

DW 05-097

**LAKES REGION WATER COMPANY, INC.
GUNSTOCK GLEN WATER COMPANY**

**Petition for Authority to Purchase and Sell Certain
Assets and Transfer of Franchise Rights**

**Order *Nisi* Approving Purchase and Sale of Assets and
Transfer of Franchise Rights Subject to Certain Conditions**

ORDER NO. 24,519

September 22, 2005

I. PROCEDURAL HISTORY AND BACKGROUND

On May 21, 2005, Lakes Region Water Company, Inc. (Lakes Region) and Gunstock Glen Water Company (Gunstock) filed a joint petition to transfer Gunstock's franchise and water system to Lakes Region (Petition). The Commission Staff (Staff) recommended approval of the petition and, accordingly, on August 19, 2005 we entered Order No. 24,502 approving the petition on a nisi basis. Specifically, we indicated that the approval granted in the order would be effective as of September 19, 2005 unless Lakes Region failed to publish the Order. On September 20, 2005, Staff advised the Commission that Lakes Region had not received a copy of the Order and, consequently, had not accomplished the publication required by Order No. 24,502. In these circumstances, we deem it appropriate to treat our previous Order nisi annulled, pursuant to our authority under RSA 365:28, as not having become effective, a condition precedent (publication) having not been satisfied by the petitioner.

Lakes Region is a regulated public utility that provides water service to approximately 1,100 customers in limited areas of the towns of Campton, Conway, North Conway, Gilford, Laconia, Tamworth, Moultonboro, Thornton and Tuftonboro, New Hampshire. Gunstock is a regulated public utility that provides water service to approximately 55 customers

in a limited area of the town of Gilford, New Hampshire.

On May 10, 2005, Lakes Region and Gunstock entered into a purchase and sale agreement whereby Gunstock agrees to sell and Lakes Region agrees to purchase, subject to Commission approval, the Gunstock system as well as the franchise rights for the area served in Gilford. The agreed upon purchase price for the system is \$1.00. On May 21, 2005, Lakes Region and Gunstock filed with the Commission a joint petition to transfer Gunstock's franchise and water system to Lakes Region.

Lakes Region and Gunstock ask the Commission to 1) authorize Lakes Region to purchase the Gunstock water system and the rights to provide water in the franchise area of Gilford pursuant to New Hampshire RSA 374:22 and 26, and 2) authorize Gunstock to discontinue permanently its water service to said area pursuant to RSA 374:28. Lakes Region proposes to provide service to the customers in accordance with Gunstock's currently effective tariff. That tariff authorizes an annual flat rate of \$239.20, as approved by Commission Order No. 19,605 (November 6, 1989). Lakes Region states in the petition that it seeks to acquire the Gunstock system so that it can offer all of its customers, including Gunstock, the advantages of greater economies of scale. Lakes Region further states it possesses the requisite technical, financial and managerial capabilities to own and operate the system. Petition at paragraphs 7-11.

By letter, Lakes Region notified the town of Gilford, New Hampshire, that it had purchased and assumed operational responsibilities of Gunstock Glen Water Company. The Petition included a November 4, 2004 letter from the New Hampshire Department of Environmental Services (NHDES) stating that, in accordance with RSA 374:22, III, the Gunstock system satisfies NHDES standards for suitability and availability of drinking water.

On August 8, 2005, Commission Staff (Staff) filed a letter recommending that the Commission approve the requested sale of the water system and transfer of franchise rights. Staff indicated that it had submitted data requests to the petitioners on June 17, 2005, and that the responses to those data requests were attached to the Staff's letter. Staff's review of the Petition and the discovery responses revealed certain issues relevant to the proposed sale and transfer of the system. Staff noted that service is currently provided on an unmetered basis. Staff also noted that Lakes Region intends eventually to interconnect the Gunstock system with the adjacent Brake Hill Acres system owned by Lakes Region. Staff also indicated in its letter that Lakes Region intends to operate the system for a period of time before it evaluates the adequacy of the current rate. Staff supports the sale of Gunstock to Lakes Region, citing Lakes Region's managerial, financial and technical capabilities to operate a public utility. The Commission, on August 19, 2005, approved the joint petition by order *nisi*, with a number of conditions including the publication of the order no later than August 29, 2005. Lakes Region failed to do so. See Order No. 24,502, (August 19, 2005).

II. COMMISSION ANALYSIS

RSA 374:22, I and RSA 374:30 grant the Commission the authority to review transfers of systems and franchise rights and to approve such transactions if it finds they will ultimately serve the public good. We must first determine whether Lakes Region possesses the technical, managerial and financial capabilities to own and operate the system. The Commission has previously supported Lakes Region's acquisition of other water systems¹ and is familiar with

¹ Order No. 24,376 (September 30, 2004) (Commission approval of Lakes Region's petition to purchase Deer Cove Water Company and LOV Water Company); and Order No. 24,374 (September 23, 2004) (Commission approval of Lakes Region's petition to purchase Indian Mound Water Corporation).

its operations as a public utility.² Lakes Region also submitted a letter from the NHDES confirming the water system met suitability and availability requirements of RSA 374:22, III. We find, therefore, that Lakes Region possesses the requisite technical, managerial and financial capability to own and operate the Gunstock water system.

Second, we must establish rates for the Gunstock customers. We understand that Lakes Region intends to operate the system in accordance with the tariff currently in effect in the Gunstock franchise areas, including the rate schedules approved in 1989 in Order No. 19,605. Though the rates may have to be adjusted after some experience running the system, we find they are currently just and reasonable. After review of the Petition and Staff recommendation, we find the proposed transfer of the Gunstock water system and the associated franchise rights to Lake Region and adoption of existing Gunstock rates to be in the public good and will approve the Petition as filed.

The final issue concerns the flat rate, unmetered service to the Gunstock customers. We direct Lakes Region to determine the cost of meter installation and submit a status report no later than March 1, 2006. We will again condition this approval on publication, with an affidavit date of October 21, 2005, unless Lakes Region again fails to satisfy these conditions or the Commission orders otherwise.

² Order No. 23,146 (February 11, 1999) (Commission approval of Lakes Region's petition to consolidate certain water systems into a single tariff and general rate increase; Order No. 22,320 (September 17, 1996) (Commission approval of Lakes Region's petition to issue stock); Order No. 22,304 (September 4, 1996) (Commission appointment of Lakes Region as operating agent for Beebe River Water System); Order No. 21,475 (December 22, 1994), (Commission approval of Lakes Region's petition to purchase Brake Hill Acres Water System).

Based upon the foregoing, it is hereby

ORDERED *NISI*, that pursuant to RSA 374:22,I and RSA 374:30, the proposed transfer of the Gunstock Glen water system, upon the terms and conditions indicated in the Joint Petition and Sales Agreements, and subject to the terms and conditions specified in this Order, is consistent with the public good; and it is

FURTHER ORDERED, that, pursuant to RSA 374:22,I and RSA 374:30, Gunstock Glen Water Company is authorized to sell and Lakes Region Water Company, Inc. is authorized to purchase the Gunstock Glen system along with the associated franchise rights in the Gilford area under the terms and conditions set forth in the Joint Petition and Sales Agreements; and it is

FURTHER ORDERED, that upon completion of the sales transaction, Gunstock shall permanently discontinue its water service to the portion of Gilford it now serves, pursuant to RSA 374:28; and it is

FURTHER ORDERED, that, upon completion of the sales transaction and after the property records of the system have been transferred, Lakes Region will consult with the Commission Staff regarding the appropriate accounting entry for this transaction with specific attention paid to the Utility Plant Acquisition Adjustment in order that its books and records will properly reflect the purchase of these assets in accordance with Section 610.01(e)(4) of the NH PUC Uniform System of Accounts for Water Utilities; and it is

FURTHER ORDERED, that Lakes Region submit a status report no later than March 1, 2006 addressing costs for installation of meters for all Gunstock customers; and it is

FURTHER ORDERED, that, Lakes Region will operate the system in accordance with the Tariff currently in effect in the franchise areas, including the rate schedules in effect pursuant to the Commission's Order No. 19,605; and it is

FURTHER ORDERED, that Lakes Region shall cause a copy of this Order *Nisi* to be mailed to the Town Clerk in Gilford and published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such mailing and publication to take place no later than October 3, 2005 and to be documented by affidavit filed with this office on or before October 21, 2005; and it is

FURTHER ORDERED, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than October 10, 2005; and it is

FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than October 17, 2005; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective October 21, 2005, unless the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

FURTHER ORDERED, that the Petitioner shall file a compliance tariff with the Commission on or before October 21, 2005, in accordance with N.H. Admin. Rules, Puc 1603.02(b).

By Order of the Public Utilities Commission of New Hampshire this twenty-second day of September, 2005.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Michael D. Harrington
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary