

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6215

Joint Petition of Louis and Sandra Daigle)
d/b/a Westfield Water System Company)
for Consent to Sell Public Water System)
and for Revocation of Its Certificate of Public)
Good)

Order entered: 5/28/99

I. INTRODUCTION

On March 8, March 24, March 29, and April 6, 1999, Westfield Water System Company ("Westfield"), filed a petition and supporting documents relating to a transfer of its system to Westfield Fire District No. 1 (the "Fire District"). The petition seeks Public Service Board approval under 30 V.S.A. §§ 109 and 232 for the sale of the water system to the Fire District. With the transfer of service from Westfield to the Fire District, Westfield will discontinue operation. Westfield requests revocation of its Certificate of Public Good at that time. Westfield has also filed a petition to transfer joint ownership interest of Louis Daigle and Sandra Daigle and Harold Twombly and Jeannine Twombly to Louis and Sandra Daigle. Harold Twombly is deceased and the interest of Jeannine Twombly was conveyed to Louis and Sandra Daigle.

The Department of Public Service ("DPS" or "Department"), by letter of April 9, 1999, has indicated that it has reviewed Westfield's filings. The Department recommends that the Board grant the petition and consent to the sale of Westfield's assets to the Fire District, and revoke Westfield's Certificate of Public Good. Furthermore, the DPS stated that it had no objection to granting the petition without hearing.

No party or customer has written to request a hearing; therefore, this case is ripe for

judgment on its merits.¹

II. FINDINGS

1. By Order of September 12, 1972, the Public Service Board found that the transfer of the L. B. Daigle Water System from Leo B. Daigle and Marie A. Daigle to Louis Daigle, Sandra Daigle, Harold Twombly and Jeannine Twombly would promote the general good of the State of Vermont. Docket 3599, Order of 9/12/72; Petition of March 23, 1999, enclosed proposed Quitclaim Deed.

2. On April 29, 1999, Louis Daigle and Sandra Daigle acquired ownership of Westfield from Jeannine Twombly, the surviving spouse of Harold Twombly. *Id.* at 1, and Executed Quitclaim Deed of 4/29/99.

3. The transferred assets include all the lands and premises conveyed to Louis Daigle, Sandra Daigle, Harold Twombly, and Jeannine Twombly by Leo M. Daigle and Marie A. Daigle by Warranty Deed dated January 4, 1973, and recorded in Book 19 at Pages 448-450 of the Town of Westfield Land Records. Petition of March 5, 1999, at Schedule A, para. 1.

4. The transferred assets also include personal property used in Westfield's operation, including without limitation all springs, wells, reservoirs, pumps, pipes, pipelines and their components presently owned by Westfield and used in the operation of a water system in the Village of Westfield, Vermont. Petition of March 5, 1999, at Schedule A, para. 2.

5. The Westfield Fire District No. 1 is a municipal entity formed pursuant to 20 V.S.A. § 2481. The Town of Westfield Board of Selectmen established the Fire District, and Prudential Committee of the Fire District, by Order dated February 13, 1999. Petition at Attachment 3: *Order of Selectmen of Town of Westfield Establishing Westfield Fire District No. 1.*

6. The Fire District was established to acquire, construct, and maintain water works and all equipment and real estate used in connection therewith. The Order establishing the Fire District contemplates purchase of the Water System and specifies certain powers of the Fire District. Petition to Establish Fire District in the Town of Westfield, 4/5/99 at 1.

1. 30 V.S.A. § 109 requires that the Board shall approve the sale of 10% or more of a utility's assets only after an opportunity for hearing. 30 V.S.A. § 232 also requires an opportunity for hearing as does the recently revised § 231(a).

7. The lands and premises served by Westfield lie within the Fire District service area, which is composed of properties in the Town and Village of Westfield. Petition at 1.

8. The owners of Westfield have submitted a proposed Quitclaim Deed in which they agree to convey their rights to Westfield to the Fire District. Under the agreement, the Daigles will transfer Westfield for no consideration to the Fire District. Petition of March 23, 1999, enclosed proposed Quitclaim Deed.

9. Petitioners, including the Daigles, the Prudential Committee of the Fire District, the current users of the water system, and the Department join in requesting that the Board revoke Westfield's Certificate of Public Good. *Id.* at 1; Petition to Establish Fire District in the Town of Westfield, 4/5/99 at 1; Letter of Department of Public Service of 4/9/99 at 2.

III. DISCUSSION

No genuine issues of material fact exist. Therefore, this Order approves the transfer of assets from Mr. and Mrs. Daigle to the Fire District. It also provides for the revocation of Westfield's Certificate of Public Good upon written notification to the Board that the transfer of Westfield to the Fire District has been completed.²

The Board has reviewed the petition and accompanying documents and agrees that the transfer and subsequent revocation of Westfield's Certificate of Public Good promotes the general good of the state and should be approved without hearing.

2. The Petitioners requested Board approval under both 30 V.S.A. §§ 109 and 232. The former requires Board approval for sales involving Vermont corporations. The latter applies to sales of property by an individual, partnership or unincorporated association conducting public service business. Section 232 and not Section 109 applies to the sale from the Water System to the Fire District. See Docket No. 5890, Order of 7/9/96, at 4, n.5. The standard of review is the same in each instance; the Board must find that the transaction will promote the general good of the state.

ORDER

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

1. Pursuant to 30 V.S.A. § 232, the transfer of assets of the Westfield Water System Company to the Westfield Fire District No. 1 is approved and is in the best interest of Westfield's customers, and will promote the general good of the State of Vermont.

2. The parties shall notify the Board in writing that the transfer of Westfield to the Fire District is complete. Upon receipt of such written notification, the Certificate of Public Good of the Westfield Water System Company shall be revoked.

DATED at Montpelier, Vermont, this 28th day of May, 1999.

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

OFFICE OF THE CLERK

FILED: MAY 28, 1999

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 of any technical errors, in order that any necessary corrections may be made. 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.