



Agenda Date: 9/30/14
Agenda Item: 5C

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

WATER

IN THE MATTER OF THE PETITION OF UNITED)
WATER TOMS RIVER, INC. FOR APPROVAL TO SELL) ORDER
ITS ADMINISTRATIVE OFFICES AS A RESULT OF)
SUPERSTORM SANDY) DOCKET NO. WM14070708

Parties of Record:

Kelly Ruggiero, Esq., on behalf of United Water Toms River, Inc.
Stefanie A. Brand, Esq., Director, on behalf of the Division of Rate Counsel

BY THE BOARD:

On July 7, 2014, United Water Toms River, Inc. ("Petitioner" or "Company"), a public utility of the State of New Jersey, subject to the jurisdiction of the New Jersey Board of Public Utilities ("Board"), and serving approximately 50,000 customers in Toms River Township, the Borough of South Toms River and portions of the Townships of Berkeley and Brick, Ocean County, New Jersey, filed a petition pursuant to N.J.A.C. 14:1-5.6 seeking approval to sell certain property owned by the Company. The property being sold is known and designated as 510 Adafre Avenue, Block 566.01, Lot 16, as shown on the Tax Map of the Township of Toms River ("the property"). The property is also known as 15 Adafre Avenue.¹ The property was acquired by the Company's predecessor, Toms River Water Company, in 1969 and served as the main office for both Toms River Water Company and Petitioner. The property was rendered unusable due to flooding during Superstorm Sandy. The main floor and equipment of the property were destroyed. The building has been remediated, but the building has not been deemed safe to accommodate customer service functions.² The Board approved the Company's request to relocate its offices in I/M/O United Water Toms River Inc. for Approval of the Relocation of its Administrative Office from 15 Adafre Avenue, Toms River to 1451 Route 37 West, Toms River as a Result of the Destruction Caused by Superstorm Sandy (Docket No. WO13100884, February 19, 2014).

¹ Petition; Exhibit 2, Page 1 of 11.
² Petition; Exhibit 1, Page 3 of 6.

The Company has entered into an Agreement of Sale to sell the property to Servpro of Toms River & Point Pleasant ("Servpro"), 1332 Millennium Court, Toms River, NJ 08753. The Petitioner is requesting a waiver of the advertising requirements regarding the sale of utility property as set forth in N.J.A.C. 14:1-5.6 (b) because the property is being sold as a direct result of Superstorm Sandy. The property is being sold "as is".³ The total purchase price is \$550,000. The net book value of the property is \$621,425. The Company has proposed journal entries to account for the difference between the net book value of the property and the purchase price.⁴ The Petitioner states that the net effect of its proposed journal entries will be to lower rate base. The Petitioner further states that the Board's normal practice of 50/50 sharing losses and/or gains from the sale of property between ratepayers and shareholders will result in a higher rate base because the net book value exceeds the purchase price of the property.

The Staff of the Watershed Property Review Board ("WPRB") thoroughly investigated the property for sale, including reviewing an aerial photograph, relevant tax maps and conducting a site visit. The WPRB Staff determined that the property is located in the Toms River Coastal Regional Center of the Coastal Area Facility Review Act ("CAFRA") area. Therefore, the WPRB does not have jurisdiction over the property and Petitioner does not need to obtain an exemption from the WPRB prior to conveyance of the property.

As noted above the Petitioner is requesting a waiver of the advertising requirements regarding the sale of utility property pursuant to N.J.A.C. 14:1-5.6 (b). N.J.A.C. 14:1-5.6(i) states:

(i) Upon written request by a utility and in accordance with the general purposes and intent of this section, the Board shall grant said utility a waiver to the advertising requirement set out in (b) above if:

1. The waiver shall not adversely affect the public interest;
2. The subject property is no longer used or useful for utility purposes;
3. There is no prospective use of the property for utility purposes or no other likely prospective purchaser;
4. The sale of the property shall not affect the ability of the utility to render safe, adequate and proper service;
5. The selling price represents the fair market value of the property to be sold based on a current independent appraisal;
6. There is no relationship between the parties other than that of transferor and transferee, or lessor and lessee; and
7. The request states the reasons of the utility in seeking the waiver which may include, but are not limited, to the following:

³ Petition; Exhibit 2, Page 3 of 11.

⁴ Petition; Exhibit 5.

- i. The subject property is unique and requires an unusual sales contract or represents an unusual transaction;
- ii. The advertising and bidding shall not result in a higher sales price;
- iii. The advertising and bidding shall be detrimental to the sale of the property;
- iv. The unlikelihood of the existence of other bona fide purchasers who could meet the requirements of the proposed sales contract;
- v. The development of the property for private use will require extensive environmental permitting due to an existing contamination condition; and
- vi. The inability of any other bidder to obtain the necessary permitting authorization to develop the property.

Through the petition and discovery responses, the Company states that the property was advertised through a premier commercial agent that undertook advertising by mailing a copy of the marketing flyer to hundreds of prospective buyers. The Petitioner stated in response to discovery that its real estate agent also used a commercial multiple listing service known as "Loopnet" to market the property. The Petitioner further stated in response to discovery that there was no relationship between the Company and Servpro other than that of buyer and seller and that Servpro was an established local property, fire, water-cleanup and restoration company and was interested in purchasing the property to use as business offices and field management, inventory storage (cleaning supplies and equipment) and parking equipment in the existing yard where Petitioner parked its equipment/trucks, etc. Servpro has obtained the necessary zoning permits.

By letter dated September 17, 2014, the Division of Rate Counsel ("Rate Counsel") submitted comments in this matter. Rate Counsel stated that it does not object to Board approval of the sale of the property. Rate Counsel requested that the Board's approval be subject to conditions in order to assure the proper ratemaking treatment of the sale. Rate Counsel further requested that the Board note that the determination of any ratemaking impact from the sale be addressed in the Company's next rate proceeding.

The Board **HEREBY APPROVES** the waiver of the advertising requirements regarding the sales for the property as set forth in N.J.A.C. 14:1-5.6 (b). The property was rendered unusable due to flooding during Superstorm Sandy. The main floor and equipment of the property were destroyed and while the building has been remediated it has not been deemed safe to accommodate customer service functions. The property would require extensive rehabilitation, at considerable expense, in order to restore it to its former functions. The property is no longer used or useful in the provision of utility services. There is no relationship between Servpro and Petitioner. The agreed upon sales price is an arm's length transaction. It is unlikely that a higher sales price will be achieved or that another buyer will be found if the advertising provisions were not waived. The potential sale may not materialize if the advertising requirements are not waived. Finally, the Board **NOTES** that the nature of the Servpro's business is ideally suited to this building and this property and that Servpro has obtained the necessary local approvals. The Board further notes, that on review, Rate Counsel did not object to the sale of the property

nor did any party allege that the price was less than fair market value nor that the property was sold for less than the best price obtainable.

The Board, having reviewed the Petition and the entire record, **FINDS** that the sale of the property is consistent with In re Erie-Lackawanna Ry. Co., 75 P.U.R. 3d 246 (N.J. Bd. Of Pub. Util. Comm'rs 1968). The Board further **FINDS**, that the sales will not adversely affect the public interest, that the subject property is no longer useful for utility purposes and that there is no relationship between the buyer and the seller.

The Board, having reviewed the Petition and the entire record, **FINDS** that the sale of the property will not jeopardize the Company's ability to continue to render safe, adequate and proper utility service.

The Board further **FINDS** that the sale will not adversely affect the public interest, that the subject property is no longer useful for utility purposes, that the selling price is based on a reasonable attempt by Petitioner to market this Superstorm Sandy damaged property and that there is no relationship between Petitioner and Servpro. The Board further **FINDS** that the sales price is the best price obtainable and represents fair market value given the prior damage and current condition of the property.

The Board **HEREBY APPROVES** the sale and conveyance of the property and property interests as more fully described in the petition. The Board **HEREBY APPROVES** the Company's proposed journal entries. Having considered the magnitude of the transaction, the Board **HEREBY FINDS** that the sale of the property is in the public interest subject to the following conditions:


1. This Order is based upon the specific and particular facts of this transaction and shall not have precedential value in future land transactions that may come before the Board and shall not be relied on as such.
2. This Order shall not affect or in any way limit the exercise of the authority of the Board, or of the State, in any future petition, or in any proceeding with respect to rates, franchises, service, financing, accounting, capitalization, depreciation or in any matters affecting the Company.
3. This Order shall not be construed as directly or indirectly fixing for any purposes whatsoever any value of any tangible or intangible assets or liabilities now owned or hereafter to be owned by the Petitioner.
4. Within thirty (30) days of the date of the closing on this transaction, the Petitioner shall file with the Board proof of the closing, net transaction costs, and final journal entries along with a detailed calculation, including selling expenses, of the sale.

The Order shall be effective on October 10, 2014.

DATED: 9/30/14

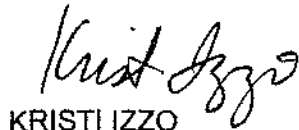
BOARD OF PUBLIC UTILITIES
BY:


DIANNE SOLOMON
PRESIDENT

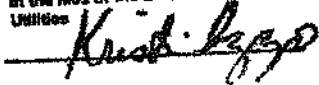

JOSEPH L. FIORDALISO
COMMISSIONER


MARY-ANNA HOLDEN
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 UNITED WATER TOMS RIVER, INC.
FOR APPROVAL TO SELL ITS ADMINISTRATIVE OFFICES AS A RESULT OF
SUPERSTORM SANDY**

DOCKET NO. WM14070708

SERVICE LIST

Kelly Ruggiero, Corporate Attorney
United Water Management & Services Inc.
200 Old Hook Road
Harrington Park, NJ 07640

Gary S. Prettyman, Senior Director –
Regulatory Business
United Water Management & Services Inc.
200 Old Hook Road
Harrington Park, NJ 07640

Stefanie A. Brand, Esq, Director
Division of Rate Counsel
140 East Front Street, 4th floor
Post Office Box 003
Trenton, NJ 08625-0003

Susan E. McClure, Esq.
Division of Rate Counsel
140 East Front Street, 4th floor
Post Office Box 003
Trenton, NJ 08625-0003

Christopher M. Psihoules
Deputy Attorney General
Department of Law and Public Safety
Division of Law
124 Halsey Street- 5th Floor
Post Office 45029
Newark, NJ 07101-45029

Maria L. Moran, Director
Division of Water
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Michael Kammer, Bureau Chief
Bureau of Rates
Division of Water
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Mona Mosser, Bureau Chief
Bureau of Conservation and Engineering
Division of Water
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Renee Good
Administrative Analyst II
Division of Water
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Yanina Lepore, Principal Engineer
Division of Water
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350