

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application to Cancel)	
the Certificate of Public Convenience and)	
Necessity of Copley Square Water Company)	Case No. 09-644-WW-UNC
and Substitute Service.)	
)	
In the Matter of the Application to Cancel)	
the Certificate of Public Convenience)	
and Necessity of Copley Square Sewer)	Case No. 09-645-ST-UNC
Company and Substitute Service.)	

FINDING AND ORDER

The Commission finds:

- (1) On July 27, 2009, Copley Square Water Company and Copley Square Sewer Company (Applicants or Copley Square) filed applications with the Commission stating that Copley Square and the City of Akron, Ohio (City or Akron) have entered into an agreement in which Applicants will transfer certain assets and all of their customer accounts and servicing to Akron. The Applicants are public utilities as defined in Section 4905.02, Revised Code. Copley Square Water Company is a waterworks company as defined in Sections 4905.03(A)(8), Revised Code, and Copley Square Sewer Company is a sewage disposal system company as defined in Section 4905.03(A)(14), Revised Code. As such, Applicants are subject to this Commission's jurisdiction under Sections 4905.04 through 4905.06, Revised Code, and hold certificates of public convenience and necessity numbers 09 and 37 respectively from the Commission. Akron is an Ohio municipal corporation and, as such, is an entity that does not fall within the statutory definition of a public utility regulated by the Commission.
- (2) According to the applications, Copley Square has made arrangements to transfer certain assets and all of its customer accounts and servicing to Akron. Copley Square provides water and sewer service to approximately 735 customers in Copley Township, Summit County, State of Ohio. The applications also indicate that water and sewer service to the customers shall be maintained and not diminished by the transfer to the City and that the transfer will be completed in a manner to enable the continuous, uninterrupted supply of water and sewer service to the

customers. Further stated in the applications is that the Ohio Environmental Protection Agency has requested these transfers.

- (3) In cases such as these, the Commission has found that the cessation of service by the regulated utility, accompanied by 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. Facilities of Copley Square are being taken over and will be operated by Akron. 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. 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 this 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); *In the Matter of the Application of Aqua Ohio, Inc. for Approval of the Sale of Certain Water Supply Facilities and Associated Operations to the City of Geneva Ohio, Modification of its Tariff and Certificate of Public Convenience and Necessity and other Appropriate Relief and Approvals*, Case No. 04-1685-WW-UNC (December 8, 2004). Accordingly, in order to protect the public interest, the Commission will exert jurisdiction to this limited extent over the transaction proposed in this case.
- (4) In order to ensure that all of Copley Square's customers have notice of the transfer of the water and sewer operations, the Commission finds that, within 30 days of the filing of this Finding and Order, Copley Square should provide notice to its current customers of the transfer of its water and sewer operations to Akron. The proposed customer notice shall be submitted to and approved by the Commission's Staff. Copley Square should file a copy of the approved notice in these dockets. In addition, within 30 days after the closing date for the transfer of Copley Square's water and sewer operations to Akron, Copley Square should file a letter in this docket informing the Commission that the transaction has been completed.

- (5) Having reviewed the record in these matters, the Commission is satisfied that Akron's operation of Copley Square's water and sewer operations in the affected area will result in uninterrupted and satisfactory service to the affected customers and that this transaction constitutes a substitution of service rather than an abandonment of service. Accordingly, the Commission finds that the applications should be approved, that Copley Square's tariffs should be canceled, and that Copley Square should be removed from the rolls of Commission-regulated utilities.

It is, therefore,

ORDERED, That the applications to transfer Copley Square Water Company and Copley Square Sewer Company facilities servicing Copley Township, Summit County, State of Ohio to the City of Akron be approved as set forth in this finding and order. It is, further,

ORDERED, That Copley Square's operating authority in Ohio is canceled and Copley Square be removed from the rolls of Commission-regulated public utilities effective with the filing in these dockets of notice of completion of transfer of service. It is, further,

ORDERED, That Copley Square's tariffs on file with the Commission are canceled effective with the filing in these dockets of notice of completion of transfer of service. It is, further,

ORDERED, That Copley Square notify its customers as set forth in this finding and order. It is, further,

ORDERED, That nothing in this finding and order shall be binding upon this Commission in any subsequent investigation or proceeding involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

ORDERED, That a copy of this finding and order be served upon Copley Square, its counsel, and all interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Alan R. Schriber, Chairman



Paul A. Centolella



Ronda Hartman Fergus



Valerie A. Lemmie

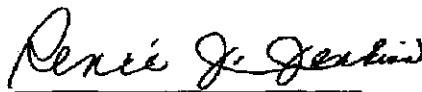


Cheryl L. Roberto

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Entered in the Journal

AUG 12 2000



Renee J. Jenkins
Secretary