



Agenda Date: 12/18/13
Agenda Item: VB

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 AQUA NEW)
JERSEY, INC. FOR APPROVAL OF A MUNICIPAL)
CONSENT TO PROVIDE WATER SERVICE TO A)
PORTION OF THE TOWNSHIP OF WINSLOW AND)
OTHER REQUIRED APPROVALS) DOCKET NO. WE13050379

Parties of Record:

Colleen A. Foley, Esq., Saul Ewing, LLP, Newark, NJ for Petitioner
Stefanie A. Brand, Esq., Director, Division of Rate Counsel

BY THE BOARD:

In this matter, the Board of Public Utilities ("Board") considers a petition filed by Aqua New Jersey, Inc. ("Aqua" or "Company") for Board approval of a municipal grant by the Township of Winslow ("Winslow Township" or "Township") pursuant to N.J.S.A. 48:2-14 and N.J.A.C. 14:1-5.5, to construct and maintain water utility facilities and to provide water service within the Township.

BACKGROUND

Aqua New Jersey, Inc. ("Aqua" or "Company") is a regulated public utility corporation engaged in the production, treatment and distribution of water within its defined service territory within the State of New Jersey. Aqua provides water for retail service to approximately 50,900 customers in municipalities located in nine New Jersey counties divided into four divisions. On April 30, 2012, the Company petitioned Winslow Township for authority to provide water service within a limited area of the Township ("Franchise Area"). On October 23, 2012, the Township's governing body adopted Ordinance No. 0-2012-031, granting Aqua a franchise authorizing the Company to install, lay, construct, maintain, repair, replace and operate water service facilities within the franchise area for the purpose of providing water to that area. The municipal consent applies to a portion of the Township generally bounded by the Atlantic City Expressway, Berlin-Cross Keys Road and the boundary between Camden and Gloucester Counties that is contiguous with the Company's existing franchise area in Gloucester Township. The terms of

the municipal consent required Aqua to timely file the municipal consent and obtain Board approval.¹

On May 8, 2013, Aqua filed a petition with the Board requesting the Board's approval of the consent granted by Winslow Township in accordance with N.J.S.A. 48:2-14. According to the Petition, there is currently no public water or sewer service in the franchise area. The proposed franchise area is largely rural and undeveloped and it is isolated from the remainder of the Township by the Atlantic City Expressway. To the extent service is available in the proposed franchise area, it is provided by private wells and septic systems. Elsewhere in the Township, water service is provided by the municipality. However, the Township does not have the resources necessary to provide public water service to the proposed franchise area. The nearest Township water main is located approximately two miles from the proposed franchise area on the opposite side of the Atlantic City Expressway.

The Company will provide service to the proposed franchise area via an interconnection with its existing facilities in Gloucester Township by way of a 200 foot main extension.² Aqua has adequate capacity to service the proposed franchise area and the Company currently provides water service to several nearby communities including Gloucester Township, which is directly adjacent to the proposed franchise area. It is the Company's intention that the franchise area will be included in, and served by, Aqua's Southern Division office located in Blackwood, New Jersey. The Company also asserts that its employees are qualified and possess the expertise to operate and maintain these systems and facilities to enable the provision of safe, adequate and proper service. The Company represents that it will serve the new franchise area as part of its Southern System. The Southern System has a firm capacity of 8.355 million gallons per day ("MGD"), with a daily and committed demand of 4.5 MGD. Aqua asserts that the Southern System has sufficient capacity to serve the development by using 0.5 MGD of excess capacity for the proposed franchise area. It is estimated that the average domestic demand will be 35,000 gallons per day. The Company will charge for water service according to its current approved tariff. The Company plans to maintain the same level of service it provides in its current service territories, in the franchise area. Since there is limited development in the franchise area, the Company has no immediate plans to install water facilities but it intends to be ready to provide service when the need arises. The current tariffed rate that will apply to the new service territory is \$4.930 which includes the Purchased Water Adjustment Clause. There is also a tariffed fixed service charge of \$12.95 per month for a 5/8-inch meter.

The Company asserts that its request is in the public interest. It explains that the isolated location of the franchise area would make it costly and difficult for the Township to construct water facilities in the area, however, the Company could do so while bringing the benefits of its significant financial, technical and managerial resources to the franchise area.

On October 17, 2013, a duly noticed public hearing on the Company's petition was held at the Board's Trenton office. Board Staff Legal Specialist James Kane presided over the hearing at which representatives of the Company, the New Jersey Division of Rate Counsel ("Rate Counsel") and Board Staff appeared. No members of the public attended the hearing.

¹ Upon the expiration of time for Aqua to obtain Board approval without it doing so, the Township extended the Company's time to seek Board approval through the adoption of Resolution R-2013-180 on April 23, 2013. (Petition, Exhibit B).

² Wastewater service to the franchise area will be serviced by the Gloucester Township Municipal Utilities Authority in accordance with an intergovernmental agreement. (Company's response to Staff's data request SE-8).

On November 8, 2013, Rate Counsel submitted written comments concerning the Company's petition. In its comments, Rate Counsel indicated that it does not object to the Company providing service in the franchise area, and noted with approval that the terms of the municipal consent limit the use of streets to fifty years and require the Company to request a renewal of that right subject to Township and Board approval. However, Rate Counsel requests that approval of the Petition include certain restrictions which are incorporated into this order.

Pursuant to N.J.S.A. 48:2-14, the Board is statutorily required to approve a utility's franchise before it can be considered valid. The Board shall grant approval when, after hearing, it determines that the privilege or franchise is necessary and proper for the public convenience and properly conserves the public interests. In granting its approval, the Board is entitled to impose conditions as to construction, equipment, maintenance, service or operation that the public convenience and interests may reasonably require.

After a review of the record, the Board **HEREBY FINDS** that the municipal consent, which is the subject of this matter, is necessary and proper for the public convenience and properly conserves the public interests, and that Aqua will continue to have the ability to provide safe, adequate and proper service to its customers located in its designated service territories.

Based on the foregoing and a thorough review of the record to this proceeding, the Board **HEREBY APPROVES** the Township of Winslow Ordinance No. 0-2012-031 adopted on October 30, 2012, for the provision of water service in the franchise area within Winslow Township at the Company's then existing and approved tariff rates.

The approvals granted, hereinabove, shall be subject to the following provisions:

1. This Order shall not be construed as directly or indirectly fixing for any purposes whatsoever the value of any tangible or intangible assets now owned or hereafter to be owned by Aqua New Jersey Inc.
2. This Order shall not affect nor in any way limit the exercise of the authority of this Board or of this State in any future petition or in any proceedings with respect to rates, franchises, services, financing, accounting, capitalization, depreciation, or in any other matters affecting Aqua New Jersey, Inc.
3. As set forth in Ordinance No.0-2012-031, the term of the municipal consent, both to provide water service and for the use of streets and other places, is limited to 50 years³, without automatic renewal.
4. In an appropriate subsequent proceeding, the Company shall have the burden of demonstrating whether, and to what extent, any of the costs associated with this petition shall be allocated to ratepayers. Approval of this municipal consent does not include authorization to include in rate base the specific assets that are or will be completed as a result of the new service territory.


³ The municipal consent is set for 50 years as agreed between the township and Aqua, which is reasonable under the circumstances. The Board does not adopt any position set forth by any party purporting to address whether a term longer than 50 years is legally permissible.

5. Approval of this municipal consent ordinance does not constitute Board approval of any costs or expenses associated with this petition. Any determination as to the appropriateness or reasonableness of the costs and expenses related to the franchise, including, but not limited to, cost of construction, contributions in aid of construction, depreciation on contributed plant, the cost of connection, or any related capital improvements, and the allocation of such cost and expenses, shall be made in an appropriate subsequent proceeding.

This Order shall be effective on December 28, 2013.

DATED: 12/18/13

BOARD OF PUBLIC UTILITIES
BY:


ROBERT M. HANNA
PRESIDENT


JEANNE M. FOX
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER


MARY-ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
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



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MUNICIPAL CONSENT TO PROVIDE WATER SERVICE TO A PORTION OF THE
TOWNSHIP OF WINSLOW AND OTHER REQUIRED APPROVALS

BPU Docket No. WE13050379

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