



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)
MOTION FOR EMERGENT RATE RELIEF AND)
PETITION FOR AN INCREASE IN RATES)

ORDER FURTHER EXTENDING
INTERIM 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 current revenues of \$59,850, subject to refund. The proposed emergent rate relief would increase 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. This Order addresses 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.

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.

By Board Order dated October 25, 2007, the Board authorized, for the reasons set forth therein, a further extension of the interim rate for a six month period from November 8, 2007, to May 8, 2008.

On April 2, 2008, the Receiver of Valley Road filed the necessary documentation to support the payments made to Valley Road's licensed operator, the cost of sludge removal, the cost of utilities, chemical expense and expenses associated with billing collection/ customer services that was ordered by the Board in its October 25, 2007, Order in its and May 15, 2007, Order. In the May 15, 2007, Order the Board approved the interim rate relief subject to the following:

- a. Any charges resulting from the rate increase approval shall be interim in nature, subject to refund with interest, pending the results of the permanent rate relief proceeding.
- b. Any charges resulting from the rate increase and any monies collected from Valley Road's customers shall be solely and exclusively for the purpose of providing payment to Valley Road's licensed operator, the cost of sludge removal, the cost for utilities and chemicals and expenses associated with billing/collections and customer service.
- c. Valley Road and the Receiver are to provide proof of payment with respect to the licensed operator (Hatch Mott MacDonald), the sludge removal costs, utility costs, chemical costs and billing/collection customer service costs on a quarterly basis. Such reporting shall continue as long as Valley Road is in Receivership.

The next quarterly report with respect to the proof of payment of the above expenses is due on June 30, 2008.

The Staff of the Board has reviewed the documentation submitted by the Receiver and is satisfied that it complies with the conditions set forth in the Board's Orders dated October 25, 2007 and May 15, 2007, Order. Based upon satisfactory documentation of expenses Staff recommends that interim rates be extended for an additional six month from May 8, 2008 to November 8, 2008.

Negotiations regarding the transfer of the Tewksbury assets are now with New Jersey American Water Company, Inc. In light of the fact that these negotiations are continuing and the desire of the Board to see this matter resolved the Board HEREBY FURTHER EXTENDS the interim rate relief for an additional six month period to November 8, 2008. During this six month period, the Board DIRECTS the Receiver to continue to fully cooperate with Board Staff and Rate Counsel so as to allow the Staff and Rate Counsel to monitor the financial status of the Company and the status of the transfer of the Tewksbury assets to New Jersey American Water Company, Inc. 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 to its customers.

By letter dated March 26, 2008, the Division of Rate Counsel filed comments which did not oppose the further extension of the interim rates approved by the Board in its May 15, 2007, and its October 25, 2007, Order. Rate Counsel requested that the following language be included in the Board Order:

- 1 The 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, and;
2. The Order shall not affect nor in any way limit the exercise of the authority of the 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.

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, and in its October 25, 2007 Order as well as the language set forth below as contained in Rate Counsel's March 26, 2008, comments:

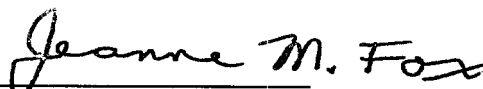
- a. The Order shall not be construed as directly or indirectly fixing for any purposes whatsoever any level of expense or income subject to further review in a permanent rate relief proceeding, and;
- b. The Order shall not affect nor in any way limit the exercise of the authority of the Board or of 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.

Accordingly the Board FURTHER ORDERS that, by reference, all terms and conditions expressed in its May 15, 2007, and in its October 25, 2007, Order are also made a part of this Order.

The effective date of this Order is as dated below:

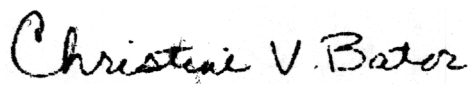
DATED: 4/14/08

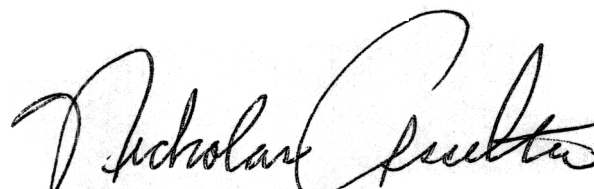
BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT

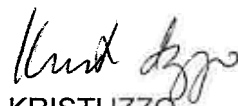

FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

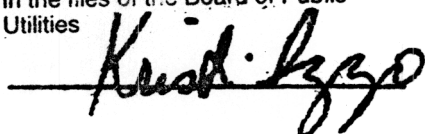

CHRISTINE V. BATOR
COMMISSIONER


NICHOLAS ASSELTA
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities



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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Governor

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Public Advocate
STEFANIE A. BRAND
Director

March 26, 2008

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. Pursuant to the May 15, 2007 Order, the interim rates set for VRS would have expired on November 8, 2007. On October 25, 2007, the Board

issued an Order Extending Interim Rates ("the Order"). Pursuant to the Order, the interim rate will expire on May 8, 2008 unless another 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 Order. Rate Counsel filed comment letters dated October 26, 2006 and May 3, 2007 with the BPU in response to the VRS Petition. 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. 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 and extended the rate through May 8, 2008. A further 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, October 25, 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 and extended in the October 25, 2008 Board Orders contain the following language:

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 Board approval of a further extension of the interim rates granted in the Order Adopting Interim Rates, dated May 15, 2007 and extended by Order dated October 25, 2007.

Respectfully Submitted,

RONALD K. CHEN
PUBLIC ADVOCATE

Stephanie A. Brand
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*)
Service List