petition will promote the general good of the state, pursuant to 30 V.S.A. § 109;
3. That the ownership and operation by CVPS of the public utility business within the service territory currently owned and operated by Rochester will promote the public good and is consistent with the general good of the state, pursuant to 30 V.S.A. §§ 102 and 231(a).
4. That the surrender of its Certificate of Public Good by Rochester pursuant to 30 V.S.A. §§ 102(c) and 231(b) is consistent with the public good.

The parties, in accordance with 3 V.S.A. § 811, have waived the opportunity to file exceptions and present briefs and oral arguments with respect to a proposal for decision to be issued in this case, provided that the proposal for decision is consistent with the MOU. Because this proposal for decision is consistent with the MOU, it has not been served on the parties.

Dated at Montpelier, Vermont, this 18th day of August, 2006.

s/Kurt R. Janson,

Kurt R. Janson, Esq.
Hearing Officer

V. 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 hereby adopted and affirmed by the Board.
2. The Memorandum of Understanding filed by the parties on July 20, 2006, with the clarification filed on August 9, 2006, is approved.
3. The Acquisition of the assets and franchise of Rochester Electric Light & Power Company ("Rochester") by Central Vermont Public Service Corporation ("CVPS") as set forth in the Joint Petition, prefiled testimony and exhibits is approved. This transaction will promote the public good, and therefore, a Certificate of Consent for the transfer shall be issued pursuant to 30 V.S.A. § 109.
4. Within ten days of the closing of the Acquisition, the parties shall notify the Board that this transaction has occurred.
5. The transactions required of CVPS and Rochester by the Purchase and Sale Agreement ("Agreement") are approved.
6. CVPS is allowed a period of thirty to sixty days following the closing of the sale to transition Rochester's customers to CVPS's Service Quality and Reliability Plan standards for all purposes.
7. CVPS is allowed to defer incremental costs associated with the acquisition and transition of Rochester plant and customers to Account 186.0 Miscellaneous Deferred Debits. These costs shall be eligible to be amortized to cost of service in the Company's pending retail rate proceeding. This accounting order is limited to the accounting treatment for the subject costs and does not bar any party from contesting or the Board from determining or disallowing the reasonableness or prudence of such costs, in whole or in part, in any rate proceeding in which the subject costs are included in the cost of service. Nothing in this Accounting Order shall have any precedential effect
8. CVPS shall withhold and escrow on its books \$23,541.00 from the purchase price to be paid to Rochester, to cover the cost of environmental clean-up and remediation at the Rochester substation.

9. Rochester shall surrender its Certificate of Public Good pursuant to 30 V.S.A. §§ 102(c) and 231(b), and cease the provision of service subject to Public Service Board regulation upon the Closing.

Dated at Montpelier, Vermont, this 22nd day of August, 2006.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: August 22, 2006

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.