



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu

WATER

IN THE MATTER OF THE PETITION OF)	
VALLEY ROAD SEWERAGE COMPANY)	ORDER EXTENDING
MOTION FOR EMERGENT RATE RELIEF AND)	INTERIM RATES
PETITION FOR AN INCREASE IN RATES)	BPU DOCKET NO. WR92080846J

(SERVICE LIST ATTACHED)

BY THE BOARD:

The Valley Road Sewerage Company (Valley Road or Company) is a public utility of the State of New Jersey subject to the jurisdiction of the Board of Public Utilities (Board). The relevant portions of the long and complex procedural history of this matter are set forth below. Valley Road provides sewerage treatment services to approximately 105 residential customers in the Pottersville section of the Township of Tewksbury, Hunterdon County (Pottersville section or Pottersville), pursuant to the authority granted by the Board. On October 6, 2006, Valley Road filed a petition, pursuant to N.J.S.A. 48:2-21.1, seeking "emergent interim rate relief" in the amount of \$161,172 over then current revenues of \$59,850, subject to refund. . By Board Order dated May 15, 2007, the Board authorized an interim rate increase in the amount of \$41,172 or 68.79% over current revenues of \$59,850 to enable the Receiver to provide safe, adequate and proper service for a six month period ending on November 8, 2007. This Order addresses an extension of the interim rate relief request only.

BACKGROUND/PROCEDURAL HISTORY

By Order dated May 16, 1995, the Superior Court of New Jersey, Chancery Division, Somerset County, in Docket No. SOM-C-12052-94, appointed Mr. Robert G. Goode, Esq., of the law firm of Arturi, D'Argenio, Guaglardi & Meliti, LLP, to be the receiver of Valley Road (Receiver). On March 3, 1998, in Docket No. WR92080461, the Board established an annual sewer rate of \$570.00 for service, effective on and after April 1, 1998.

On March 14, 2002, by consent order, the Court authorized the Receiver to convey to Hillsborough Township Municipal Utilities Authority (HTMUA) those utility assets of Valley Road located in Hillsborough Township. State of New Jersey, Board of Public Utilities v. Valley Road Sewerage Company, Dkt. No. SOM-C-12052-94, (Ch. Div. 2002) (Consent Order). These assets were conveyed to the HTMUA on or about April 1, 2002, in accordance with the Consent Order.

By Order dated May 25, 2004, the Board approved a municipal consent granted by the Township of Tewksbury (Tewksbury) to Applied Wastewater Management, Inc. (AWWM),

authorizing AWWM to provide wastewater services to the Pottersville section. The Board also approved the acquisition of certain assets of Valley Road by AWWM.¹

This transfer of the Tewksbury Assets to AWWM has not yet taken place and is not expected to take place until the second quarter of 2008.

On October 6, 2006, Valley Road filed a petition, pursuant to N.J.S.A. 48:2-21.1, seeking "emergent interim rate relief" in the amount of \$161,172 over then current revenues of \$59,850, subject to refund. The proposed emergent rate relief would have increased the annual rate for wastewater services per residential dwelling from the current rate of \$570 per year to \$2,105 per year, an increase of \$1,535 per year or 260%, payable quarterly in advance. The petition also sought permanent rate relief in the same amount as that requested for interim rate relief.

On April 10, 2007, a public hearing was scheduled in the Valley Road service area at 6:30 pm, at the Tewksbury Elementary School, 109 Fairmount Road, Tewksbury, New Jersey. This public hearing was subsequently adjourned. A further public hearing was scheduled in this matter and held on May 2, 2007, at the same location and time, and presided over by Legal Specialist Joseph Quirolo, Esq. This public hearing was noticed by Tewksbury via individual notices to each of the Valley Road Sewerage Company customers. Approximately 35 people attended the hearing. The majority of the customers who spoke at the hearing spoke in opposition of Valley Road's proposed emergent interim rate relief. Several customers alleged that not all of the people who were connected to Valley Road's system were being billed by the Company. Other customers had issues with the way that the Company was being managed by the Receiver; their complaints included, but were not limited to, delays in receiving bills, inaccurate bills and raw sewerage spills. Several customers requested that the proposed rate increase be delayed until the proposed sale of Valley Road was completed.

Based on its review of the filing and supporting documents, the Board believed that revenues sufficient to pay for (1) the licensed operator, (2) sludge removal as needed, (3) utilities, (4) chemicals and (5) billing, collection and customer service, were warranted. Basic Board elements require the safe, adequate and proper provision of utility service, and each of these elements are necessary to satisfy the mandate of N.J.S.A 48:2-23.

By Board Order dated May 15, 2007, the Board authorized an interim rate increase in the amount of \$41,172 or 68.79% over current revenues of \$59,850. The Board, in its May 15, 2007, Order believed it was not necessary to provide rate relief for an entire year and granted Valley Road interim rate relief sufficient to enable the Receiver to provide safe, adequate and proper service for a six month period from the May 15, 2007 Board Order to November 8, 2007. In the event that the transfer of the Tewksbury assets to AWWM does not take place by November 8, 2007 the Board ordered the Receiver to resubmit actual cost information to the Board to support continuation of the interim rate relief.

On October 12, 2007, in compliance with the Board's May 15, 2007 Order, and with respect to the request to continue the interim rate relief, the Receiver submitted documentation of actual

¹ In the Matter of the Joint Petition of Applied Wastewater Management, Inc., and Valley Road Sewerage Company for Approval of (1) Municipal Consent by the Township of Tewksbury, Hunterdon County, New Jersey; (2) Acquisition of Certain Assets of the Valley Road Sewerage Company Located within the Proposed Service Area; (3) For Approval of an Increase in Rates for Service charged to Customers located within the area covered by the Municipal Consent; and (4) For approval of Discontinuance of Service, BPU Docket No. WE03100807 (May 25, 2004).

costs in support of the request to continue interim rates. Staff has reviewed the documentation, finds that it complies with the Board's May 15, 2007 Order and supports continuation of the interim rates. Accordingly, Staff recommends that interim rates be continued for an additional six months from November 8, 2007 to May 8, 2008.

Negotiations regarding the transfer of the Tewksbury assets to AWWM continue and in light of these ongoing negotiations and the desire of the Board to see this matter resolved the Board HEREBY EXTENDS the interim rate relief for an additional six month period to May 8, 2008. The extension of the interim rate relief will allow Valley Road to continue to pay for the licensed operator, as well as, other required expenses associated with the operations of the wastewater treatment plant. This interim rate relief is needed so that Valley Road can continue to provide safe, adequate and proper wastewater service.

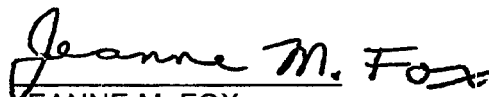
By letter dated October 5, 2007, the Division of Rate Counsel filed comments which did not oppose the extension of the interim rates approved by the Board in its May 15, 2007 Order.


This Order granting the extension of the interim rates to Valley Road is conditioned upon the continuation of the terms and conditions embodied in its May 15, 2007 Order, accordingly the Board further ORDERS that, by reference, all terms and conditions expressed in its May 15, 2007 Order are also made a part of this Order.

The effective date of this Order is as dated below:


DATED: 10/25/07

BOARD OF PUBLIC UTILITIES
BY:

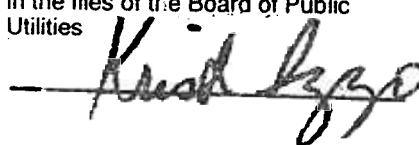

JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER


CHRISTINE V. BATOR
COMMISSIONER
I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities

ATTEST: 
KRISTI IZZO
SECRETARY



IN THE MATTER OF THE PETITION OF VALLEY ROAD SEWERAGE COMPANY
MOTION FOR EMERGENT RATE RELIEF AND PETITION FOR AN INCREASE IN
RATES - BPU DOCKET NO. WR02080846J

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TELECOPY TRANSMITTAL FORM

PLEASE DELIVER IMMEDIATELY

FROM: Susan McClure, Esq.
TO: Dante Mugrace, Bureau Chief
NJ BPU
Division of Water & Wastewater
FAX No. 973-877-1167
DATE: October 5, 2007
SUBJECT: *Valley Road Sewerage Company*
BPU Dkt. No. WR920808046J

NO. OF PAGES: 13 (Including Cover Page)

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IF TRANSMISSION IS NOT COMPLETE PLEASE CALL (973) 648-7355 - Ivette Altamirano, Legal Secretary



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JON S. CORZINE
Governor

October 5, 2007

RONALD K. CHEN
Public Advocate
STEFANIE A. BRAND, ESQ.
Director

VIA HAND DELIVERY

Honorable Kristi Izzo, Secretary
Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102

**RE: In the Matter of the Petition of Valley Road Sewerage
Company Seeking an Increase in its Rates for Sewerage
Service and Other Relief
ORDER OF EXTENSION
BPU Docket No.: WR92080846J**

Dear Secretary Izzo:

Please accept for filing an original and ten copies of Division of Rate Counsel's ("Rate Counsel") comments regarding the above referenced matter. Enclosed is one additional copy, please date stamp the copy as "filed" and return it to the courier. Thank you for your consideration and attention in this matter.

Background and Recommendation

On May 15, 2007, the Board of Public Utilities ("BPU" or "Board") issued an Order adopting interim rates for Valley Road Sewerage Company ("VRS") in connection with the above referenced docket (the "Order"). Pursuant to the Order, the interim rates set for VRS will expire on November 8, 2007 unless an Order of Extension is issued by the Board. By way of background, on October 6, 2006, VRS filed a Petition seeking

emergent interim rate relief that resulted in the Board's Oder. Rate Counsel filed comment letters dated October 26, 2006 and May 3, 2007 with the BPU in response to the VRS Petition.¹ The Board has previously approved the transfer of the assets of VRS to Applied Wastewater Management, Inc. ("AWWM") and this transfer is anticipated to occur in 2007.² The system is presently being operated by Hatch Mott MacDonald Operating Services of Millburn, New Jersey at the direction of the Receiver. The parties to the transfer of the VRS assets are continuing to finalize the documents for the necessary transactions and approvals.

As stated in our May 3, 2007 comment letter, Rate Counsel was not opposed to approval of an interim rate increase in the amount of \$392.11 per customer per year, resulting in a revised annual rate of \$962.11 per customer per year. The Board approved this level of interim relief in its May 15, 2007 Order. An Order of Extension of the interim rates is necessary to allow VRS to continue to provide safe and adequate service until the transfer of the assets of VRS to AWWM is completed. Rate Counsel is not opposed to an Order of Extension subject to the conditions set forth in the Board's May 15, 2007 Order and the recommendations stated below.

Rate Counsel continues to support the acquisition of the VRS System by AWWM as being in the public interest. Accordingly, Rate Counsel recommends that any order of extension of the interim rates approved in the May 15, 2007 Board Order contain the following language:

1. This Order shall not be construed as directly or indirectly fixing for any purposes whatsoever any level of expense or income subject to further review in a permanent rate relief proceeding.

¹ A copy of both the October 26, 2006 and May 3, 2007 letters are attached hereto.

² Count One, Paragraph 5 of the Petition.

2. This Order shall not affect nor in any way limit the exercise of the authority of this Board or of this State, in any future Petition or in any proceedings with respect to rates, franchises, service, financing, accounting, capitalization, depreciation, or in any other matter affecting the Company.


These provisions will satisfy the concerns of Rate Counsel that BPU approval is limited to the Emergent Rate Relief Petition, and should not indicate authorization to include any specific assets or amounts in rate base, or indicate authorization for any other ratemaking treatment. With these caveats, Rate Counsel is not opposed to Board approval of an extension of the interim rates granted in the Order Adopting Interim Rates, dated May 15, 2007.

Respectfully Submitted,

RONALD K. CHEN
NEW JERSEY PUBLIC ADVOCATE

Stephanie A. Brand, Esq.
Director, Rate Counsel

By: _____


Susan E. McClure, Esq.
Assistant Deputy Public Advocate

SM:iaa
Attachments

- c: President Jeanne M. Fox (*via hand delivery*)
Commissioner Frederick F. Butler (*via hand delivery*)
Commissioner Joseph L. Fiordaliso (*via hand delivery*)
Commissioner Christine V. Bator (*via hand delivery*)
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**I/M/O Petition of Valley Road
Sewerage Company
BPU Docket No. WR92080846J**

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SEEMA M. SINGH, ESQ.
Director

October 26, 2006

VIA HAND DELIVERY

Kristi Izzo, Secretary
State of New Jersey, Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102

**Re: Petition of Valley Road Sewerage Company
Motion for Emergent Rate Relief and Petition for an Increase in Rates
BPU Docket No. WR92080846J**

Dear Secretary Izzo:

Please accept for filing an original and eleven copies of the Division of Rate Counsel's ("Rate Counsel") comments regarding the above referenced matter. Please date stamp the additional copy as "filed" and return it in the enclosed, self-addressed, stamped envelope. Thank you for your consideration and attention to this matter.

Valley Road Sewerage Company ("Valley Road") is currently under the control of a court-appointed Receiver. On October 6, 2006, the Receiver filed a Motion for Emergent Rate Relief and Request for an Increase in Permanent Rates. The Receiver is requesting a total revenue increase of \$161,172, from \$59,850 in annual revenues to \$221,022. The Receiver is requesting an increase in annual rates from \$570 per customer to \$2,105, an increase of approximately 270%. Approximately \$120,000 of the requested revenue requirement relates to legal fees and fees to the Receiver.

In light of the emergent status of this rate request, Rate Counsel will not object to Board approval of an interim rate increase of \$41,172, from \$59,850 to \$101,022 in annual revenues. This rate increase reflects all components of the requested revenue requirement except for the legal fees and fees to the Receiver of \$120,000. It is Rate Counsel's understanding that an emergent, interim, rate increase of \$41,172 is also supported by Board Staff. Rate Counsel is a party to the negotiations that will result in the transfer of the assets of Valley Road Sewer to Applied Wastewater Management. The transfer of assets is expected to be completed by February 1, 2007.

Thus, Rate Counsel will not oppose the increase from \$59,850 to \$101,022, if it is interim and subject to refund to ratepayers with interest. With these caveats, Rate Counsel is not opposed to approval of the Petition.

Respectfully submitted,

RONALD K. CHEN,
NEW JERSEY PUBLIC ADVOCATE

Seema M. Singh,
Director, Rate Counsel

By: 

Susan E. McClure
Assistant Deputy Public Advocate

SEM:iaa

c: Jeanne M. Fox, President (*via hand delivery*)
Frederick F. Butler, Commissioner (*via hand delivery*)
Connie O. Hughes, Commissioner (*via hand delivery*)
Joseph L. Fiordaliso, Commissioner (*via hand delivery*)
Christine V. Bator, Commissioner (*via hand delivery*)
Service List *via hand delivery or regular mail*

**I/M/O Petition of Valley Road
Sewerage Company
BPU Docket No. WR92080846J**

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KIMBERLY HOLMES
Acting Director

May 3, 2007

VIA HAND DELIVERY

Honorable Kristi Izzo, Secretary
Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102

**Re: I/M/O the Petition of Valley Road Sewerage Company
Seeking an Increase in its Rates For Sewerage
Service and Other Relief
BPU Docket No.: WR92080846J**

Dear Secretary Izzo:

Please accept for filing an original and ten copies of Division of Rate Counsel's ("Rate Counsel") comments regarding the above referenced matter. Enclosed is one additional copy, please date stamp the copy as "filed" and return it to the courier. Thank you for your consideration and attention in this matter.

Background

On October 6, 2006, Valley Road Sewerage Company ("VRS") filed a Petition seeking Emergent Rate Relief and further requested that such rate relief be made permanent. The Company's Petition demonstrated that the current operating expenses of VRS system greatly exceed present rate revenues. The current rates were last set by the Board in Docket No. WR92080461 and took effect on April 1, 1998.

VRS is a public utility that provides sewage collection, treatment and disposal service to approximately 105 customers.¹ VRS is in receivership.² The Board has approved the transfer of the assets of VRS to Applied Wastewater Management, Inc. ("AWWM") and this transfer is anticipated in 2007.³ The system is presently being operated by Hatch Mott MacDonald Operating Services of Millburn, New Jersey at the direction of the Receiver.

Analysis

The franchise area consists of 75 single-family residences, 29 townhouse or condominium units, and one commercial establishment.⁴ The request for emergent rate relief documents the current operating expenses of the VRS system and these expenses greatly exceed present rate revenues for 105 active customer connections. VRS has not been able to pay these operating expenses and in fact, payments to Hatch Mott MacDonald Operating Services are over \$30,000 in arrears.⁵ The plant has continued to deteriorate as a result of a lack of adequate maintenance and repair while the wastewater collection system has experienced blockages and overflows.

The Petition seeks to recover annual revenues in the amount of \$221,022 by raising rates to \$2,105 per customer per year from \$570 per customer per year. The proposed annual charge is predicated on a summation of current operating expenses including \$120,000 of legal and receiver fees.⁶

These fees should not be included in the emergent rate relief but should be left for more detailed analysis and review in the permanent rate proceeding.

¹ Response to S-BCE-1 in Docket No. WE03100807 states the number of customers is 105, although during the hearing on that matter the Company indicated that there were 103 customers. See Transcript, page 8, lines 11-12. The Petition in the current matter again indicates 105 customers in its opening paragraph on page 1.

² Count One, Paragraph 1 of the Petition.

³ Count One, Paragraph 5 of the Petition.

⁴ Response to S-BCE-1 in Docket No. WE03100807.

⁵ Letter from T. L. Patterson to R. G. Goode, Esq., dated 13 February 2007.

⁶ Petition, Schedule A.

The Petition bases present rate revenues on 105 customers at a rate of \$570 per year, which amounts to \$59,850 per year in revenues. Therefore, the revenue shortfall amount that should be considered with respect to emergent rate relief is \$41,172. An interim rate increase of \$392.11 per customer per year, subject to refund pending the outcome of the proceedings related to permanent rate relief, would provide sufficient revenues to offset the operating expense shortfall of the VRS system. This would result in a revised rate of \$962.11 per customer per year.

Recommendation

Rate Counsel has reviewed the Petition, conducted a site inspection and concurs with the financial analysis provided through a BPU field audit. Rate Counsel has confirmed the operating expense shortfall and is not opposed to approval of an Emergent Rate Relief increase in the amount of \$392.11 per customer per year, resulting in a revised annual rate of \$962.11 per customer per year. Final consideration of the actual operating expenses and legal/receiver fees should be held pending the consideration of the Petition for permanent rate relief and the transfer of assets to Applied Wastewater Management.

The VRS System needs significant upgrades in order to come into compliance with NJDEP requirements. The current owners of the system have not demonstrated an ability to operate the wastewater system in a safe and adequate manner in the future. Rate Counsel continues to support the acquisition of the VRS System by AWWM as being in the public interest. Accordingly, Rate Counsel recommends that any Board Order approving Emergent Rate relief as requested in the Petition contain the following language:

- 1 This Order shall not be construed as directly or indirectly fixing for any purposes whatsoever any level of expense or income subject to further review in a permanent rate relief proceeding.
- 2 This Order shall not affect nor in any way limit the exercise of the authority of this Board or of this State, in any future Petition or in any proceedings with respect to

rates, franchises, service, financing, accounting, capitalization, depreciation, or in any other matter affecting the Company.

These provisions will satisfy the concerns of Rate Counsel that BPU approval is limited to the Emergent Rate Relief Petition, and should not indicate authorization to include any specific assets or amounts in rate base, or indicate authorization for any other ratemaking treatment. With these caveats, Rate Counsel is not opposed to approval of the Petition as modified above.

Respectfully Submitted,

RONALD K. CHEN, ESQ.
PUBLIC ADVOCATE OF NEW JERSEY

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Acting Director, Division of Rate Counsel

By: 

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**I/M/O Petition of Valley Road
Sewerage Company
BPU Docket No. WR92080846J**

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