

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DW 12-299**

**ROSEBROOK WATER COMPANY, INC.**

**Petition for Transfer of Stock**

**Order *Nisi* Approving Transfer of Stock**

**ORDER NO. 25,685**

**July 1, 2014**

In this order, the Commission approves the transfer of Rosebrook Water Company, Inc. from BW Land Holdings, LLC to REDUS NH Water Co., LLC.

**I. BACKGROUND**

Rosebrook Water Company, Inc. (Rosebrook) is a regulated public utility pursuant to RSA 362:2 and RSA 362:4 that provides water service to 386 residential and 18 commercial customers in limited areas in Carroll, Bethlehem, and Crawford's Purchase. Rosebrook's customers include the Mount Washington Hotel.

On October 9, 2012, Rosebrook, BW Land Holdings LLC (BW), Wells Fargo Bank, National Association (Wells Fargo), and REDUS NH Water Co., LLC (REDUS) (together, Joint Petitioners) filed a Verified Joint Petition for Authority to Transfer Stock Ownership (Verified Petition) of Rosebrook from BW to REDUS. BW currently owns all of Rosebrook's stock. Wells Fargo, a nationwide financial services company, seeks to acquire Rosebrook's stock through its holding company, REDUS. The Joint Petitioners propose no changes in Rosebrook's franchise area, terms of service, or rates. The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission,

is posted to the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2012/12-299.html>.

Wells Fargo's interest in acquiring Rosebrook arises out of a foreclosure settlement agreement involving Wachovia Bank and Rosebrook's parent. Verified Petition at 3. Wells Fargo is the successor by merger to Wachovia Bank. *Id.* Wachovia Bank held a mortgage on certain tracts of land owned by the following BW affiliates: Bretton Woods Land Co., LLC, BW Sports Complex, LLC, BW Club, LLC, and BWR Realty, LLC. The mortgaged tracts are included in the Bretton Woods resort area (the Bretton Woods Property) and are adjacent to (but do not include) the Mount Washington Hotel. *Id.* at 2-3. The borrowers subsequently defaulted on the loan, and on June 22, 2011, Wells Fargo conducted a foreclosure auction. As part of the foreclosure BW entered into a Foreclosure Settlement Agreement with Wells Fargo whereby BW agreed to transfer all of the issued and outstanding capital stock of Rosebrook, either directly or indirectly, to Wells Fargo, and Wells Fargo agreed to covenants not to sue. *Id.* at 3.

Joint Petitioners state that the transfer of stock ownership will not cause any changes in the service offered to Rosebrook's customers because Rosebrook's operations will continue in the same manner after the proposed stock transfer as before. *Id.* at 4. Rosebrook will continue as a utility, and the current operational staff will continue to operate the system reliably and safely. *Id.* Wells Fargo has no plans to change personnel. *Id.* Wells Fargo plans to maintain Rosebrook's existing main office and customer service center so that customers will see no change in their interaction with Rosebrook. *Id.* at 5. Rosebrook is not expected to experience any increased costs as a result of the change in ownership. *Id.* Finally, the Joint Petitioners state

that Wells Fargo is better capitalized and will provide more stable financial conditions for Rosebrook than its current owner. *Id.*

On December 14, 2012, Commission Staff (Staff) filed a letter recommending that the Commission delay its consideration of the Verified Petition until the Commission resolved Rosebrook's then pending rate case. Staff stated that Rosebrook entered into two affiliate agreements for the provision of "managerial, technical and field services" but that Rosebrook failed to file the agreements in accordance with RSA 366:3. 12/14/12 Staff Letter at 1, 12-17. Staff stated that Rosebrook intended to include the costs of these agreements in customer rates. *Id.* at 1. Staff reminded the Commission of Rosebrook's past compliance failures and recommended that the Commission take no action on the stock transfer until the issues relating to the affiliate agreements and potential sanctions were resolved. *Id.* at 2.

On May 15, 2014, Staff filed a second letter recommending that the Commission approve the stock transfer. Staff stated that following its December 2012 letter, Staff conducted multiple rounds of discovery to update Rosebrook's filing. Staff stated that Rosebrook no longer intends to enter into affiliate agreements for management services. 5/15/14 Staff Letter at 2. Instead, Rosebrook hired the necessary individuals and placed them on its payroll. *Id.* Staff stated that Rosebrook expects to have "ready access" to debt financing through Wells Fargo. *Id.* at 3. Finally, Staff stated that the compliance issues raised in its December 14, 2012, letter were resolved in Rosebrook's rate case. *Id.* at 2. As a result of its review, Staff concluded that Rosebrook will continue to possess the requisite managerial, financial, and technical capabilities to operate the water system. *Id.* at 1. Staff opined that the ownership change will have no

negative effect on water service to customers. *Id.* Staff recommended that the Commission approve the Joint Petitioners' request to transfer Rosebrook from BW to REDUS.

## II. COMMISSION ANALYSIS

A public utility may sell its stock when the Commission finds that the sale is consistent with the public good. RSA 369:1. The Commission must also determine that the transfer of stock is "lawful, proper and in the public interest." RSA 374:33. Applying those standards to the instant matter, we approve the transfer as explained below.

The stock transfer resolves any claims Wells Fargo may have against BW. Wells Fargo formed REDUS for the sole purpose of holding Rosebrook's stock. 5/15/14 Staff Letter at 33 and 38. REDUS is a foreign limited liability company registered with the New Hampshire Department of State and has the legal capacity to hold Rosebrook's stock as contemplated by the Joint Petitioners. *Id.* at 18-24. Wells Fargo will capitalize REDUS with equity. There will be no debt. *Id.* at 7. The Joint Petitioners and Staff opined that Wells Fargo is more financially stable than Rosebrook's current owner and can offer Rosebrook ready access to debt financing. We consider access to capital a cornerstone to a utility's health and find Wells Fargo's financial backing will benefit Rosebrook.

In addition, Wells Fargo will retain Rosebrook's existing employees, *id.* at 12, and will maintain Rosebrook's main office and customer service center, Verified Petition at 5. Those actions will ensure continuity for customers in how they interact with Rosebrook. Rosebrook does not expect to experience any increased costs associated with Wells Fargo's ownership. As a consequence, the revenue requirement that we recently approved should be sufficient for its operations, post-transfer. *See generally, Rosebrook Water Company, Inc., Order No. 25,613*

(Dec. 23, 2013). This evidence supports our finding that the transfer will not adversely affect Rosebrook and its customers, and that it is lawful and proper.

Accordingly, we find that the transfer of all of Rosebrook's stock from BW to Wells Fargo is consistent with the public good pursuant to RSA 369:1. Pursuant to RSA 374:33 we approve the Joint Petitioner's request. Although the legal authorities governing our approval do not require a hearing, we approve the Joint Petitioner's request on a *nisi* basis with a delayed effective date to ensure that all interested parties receive notice of the proposed transfer and have an opportunity to comment or request a hearing.

**Based upon the foregoing, it is hereby**

**ORDERED *NISI***, that the request to transfer the corporate stock of Rosebrook Water Company, Inc. from BW Land Holdings, LLC to REDUS NH Water Co., LLC is APPROVED, subject to the effective date below; and it is

**FURTHER ORDERED**, that the Joint Petitioners shall cause a summary of this Order *Nisi* to be published in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to be no later than July 10, 2014 and to be documented by affidavit filed with this office on or before July 25, 2014; and it is


**FURTHER ORDERED**, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than July 17, 2014 for the Commission's consideration; and it is

**FURTHER ORDERED**, that any party interested in responding to such comments or request for hearing shall do so no later than July 24, 2014; and it is

**FURTHER ORDERED**, that this Order *Nisi* shall be effective July 30, 2014, unless the Joint Petitioner fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date.

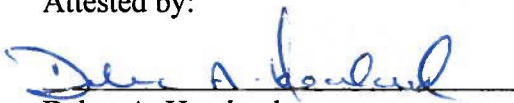
By order of the Public Utilities Commission of New Hampshire this first day of July, 2014.

  
Amy L. Ignatius (KNS)  
Chairman

  
Robert R. Scott  
Commissioner

  
Martin P. Honigberg  
Commissioner

Attested by:

  
Debra A. Howland  
Executive Director