

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Consumers Ohio Water Company and the Village of Perry for Approval of the Sale of Water-works Facilities and the Substitution of the Service Provider.)) Case No. 97-479-WW-UNC))

ENTRY

The Commission finds:

- (1) On April 30, 1997, Consumers Ohio Water Company (Consumers) and the Village of Perry (Perry) filed a joint application with the Commission stating that Consumers and Perry have entered into an agreement whereby Perry will purchase the waterline system currently owned and operated by Consumers which is utilized to provide water service to the village. As a result of this transaction, Consumers requests to amend it Lake Erie East service territory (Certificate No. 36). Consumers is a public utility and waterworks company subject to the Commission's jurisdiction. The parties represent that Perry has entered into an agreement with Lake County whereby the county agrees to maintain and operate the water system to be acquired by Perry.

According to the joint applicants, the closing of the sale of the water system from Consumers to Perry, occurred on December 13, 1996. On that date, title was transferred from Consumers to Perry and Consumers terminated its provision of water to the village. Lake County then commenced the provision of water service for the village.

In support of the joint application, the applicants cite Section 4905.02(C), Revised Code, which states that public utilities owned and operated by municipal corporations are not subject to the Commission's jurisdiction.

- (2) The Commission agrees that Section 4905.02(C), Revised Code, exempts from the Commission's regulation those, "... public utilities that are owned and operated by any municipal corporation..." Therefore, the Commission finds that, since Perry is a municipal corporation, the Consumers' service territory now under ownership by Perry is exempt from Commission regulation.

- (3) In cases such as this, where a portion of a regulated utility's service area is transformed into a nonregulated one, the Commission has found that the cessation of service by the regulated utility, accompanied by the uninterrupted and satisfactory service by the nonregulated entity, is not tantamount to an abandonment of service and is not subject to Commission review under Sections 4905.20 and 4905.21, Revised Code. However, in such cases, the Commission has also found it appropriate to exercise its authority pursuant to Sections 4905.05 and 4905.06, Revised Code, to ensure that the proposed transfer results in uninterrupted and adequate service to the utility's existing customers. Accordingly, in order to protect the public interest, the Commission will exert jurisdiction to this extent over the transaction proposed in this case. See, *In the Matter of the Joint Application of Public Utility Service Corporation and the Board of Commissioners of Fairfield County to Remove Public Service Corporation from the Roll of Public Utilities Regulated by the Commission*, Case No. 87-1320-ST-UNC (September 9, 1987); *In the Matter of the Commission Investigation into the Operations and Service of Lake Erie Utilities Company*, Case No. 86-1561-WS-COI (October 18, 1988).
- (4) The Commission notes that the applicants have represented that the actual transaction between Consumers and Perry was consummated on December 13, 1996, prior to the filing of this application. In the future, the Commission directs Consumers to file such applications with the Commission prior to their enactment. Having thoroughly reviewed the record in this matter, the Commission concludes that the transaction should be approved. The Commission is satisfied that the operation of the pertinent portion of Consumers' service territory by Perry and Lake County will result in uninterrupted and satisfactory service to the utility's customers. Accordingly, the Commission concludes that the pertinent portion of Consumers' service area is no longer subject to the jurisdiction of the Commission, and that Certificate No. 36 and the related maps and tariff on file with the Commission should be modified accordingly by the company.
- (5) As a final matter, the Commission points out that Consumers' shall record the transfer in accordance with the uniform system of accounts as required by Chapter 4901:1-15, O.A.C.

It is, therefore,

ORDERED, That the transfer of the pertinent portion of Consumers' service territory to Perry is approved. It is, further,

ORDERED, That Consumers' adhere to the directives set forth in Findings (4) and (5). It is, further,

ORDERED, That Consumers' Certificate No. 36 and its associated map and tariff on file with the Commission should be modified accordingly by the company. It is, further,

ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Craig A. Glazer, Chairman

Jolynn Barry Butler

Ronda Hartman Fergus

David W. Johnson

Judith A. Jones

JSA/pdc