



Agenda Date: 6/18/14  
Agenda Item: VC

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

WATER

IN THE MATTER OF THE PETITION OF UNITED )  
WATER ARLINGTON HILLS SEWERAGE, INC. FOR )  
APPROVAL OF A MUNICIPAL CONSENT TO )  
CONSTRUCT, INSTALL, OPERATE AND MAINTAIN A )  
SEWER SYSTEM FOR SHADOW WOODS, 500 )  
VALLEY ROAD AND 600 VALLEY ROAD, BLOCK 61, )  
LOTS 42.01, 42.02 AND 42.03 IN THE BOROUGH OF )  
MOUNT ARLINGTON, REMOVAL OF BLOCK 61, LOT )  
23.01 FROM THE SEWER FRANCHISE AREA IN THE )  
BOROUGH OF MOUNT ARLINGTON AND APPROVAL )  
OF THE ISSUANCE OF A REVISED TARIFF SHEET )  
SETTING FORTH UNITED WATER ARLINGTON HILLS )  
SEWERAGE, INC.'S REDUCED TERRITORY )  
PURSUANT TO N.J.S.A. 48:13-16 AND N.J.A.C. 14:1- )  
5.11 )

ORDER

DOCKET NO. WE13080716

**Parties of Record:**

**Nathaniel H. Yohalem, Esq.**, on behalf of United Water Arlington Hills Sewerage Inc.,  
Petitioner

**Stefanie A. Brand, Esq.**, Director, New Jersey Division of Rate Counsel

**BY THE BOARD:**

United Water Arlington Hills Sewerage Inc. ("Company" or "Petitioner") a wholly owned subsidiary of United Water Mid Atlantic Inc., a New Jersey corporation, is located in the Borough of Mount Arlington, Morris County, New Jersey. On August 9, 2013, the Company filed a petition with the New Jersey Board of Public Utilities ("Board") pursuant to N.J.S.A. 48:2-14 and N.J.S.A. 48:13-16, for approval of a Municipal Consent Ordinance No. 09-12 adopted on June 26, 2012, by the Borough of Mount Arlington ("Borough") to allow Petitioner to provide sewer service within portions of the Borough and allow the removal of Block 61, Lot 23.01 from the franchise area and approve a revised tariff to accommodate these changes as part of the Borough municipal consent.

The Borough encompasses approximately three (3) square miles and has a population of 5,050. The Company's sewer treatment plant serves a small area in the southern portion of the Borough and it is located just north of Interstate 80.

The Petitioner currently provides sewer service to approximately 592 residential customers and 28 business customers in the Borough. The proposed development will include 60 attached townhome units and ten single family homes known as the Residences at Shadow Woods. However, the ten single family homes are not part of the Town Wastewater Management Plan and will be served by individual and approved on-site septic systems. The 60 townhomes will be located on the Borough's Tax Map Block 61, Lot 42.03. The second component of the development will consist of 300 multi-family rental units in nine (9) separate buildings located on the Borough's Tax Map Block 61, Lots 42.01 & 42.02 and includes a Clubhouse ("Apartments"). On November 10, 2009, the Board approved through Docket No. WE07020084 ("November 10 Order") a municipal consent, Ordinance 02-08, which allowed the Petitioner to provide sewer service to Block 61, Lots 42.01, 42.02 and 42.03.

At the time the November 10 Order was approved, the developer intended to construct two office buildings with a flow capacity of 28,000 gallons per day ("gpd") rather than the Apartments. In this current Petition, the Apartments will require a flow capacity of 59,868 gpd. The change in usage, which includes a significant increase in capacity requirements, has prompted the need for this petition requesting sewer service for the Apartments.

On April 10, 2014, a duly noticed public hearing on the Company's petition was held at the Board's Trenton office. Legal Specialist, William Agee, Esq., presided over the hearing at which representatives of the Company, Division of Rate Counsel ("Rate Counsel") and the Board Staff appeared. No members of the public appeared at the hearing.

According to the petition, on June 26, 2012, the Borough adopted Ordinance 09-12 ("Ordinance") authorizing the removal of Block 61, Lot 23.01, an existing 125 room hotel ("Hotel") from the sewer franchise area of the Petitioner. The wastewater coming from the Hotel is treated in an on-site septic system which pre-dates the Petitioner's initial franchise for that property. Also, the owners of the property determined that the connection of the Property to the Petitioner's sewerage system is not necessary and is not in their best interest. The letter dated March 3, 2011 from Hospitality Ventures to the Mayor of the Borough expressed their desire to be removed from the Petitioner's franchise area because the on-site septic system is adequate.

The current sewer plant ("Plant") has a design capacity of 158,000 gpd while the disposal beds are rated to accept a maximum of 204,225 gpd. The Petitioner obtained New Jersey Pollution Discharge Elimination System Permit No. NJ0065226 to increase the Plant's capacity to match the disposal beds. The Treatment Works Approval Permit No. 13-0042 is needed to connect the Apartments to the Petitioner's Plant. The Plant's inflow is not measured but it is estimated to be an average inflow of 110,000 gallons per day. To accommodate the capacity requirements of this new development, the Plant will be upgraded by installing a new headwork system, an additional equalization tank and additional clarifiers and a denitrification unit at the end of the current treatment process.

The total cost for the proposed improvements to the Plant will be \$4,634,648. The projected revenues from the developer's projects at complete build out will be \$445,522 per year and the expenses will be \$115,000 per year. Consequently, the developer's maximum eligible refund amount is estimated at \$3,608,300.

The Petitioner's Plant was put in service in the late 1991. The existing Plant has a design life of 35 years and it is nearing the end of its useful life. The existing customers' sewer consumption is 115,000 gpd. According to the New Jersey Department of Environmental Protection ("NJDEP") flow criteria, the Apartments will require 59,868 gpd. The 60 townhomes will require a capacity of 18,000 gpd. The Plant's deficiencies resulted in exceeding the daily maximum flow limit of 158,000 gallons during monitoring periods of August 2011 at 214,144 gallons and November 2012 at 165,878 gallons. Therefore, the existing Plant exceeded the NJDEP permitted flow capacity. The Petitioner proposes that the existing Plant's capacity needs to be expanded in order to handle the sewer flow coming from the developer's projects. As per the Restated Developer's Agreement ("Agreement"), dated July 10, 2013, the projected cost to upgrade the existing Plant will be \$4,600,000.<sup>1</sup> However, the upgrades to the Plant will not be enough to alleviate the deteriorating status of the Plant and the Petitioner had acknowledged that the Plant will eventually require replacement or an upgrade and will need to be addressed prior to that time. The estimated cost to replace the Plant will be approximately \$6,840,000.

The reduction of the Company's sewer service territory by removing the Hotel and the increased capacity requirements of the Apartments will not impose any negative impact on current customers and will not cause any adverse consequences on these. Also, the Company's ability to provide safe, adequate and proper service will not be compromised. In fact, the Company has requested the Hotel's removal in order to free up capacity to serve other customers. The Petitioner currently operates a sewer system in the Borough. The Company will handle any emergencies with a 24/7 response capacity.

The new customers will be charged for service at the Petitioner's existing rates for sewer service as set forth in its Board approved tariff. The sewer billing is based on customer's water consumption, since the sewer usage is not metered. The residential customer will be billed bi-monthly at a consumption charge of \$11.239 per 1,000 gallons of water meter registration along with a bi-monthly facility charge of \$64.78 for a 5/8 inch size meter.

Any required costs of connecting the townhomes and Apartments to the Petitioner's system will be paid by the developer. The Petitioner's current ratepayers will see no increase in rates due to the costs associated with the system's expansion. To the extent a refundable deposit and an applicable tax gross up is collected, refunds will include the applicable tax gross up amount and will be given in accordance with provisions under Extensions to Provide Regulated Services, N.J.A.C. 14:3-8.1, et seq.

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<sup>1</sup> On June 11, 2014 Staff was notified by the Petitioner that the developer is in receipt of bids for this project and is engaged in negotiations. The preliminary bids indicate the actual costs may go up to approximately \$5,400,000. The Petitioner further indicated that this would affect the developer, but not the refunds, since the refunds are solely based on revenue not cost. Staff disagrees with the Petitioner on this point as the maximum refund is capped at the developer's cost. However, in this case the revenues are expected to be significantly below the original expected cost and therefore the cap would not be relevant. Additionally, the Petitioner notified Staff that the developer requested authorization from UWNJ to assign all rights and obligations to new entities. This does not change the Agreement, which allows for such assignment upon written approval by UWNJ, which was granted via email dated June 9, 2014 and accepted by the developer via email dated June 10, 2014.

By letter dated May 22, 2014, Rate Counsel submitted its comments to the petition and is not opposed to its approval.<sup>2</sup> Rate Counsel recommends that any approval not include authorization for the specific assets that will be constructed as a result of approval of this Petition for inclusion in rate base. The determination of any assets to be included in rate base and the ratemaking impact of serving these new customers should be addressed in a future base rate proceeding. Rate Counsel further recommended the inclusion of specific language in any Board Order approving the petition which is incorporated in the provisions section.

Rate Counsel is also concerned about the path being pursued in the Agreement, specifically, an "upgrade" that does not fix the deteriorating status of the current plant. It will likely not be the most cost effective option for ratepayers in the long run. The Plant will eventually require upgrades and/or replacement that likely will render a significant portion of the developer's upgrade no longer used and useful. Rate Counsel has informed the Company of its concerns and the potential rate risk for the Company in a future base rate proceeding. This issue will be relevant when there is an examination of these expenses in the Company's next rate case.

Based on the foregoing and a thorough review of the record in this proceeding, the Board **HEREBY APPROVES** the Municipal Consent, the Ordinance, granted to United Water Arlington Hills Sewerage, Inc. by the Borough of Mount Arlington. The Board **FURTHER APPROVES** the use of United Water Arlington Hills Sewerage's existing sewer tariff applicable in the new service territory and the tariff is amended to remove Block 61, Lot 23.01 from the Petitioner's franchise area.

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 the Company.
2. This Order shall not effect nor in any way limit the exercise of the authority of this Board or of this State, in any future petition or in any future proceeding, with respect to rates, franchise, services, financing, accounting, capitalization, depreciation or in any other matters affecting the Company.
3. 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, including a review of whether the costs associated with the upgrade are prudent relative to whether such upgrades continue to be used and useful. 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.
4. Approval of this municipal consent does not constitute approval by the Board 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

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<sup>2</sup> Via email dated June 12, 2014, Rate Counsel indicated it's concurrence with the Petitioner's update of June 11, 2014 regarding potentially increasing project costs and the assignment of all rights and obligations to new entities, specifically a joint venture partnership with Woodmont Properties.

construction, depreciation of contributed plant, the cost of connection or any related capital improvements, and the allocation of such costs and expenses, shall be made in an appropriate subsequent proceeding.

5. Approval of this municipal consent does not constitute approval of any specific main extension or plan for service. In extending service, United Water Arlington Hills Sewerage Inc. must comply with all applicable laws.

This Order shall be effective on June 28, 2014.

DATED: 6/18/14

BOARD OF PUBLIC UTILITIES  
BY:

  
DIANNE SOLOMON  
PRESIDENT

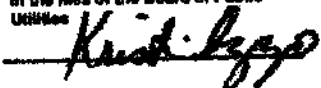
  
JEANNE M. FOX  
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COMMISSIONER

  
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 ARLINGTON HILLS SEWERAGE, INC. FOR APPROVAL OF A MUNICIPAL CONSENT TO CONSTRUCT, INSTALL, OPERATE AND MAINTAIN A SEWER SYSTEM FOR SHADOW WOODS, 500 VALLEY ROAD AND 600 VALLEY ROAD, BLOCK 61, LOTS 42.01, 42.02 AND 42.03 IN THE BOROUGH OF MOUNT ARLINGTON, REMOVAL OF BLOCK 61, LOT 23.01 FROM THE SEWER FRANCHISE AREA IN THE BOROUGH OF MOUNT ARLINGTON AND APPROVAL OF THE ISSUANCE OF A REVISED TARIFF SHEET SETTING FORTH UNITED WATER ARLINGTON HILLS SEWERAGE, INC.'S REDUCED TERRITORY PURSUANT TO N.J.S.A. 48:13-16 AND N.J.A.C. 14:1-5.11  
DOCKET NO. WE13080716

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