

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 7241

Petition of Burke Mountain Water Company, pursuant to )  
30 V.S.A. § 104, to Amend its Articles of Incorporation )

Order entered: 12/21/2006

**I. INTRODUCTION**

In this proceeding the Public Service Board ("Board") considers Burke Mountain Water Company's ("BMWC") request, pursuant to 30 V.S.A. § 104, to amend its Articles of Incorporation. Such amendment would change BMWC's fiscal year-end from June 30 to December 31, effective as of January 1, 2007.

On December 13, 2006, the Department of Public Service ("Department") informed the Board that it had reviewed the petition. Based on its review of BMWC's supporting materials, the Department recommended approval without further investigation or hearing.

Based on the record evidence, I recommend that the Board approve BMWC's request to amend its Articles of Incorporation. Approval would allow BMWC to conform its reporting schedule with the financial reporting and income tax filing schedules of its parent company and therefore increase administrative efficiency. The proposed amendment would also be virtually transparent to BMWC's customers and not cause confusion or inconvenience. Therefore, I conclude that the proposal to amend its BMWC's of Incorporation would be consistent with the public good.

Parties to this proceeding have agreed to waive their rights under 3 V.S.A. § 811 to review the proposal for decision, to file exceptions, to present briefs and oral argument regarding the petition and to appeal the Board's Order.

## **II. FINDINGS**

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

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 the two base lodges of the Burke Mountain Ski area. Pet. at 1.

2. BMWC is wholly-owned by Burke Mountain Operating Company ("BMOC"), which is a wholly-owned subsidiary of Burke 2000 LLC ("Burke 2000") (collectively, with their affiliates, the "Burke Companies"). Pet. at 1.

3. BMWC provides water service in Vermont under an Amended Certificate of Public Good ("CPG") issued on July 11, 2001, in Docket No. 6510. Docket No. 6510, Order of 7/11/01; pet. at 2.

4. On November 29, 2005, Ginn-LA Burski Ltd., LLLP ("Ginn"), acquired the membership interest of Burke 2000 (the "Ginn Acquisition"), which resulted in an indirect transfer of control of BMWC to Ginn. The Board approved this indirect transfer of control on August 10, 2005, in Docket No. 7084. Docket No. 7084, Order of 8/10/05 at 4; pet. at 2.

5. For consistency and administrative ease for financial reporting and tax purposes, Ginn plans to conform all of the Burke Companies, including BMWC, to Ginn's fiscal year ending December 31. Pet. at 2.

6. BMWC proposes to amend its Articles of Incorporation to change its fiscal year-end from June 30 to December 31, effective as of January 1, 2007. Pet. at 2.

7. Following this amendment to its Articles of Incorporation, BMWC will continue to provide services at the existing rates, terms and conditions and without material change. Pet. at 3.

8. The management and operations staff of BMWC will remain the same after the proposed amendment becomes effective. Pet. at 3.

9. The proposed amendment will be virtually transparent and not cause inconvenience or confusion to customers. Pet. at 3.

10. The proposed amendment is consistent with the public good of Vermont because it will allow Ginn and all of the Burke Companies, including BMWC, to conform to the same fiscal year for financial reporting and tax purposes, which will provide consistency and administrative ease. Pet. at 3; Department letter of December 13, 2006.

### **III. CONCLUSION**

30 V.S.A. §104 states that a corporation or company shall not:

". . . amend its articles of association unless and until the public service board, on petition and after such hearing and notice thereof as the board directs, certifies that such amendment will promote the general good of the state."

Based on the record, I conclude that the petition promotes the general good of the state. The proposed amendment would increase administrative efficiency by allowing BMWC's management to file its financial and income tax reports at the same time as its parent company. Additionally, after the proposed amendment takes effect, BMWC will continue to provide services at existing rates, terms and conditions. Thus, the proposed amendment would be virtually transparent to BMWC's customers and not cause inconvenience or confusion. Therefore, I recommend that the Board approve BMWC's request and issue an order to that effect without further investigation or hearing.

Dated at Montpelier, Vermont, this 20<sup>th</sup> day of December, 2006.

s/Thomas S. Lyle

Thomas Lyle  
Hearing Officer

**IV. ORDER**

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

1. The Findings and Conclusion of the Hearing Officer are adopted.
2. A certificate of consent authorizing Burke Mountain Water Company to amend its articles of incorporation to change its fiscal year-end from June 30 to December 31 shall be issued separately in accordance with 30 V.S.A. § 104.

Dated at Montpelier, Vermont, this 21<sup>st</sup> day of December, 2006.

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

OFFICE OF THE CLERK

FILED: December 21, 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: psb.clerk@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.*