

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

In Re: : Pursuant to the Insurance Company
: Mutual-to-Stock Conversion Act, Article
Application of Neffsville Mutual Fire : VIII-A of the Insurance Company Law of
Insurance Company Requesting Approval : 1921, Act of May 17, 1921, P.L. 682,
for a Mutual-to-Stock Conversion and : amended, added 1995, Dec. 21, P.L. 714,
Subsequent Merger with and into Old : as amended, 40 P.S. §§911-A et seq.;
Guard Insurance Company : Sections 1401, 1402, and 1403 of the
: Insurance Holding Companies Act, Article
: XIV of the Insurance Company Law of
: 1921, Act of May 17, 1921, P.L. 682, as
: amended, 40 P.S. §§991.1401-1403;
: Sections 1921 through 1929 of the
: Pennsylvania Business Corporation Law of
: 1988, 15 P.S. §§1921-1929; Sections 205
: and 207 of the GAA Amendments Act of
: 1990, Act of December 19, 1990, P.L. 834,
: No. 198, as amended, 15 P.S. §§21205 and
: 21207.
:
: Order No. ID-RC-03-21

DECISION AND ORDER

AND NOW, on this ___26th___ day of November, 2003, M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania (“Commissioner”), hereby makes the following Decision and Order:

Pursuant to the Insurance Company Mutual-to-Stock Conversion Act, the Insurance Holding Companies Act, the Business Corporation Law and in consideration of the documents, presentations and reports received, as well as other inquiries and studies as permitted by law, the Commissioner hereby makes the following findings of fact:

FINDINGS OF FACT

Identity of the Parties

1. Neffsville Mutual Fire Insurance Company (“Neffsville”) is a domestic mutual fire insurance company organized under the laws of the Commonwealth of Pennsylvania with its primary place of business in Lancaster, Pennsylvania.

2. Old Guard Insurance Company (“Old Guard”) is a domestic stock fire insurance company organized under the laws of the Commonwealth of Pennsylvania with its principal place of business in Lancaster, Pennsylvania.
3. Ohio Farmers Insurance Company (“Ohio Farmers”) is a stock casualty insurance company organized under the laws of the state of Ohio with its principal place of business located in Westfield Center, Ohio.
4. Neffsville and Old Guard are affiliated in that: (1) certain individuals are serving simultaneously on both Boards of Directors; and (2) Ohio Farmers is the sole ultimate controlling person of Neffsville and Old Guard.

The Filings

5. On March 14, 2003, the Insurance Department of the Commonwealth of Pennsylvania (“Department”) received an application (which together with all material received subsequently is hereinafter collectively referenced as “Application”) from Neffsville requesting approval to convert from the mutual to stock form (“the Conversion”) and immediately thereafter merge with and into Old Guard (“the Merger”).
6. The Insurance Company Mutual-To-Stock Conversion Act, 40 P.S. §§911-A et seq., as amended (the “Conversion Act”), provides that all plans of conversion of domestic mutual insurers must be filed with the Commissioner for approval or disapproval.
7. Section 917-A of the Conversion Act provides that a domestic mutual insurer may adopt an alternative plan of conversion if the Commissioner finds that the plan does not prejudice the interests of the policyholders, is fair and equitable, and is not inconsistent with the purpose and intent of the Conversion Act.
8. As specified in the Application, Neffsville proposes to convert from the mutual-to-stock form pursuant to Section 917-A of the Conversion Act.
9. The Insurance Holding Companies Act, Article XIV of the Insurance Corporation Law of 1921, Act of May 17, 1921, P.L. 682, as amended, 40 P.S. §§991.1401 et seq. (“Insurance Holding Companies Act”), provides that all mergers or other acquisitions of control of domestic insurers must be filed with the Commissioner for approval or disapproval.
10. Section 1402 (g) of the Insurance Holding Companies Act provides for exemption from the requirements of Section 1402:
 - (1) if the merger does not have the effect of changing or influencing the control of a domestic insurer, or

(2) if the transaction is otherwise not comprehended within the purposes of Section 1402.

11. The GAA Amendments Act of 1990, P.L. 834, No. 198, as amended, 15 P.S. §§21205 and §§21207 (“GAA Amendments Act”), provide that all plans of merger of domestic insurers must be filed with the Department for approval or disapproval.
12. The Application was filed with the Department pursuant to Section 1402(g) of the Insurance Holding Companies Act, Section 205 of the GAA Amendments Act and Section 803-A of the Conversion Act.

Department Procedures

13. On March 29, 2003, the Department published notice in the *Pennsylvania Bulletin* that the request for approval for a mutual-to-stock conversion was submitted by Neffsville, and such notice invited interested persons to submit comments to the Department regarding the mutual-to-stock conversion for a 30 day period (“the Conversion Comment Period”).
14. The Department received no comments regarding the proposed mutual-to-stock conversion during the Conversion Comment Period.
15. On April 26, 2003, the Department published notice in the *Pennsylvania Bulletin* that Neffsville submitted a request for approval to merge with and into Old Guard after the Conversion. Such notice invited interested persons to submit comments to the Department regarding the merger for a 15 day period (“the Merger Comment Period”).
16. The Department received no comments regarding the proposed merger during the Merger Comment Period.

Background

17. As specified in the Application, Neffsville has written no new insurance business since 1999.
18. As specified in the Application, Neffsville filed a plan of withdrawal with the Pennsylvania Insurance Department in January, 2000 (“the Plan of Withdrawal”).
19. As specified in the Application, as of December, 2001, in order to implement the Plan of Withdrawal all of the insurance policies written by Neffsville, with the exception of nine policies issued to the directors of the company in order to maintain viable mutual insurance company status (the “Qualifying Policies”), were properly converted or transferred from Neffsville.

Description of the Proposed Mutual-to-Stock Conversion

20. As specified in the Application, on December 10, 2002, by an affirmative vote of at least two-thirds of its members, the Board of Directors of Neffsville adopted a resolution approving a plan of conversion (“Plan of Conversion”).
21. As specified in the Application, each of the members of the Board of Directors of Neffsville that hold the Qualifying Policies (“the Eligible Members”) have provided:
 - a) Waiver of subscription rights, compensation or any other thing of value in connection with the mutual-to-stock conversion, and
 - b) Request for the termination of their respective policies as of the effective date of the transaction.
22. As specified in the Application, Neffsville shall send notice of a policyholders’ meeting to vote upon the Conversion to the Eligible Members upon receiving an approving determination by the Commissioner in the instant proceeding.
23. As specified in the Application, upon receiving the affirmative vote of at least two-thirds of the votes cast by the Eligible Members, Neffsville may convert to the stock form by completing the required filings with the Pennsylvania Department of State.
24. Based on the information contained in the Application, the Commissioner finds that the contemplated conversion of Neffsville would not prejudice the interests of the Eligible Members of Neffsville.
25. Based on the information contained in the Application, the Commissioner finds that the contemplated conversion of Neffsville is not inconsistent with the purpose and intent of the Conversion Act.

Description of the Proposed Acquisition

26. The 2002 Annual Statement of Neffsville reports \$1,004,472 in surplus as regards policyholders.
27. As specified in the Application, at the time of the Conversion, the existing surplus of Neffsville would be recorded as “unassigned funds.”
28. As specified in the Application, at the time of the Conversion Old Guard would acquire 10,000 shares of \$10.00 par value capital stock for \$15.00 per share (“the Acquisition”).
29. As specified in the Application, after the Conversion and Acquisition Neffsville would have \$100,000 of capital and \$50,000 of contributed surplus.

30. As specified in the Application, upon completion of the Conversion and Acquisition Neffsville would have the statutory minimum amounts of capital and contributed surplus required of a stock fire insurance company authorized to write the existing lines of authority currently held by Neffsville.
31. Based on the information contained in the Application, the Commissioner finds that the acquisition of Neffsville, after the Conversion, by Old Guard is an exempt acquisition under Section 1402(g) of the Insurance Holding Companies Act.

Description of the Proposed Merger

32. Neffsville and Old Guard executed a Plan of Merger dated as of December 10, 2002 (“Merger Agreement”) which provides for Neffsville to merge with and into Old Guard, with Old Guard being the surviving corporation.
33. As described in the Application, upon the effective date of the Merger each share of common stock of Neffsville issued and outstanding immediately prior to the effective date of the Merger would be cancelled.
34. As described in the Application, upon the effective date of the Merger each share of Old Guard common stock issued and outstanding immediately prior to the effective date of the Merger would continue to represent one issued share of common stock of Old Guard.
35. As described in the Application, the Articles of Incorporation and By-Laws of Old Guard in effect at the effective date of the Merger, would be the Articles of Incorporation and By-Laws of Old Guard after the Merger until properly altered, amended or repealed.
36. As described in the Application, the officers and directors of the Old Guard at the effective date of the Merger would be the officers and directors of Old Guard after the Merger.
37. As described in the Application, Old Guard would be responsible and liable for all the liabilities and obligations of Neffsville after the Merger.
38. As described in the Application, upon completion of the Merger, Ohio Farmers would continue to be the sole ultimate controlling person of Old Guard.
39. Based on the information contained in the Application, the Commissioner finds that the merger of Neffsville, after the Conversion, with and into Old Guard is in accordance with applicable law and is not injurious to policyholders and creditors of Neffsville.
40. If any of the above Findings of Fact are determined to be Conclusions of Law, they shall be incorporated in the Conclusions of Law as if fully set forth therein.

CONCLUSIONS OF LAW

1. The Conversion Act provides the Commissioner jurisdiction to review and approve the Plan of Conversion.
2. Section 913-A(e) of the Conversion Act states that the Commissioner may order a hearing on whether the terms of the Plan of Conversion comply with the Conversion Act after giving written notice to the mutual company and other interested persons, all of whom have the right to appear at the hearing.
3. The parties to the filing did not request a hearing, and, after review of the circumstances and documents relating to the Application, the Commissioner did not elect to conduct a hearing as a proper exercise of her statutory discretion.
4. As specified in the Application, all policies of Neffsville in force at the time of Conversion would continue in force, and the Conversion would not change, reduce or impair in any way the insurance obligations of Neffsville under any insurance policy issued or contract entered into by Neffsville.
5. In accordance with Section 917-A of the Conversion Act, the Commissioner concludes that the Conversion would not prejudice the interests of the Eligible Members.
6. In accordance with Section 917-A of the Conversion Act, the Commissioner concludes that the provisions of the Application are fair and equitable.
7. In accordance with Section 917-A of the Conversion Act, the Commissioner concludes that the Application is not inconsistent with the purpose and intent of the Conversion Act.
8. In accordance with Section 917-A(1) of the Conversion Act, the Commissioner concludes that the Application anticipates the merger of Neffsville with and into Old Guard.
9. As allowed by Section 918-A of the Conversion Act, the Conversion would become effective when the Eligible Members have approved the Plan of Conversion and adopted amended articles of incorporation and such amended articles of incorporation have been filed in the office of the Secretary of the Commonwealth.
10. The Insurance Holding Companies Act and the GAA Amendments Act of 1990 grant the Commissioner jurisdiction to review and approve the Merger.
11. Under Section 1402(g) of the Insurance Holding Companies Act, the Department shall exempt a merger from the requirements of Section 1402 if the merger does not have the effect of changing or influencing the control of a domestic insurer.

12. Pursuant to Section 1402(g) of the Insurance Holding Companies Act, the Commissioner concludes that the Merger would not change the ultimate controlling person of the parties to the Merger, and, therefore, is exempt from the filing requirements of the Insurance Holding Companies Act.
13. The Commissioner concludes that the Merger would be effective upon proper filing of Articles of Merger with the Department of State pursuant to Sections 1927 and 1928 of the 1988 BCL.
14. The Commissioner concludes that the Merger would be in accordance with applicable law and would not be injurious to the policyholders and creditors of Neffsville.
15. The Commissioner concludes that, if the Merger is consummated, all the property, franchises and liabilities of Neffsville would be conveyed to Old Guard, as a matter of law, pursuant to Section 1929 of the 1988 BCL.
16. The Commissioner concludes that the Application satisfies the requirements of the Conversion Act, the Insurance Holding Companies Act, the GAA Amendments Act and the Business Corporation Law.
17. If any of the above Conclusions of Law are determined to be Findings of Fact, they shall be incorporated in the Findings of Fact as if fully set forth therein.

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: 21207.
:
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ORDER

Upon consideration of the foregoing, M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania (“Commissioner”), hereby makes the following Order:

The Application of Neffsville Mutual Fire Insurance Company (“Neffsville”) for approval to convert from a mutual fire insurance company to a stock fire insurance company and to subsequently merge with and into Old Guard Insurance Company (“Old Guard”), as specified in the Application, is hereby granted, subject to this Order and the following conditions:

1. Neffsville shall submit for the Commissioner’s approval any changes to the Plan of Conversion.
2. Neffsville shall provide a copy of all final executed documents relative to the Conversion to the Commissioner within five (5) days of the effective date of the Conversion.

3. Neffsville shall effectuate the Conversion as contemplated in the Application no later than 120 days following the date of this Order.
4. Old Guard shall provide a copy of all final executed documents relative to the Merger to the Commissioner within five (5) days of the effective date of the merger.

This Order is effective immediately.

M. Diane Koken
Insurance Commissioner
Commonwealth of Pennsylvania