

DW 01-123

RESORT WASTE SERVICES, INC.

Transfer Of Control To MWH Preservation Limited Partnership

Order Approving Stipulation

O R D E R N O. 23,971

May 10, 2002

I. PROCEDURAL HISTORY

On June 6, 2001, Resort Waste Services, Inc. (Resort or the Company), filed a letter petitioning the New Hampshire Public Utilities Commission (Commission) for *nunc pro tunc* approval of a transfer of all Capacity Control Member rights and privileges from Satter Company of Bretton Woods to MWH Preservation Limited Partnership (MWH). The letter was in response to Commission's Audit Staff findings of March 30, 2000, and March 14, 2001, indicating deficiencies relating to the managerial and financial operation of the Company. These Audit Reports demonstrated that the Company failed to transfer Capacity Control membership rights and privileges from the previous owner to the MWH Preservation Limited Partnership.

On November 30, 2001, the Commission held a Prehearing Conference pursuant to an Order of Notice issued on November 7, 2001. Following the Prehearing Conference, the Company and Staff met in a Technical Session, where they agreed to a procedural schedule for this docket.

Subsequent to the Technical Session held on November 30, 2001, Staff filed a letter with the Commission on December 13, 2001, recommending that, due to problems with affirming the publication of the November 7, 2001 Order of Notice, the Company should be required to effect adequate notification and publication to afford any interested parties the opportunity to participate in the proceeding.

On December 14, 2001, the Company filed a Petition to Approve Transfer of Capacity Control Member Rights to MWH Preservation Limited Partnership.

The Commission issued a second Order of Notice on January 2, 2002, scheduling a second Prehearing Conference for January 24, 2002, and directing the Company to notify interested parties by publication, file an affidavit of publication with the Commission, and work with Staff to resubmit to the Commission a proposed Procedural Schedule. The Company filed its Affidavit of Publication on January 8, 2002.

A Prehearing Conference was held at the Commission on January 24, 2002. The Commission received no requests for intervention prior to or during the Prehearing Conference. During the Prehearing Conference, Staff and Resort agreed on a proposed Procedural Schedule for the remainder of the

investigation. On February 8, 2002, the Commission issued Order No. 23,918 approving the proposed schedule in this docket.

On April 23, 2002, a hearing was held at the Commission regarding this docket, and on April 26, 2002, Staff submitted a Stipulation entered into among the Company, MWH, and Staff.

II. TERMS OF THE 2002 STIPULATION

The Stipulation reached by the Parties and Staff in this docket constitutes their agreement and joint recommendation for the resolution of this docket. Key elements of the Stipulation include the acceptance of the technical, managerial, and financial expertise of MWH to operate a public utility in New Hampshire and the agreement of the Parties that the customers will not be adversely affected by the transfer and the transaction will not adversely affect the rates, terms, service or operation. The settlement also provides that MWH agrees to file within 90 days from the date of the Stipulation a petition to establish appropriate rates pursuant to RSA 378, and a request to expand its franchise territory.

III. COMMISSION ANALYSIS

This docket was initiated as a result of the failure of the Company to transfer all Capacity Control Member rights and privileges from Satter Company of Bretton Woods to MWH Preservation Limited Partnership and the Parties' desire to resolve the outstanding issues to the satisfaction of the Commission.

Based on a review of the Stipulation, the testimony of the Staff witness at the hearing held on April 23, 2002, and the joint recommendation of Staff and the Parties, we believe the Stipulation is in the public good. MWH has indicated that the rates, terms, service and operation of the company will not adversely affect ratepayers; that it has the technical, managerial and financial expertise to operate a public utility in New Hampshire; and that it will exercise its best efforts to uphold the public good standard. We believe that the ratepayers benefit by these terms. Thus, we find that the Stipulation is reasonable, adequately addresses the concerns of the Commission regarding the managerial expertise of the Company, and is in the public interest.

Based upon the foregoing, it is hereby

ORDERED, that the Stipulation entered into among the Company, MWH Preservation Limited Partnership, and Staff is

reasonable and in the public interest and is hereby APPROVED in its entirety; and it is

FURTHER ORDERED, that MWH shall file, within 90 days from the date of the Stipulation, a petition to establish appropriate rates pursuant to RSA 378; and it is

FURTHER ORDERED, that MWH will file, to the extent necessary, within 90 days from the date of the Stipulation and simultaneously with the petition ordered above, a request to expand its franchise territory.

By order of the Public Utilities Commission of New Hampshire this tenth day of May, 2002.

Thomas B. Getz
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary