



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

WATER

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| IN THE MATTER OF THE PETITION OF |) | ORDER ADOPTING |
| VALLEY ROAD SEWERAGE COMPANY |) | INTERIM RATES |
| MOTION FOR EMERGENT RATE RELIEF AND |) | |
| PETITION FOR AN INCREASE IN RATES |) | 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 seeks permanent rate relief in the same amount as that requested for interim rate relief. This Order addresses both requests.

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 third quarter of 2007.

The Receiver for Valley Road claims that in order to provide sufficient revenues to cover the current operations of the Pottersville wastewater system in a safe, adequate and proper manner, emergent rate relief in the amount of \$161,172, or 260% on an annual basis, is necessary. The expenses in the emergent rate request include the following: (1) the need to pay the licensed contractor, Hatch Mott, the annual sum of \$64,788 for continued operation of the wastewater treatment plant; (2) \$12,634 for sludge removal; (3) the cost of utilities and chemicals in the amount of \$8,000 and \$1,200 respectively; (4) billing/collection/customer services expenses of \$14,400 annually; and (5) \$60,000 in receiver and legal fees. The "emergent interim" increase requested amounts to \$101,172 (\$161,022 less current revenues of \$59,850). For the permanent rate relief, the Receiver is requesting additional legal and receiver fees in the amount of \$60,000 for a total revenue requirement increase of \$161,172.

By letters dated October 26, 2006 and May 3, 2007, the Department of the Public Advocate, Division of Rate Counsel (Rate Counsel) filed comments regarding Valley Road's emergent rate application. Rate Counsel did not oppose the approval of emergent interim rate relief. However, Rate Counsel asserts that an immediate increase in wastewater rates is needed to provide revenues sufficient to pay all components of the requested revenue requirement except for the legal fees and fees to the Receiver. 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.

By letter dated October 30, 2006, Tewksbury filed comments regarding the proposed emergent rate relief petition filed by Valley Road. In its letter, Tewksbury did not oppose a rate increase that reflected reasonable operating costs or costs associated with necessary upgrades of the system. Tewksbury stated that the Receiver would need to provide adequate factual information to establish what work is necessary, who will do it, when it will be done, and what the costs are for the work. In addition, Tewksbury would need to establish that any work planned will not conflict or be redundant with the work that will be done by AWWM when it takes over the plant next year. Tewksbury also requested that the Board hold a public hearing on the Receiver's request for the emergent rate relief and to do so only after notifying each of the users of the system of the proposed rate increase.

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).

On November 8, 2006, Staff from the Division of Water (Water Staff) visited the Receiver's Office to engage in a discovery review of the books and records to support Valley Road's requested emergent relief. Based upon that discovery review, Water Staff is satisfied that Valley Road is in need of some level of interim rate relief in order to provide safe, adequate and proper service within its service territory.

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 the 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.

Finally, it must be noted that the Company bills its customers quarterly in advance on January 1, April 1, July 1 and October 1 of each year. The April 1, 2007, bills for service in April, May and June 2007 have not been issued to customers. The bills are expected to be mailed on or about the date of this Order.

DISCUSSION AND FINDINGS

The Receiver styles this request as being made both "[p]ursuant to N.J.S.A. 48:2-21.1" on an "interim and emergent basis" and as a request for permanent rate relief. Upon further review, the application is better identified as a request for an adjustment of rates pursuant to N.J.S.A. 48:2-21.1. Valley Road is entirely dependent upon an outside source, Hatch Mott, for the reliable maintenance and operation of its wastewater treatment facilities. For the provision of this service, Hatch Mott bills Valley Road \$5,399 per month. As noted by Rate Counsel, a review of the financial data provided by Valley Road demonstrates that without immediate rate relief, the Company will be unable to meet its financial obligation to Hatch Mott. In fact, Hatch Mott, in a letter dated September 18, 2006, advised that it would cease providing operational services to Valley Road for failure to receive \$27,338.55 in past due payments for services rendered. (See Attachment A). While this issue was resolved sufficiently to allow for Hatch Mott's continued service, the situation remains. The lack of a qualified entity to operate and maintain Valley Road would be in violation of law and pose an immediate danger to the public health, safety and welfare. Similarly, the removal of sludge as a byproduct of wastewater treatment and payment of past and current utility bills and chemicals are required if the treatment facility is to function properly. To allow for proper operation, revenue collection must be timely and efficient, and in an amount sufficient to cover expenses.

Based on its review of the filing and supporting documents, the Board believes 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, are warranted. Basic Board elements require the safe, adequate and proper provision of utility service, and each of these elements are necessary to satisfy that mandate N.J.S.A. 48:2-23.

The Board is not persuaded, however, by the Company's request for receiver and legal fees, and believes that the issue of these expenses should be raised in the context of another, appropriate proceeding. An application for interim rate relief is not the proper mechanism for this recovery.

Likewise, the Board does not believe it necessary or appropriate to issue permanent rate relief at this time. A full rate proceeding must be conducted, in accordance with the appropriate statutory requirements, to set permanent rates. See N.J.S.A. 48:2-21, et seq.

Furthermore, the Board does not believe it is necessary to provide rate relief for an entire year. The Company's petition states that the "Receiver has been informed that the transfer of the Tewksbury Assets to AWWM is expected to be able to take place during 2007." With this time line in mind, the Board HEREBY GRANTS interim relief sufficient to enable the Receiver to provide safe, adequate and proper service for six months from the date of this Order. During this six month period, the Board DIRECTS the Receiver 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 AWWM. Should the transfer of the Tewksbury assets not take place by November 8, 2007, or should the permanent rate relief not be concluded by November 8, 2007, the Receiver is HEREBY ORDERED to resubmit actual cost information to the Board to support the continuation of the interim rate relief granted by this Order.

After a review of the filing, the Board ACCEPTS, pending further review in the permanent rate relief proceeding that is discussed within this Order, and subject to refund, with interest, the following:

1. The Company's current revenues are \$59,850.
2. The expenses associated with the operations of the sewer wastewater treatment plant at \$64,788 and the costs for the sludge removal are \$12,634.
3. The expenses associated with utilities at \$8,000, the expenses associated with chemicals at \$1,200 and the expenses associated with billing/collections and customers services are \$14,400.
4. The total revenue requirement is \$101,022.

Based on the above, and without the inclusion of legal or other fees, the revenue requirement increase is \$41,172 or 68.79%, and shall be an across-the-board increase collected from all 105 customers at an additional rate of \$392.11 per year (\$98.03 per quarter) over the current interim rate of \$570.00 per year (\$142.50 per quarter), for a total annual rate of \$962.11 per year (\$240.53 per quarter). This rate relief is interim in nature, subject to refund and interest and subject to review upon the filing of a request for a permanent rate increase in accordance with N.J.S.A. 48:2-21 or other such appropriate proceeding.

Because of the need to provide revenues to Valley Road that are necessary to pay for the licensed operator and the related costs imposed upon Valley Road, the Board HEREBY ADOPTS an interim rate increase in the amount of \$41,172, or 68.79% over current revenues of \$59,850. The Board FINDS the interim rate increase to be reasonable, in the public interest and in accordance with the law.

Finally, as noted, this interim rate relief is effective as of the date of this Order. Valley Road bills on a quarterly cycle in advance of service. The April 1, 2007, bills for service in April, May and June 2007 have not been issued to customers. The bills are expected to be mailed on or about the effective date of this Order and shall include the interim rate increase as adopted herein to be issued for services rendered from the effective date of this Order through June 30, 2007.

The Board's approval of the interim rate increase is subject to the following:

- a. Valley Road and the Receiver shall file tariff pages reflecting the interim rate increase charge as specified herein.
- b. Any charges resulting from this rate increase approval shall be interim in nature, subject to refund with interest, pending the results of the permanent rate relief proceeding.
- c. Any charges resulting from this interim 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 services.
- d. 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 beginning as of the effective date of this Order, and such reporting shall continue as long as Valley Road is in Receivership.

These interim rates shall be in effect for an initial six-month period, with a possible extension to be granted by the Board based upon a showing of continued need by either the existing Receiver or by AWWM if the transfer has been finalized.

The Board HEREBY ORDERS Valley Road to submit tariff pages reflecting the terms of this Order within (10) ten days from the effective date of this Order.

With regard to the fact that Tewksbury provided notice of public hearing for this matter via individual notices sent to each of Valley Road's customers, pursuant to N.J.A.C. 14:1-5.12(b), the Board FINDS said manner of notice to be appropriate and permissible.

Finally, the petition by the Receiver states that "Petitioner hereby seeks approval by the Board to increase its rates for sewer service on a permanent basis effective 30 days from the instant filing (sic)." The Receiver's request was made without any material argument or justification. Even if proper notice and an opportunity for hearing could be accomplished within the proposed timeframe, the circumstances presented fail to support circumventing an orderly notice and review by the Board and interested parties of the data needed prior to a rate becoming permanent. Given these deficiencies of the Receiver's request for permanent rate relief and in light of the fact that interim relief has been approved herein, the Board FINDS that the application for permanent rate relief is deficient and shall not be considered until such time as

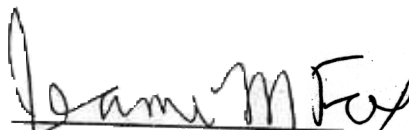
the Receiver submits appropriate, additional supporting information and documentation in accordance with N.J.S.A. 48:2-21 and N.J.A.C. 14:1-5.12.

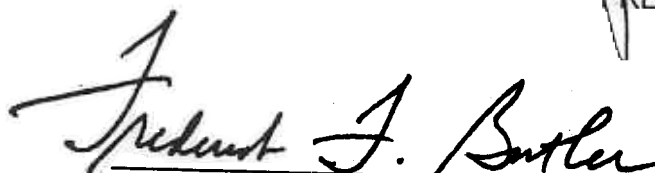
The effective date of this Order is as dated below:

DATED:

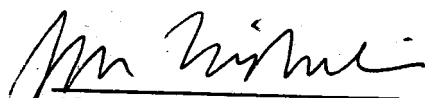
5/15/07

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PRESIDENT


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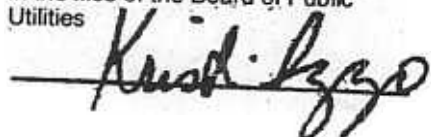

JOSEPH L. FIORDALISO
COMMISSIONER


CHRISTINE V. BATOR
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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