



Agenda Date: 10/16/13
Agenda Item: 5A

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 NEW)
JERSEY-AMERICAN WATER COMPANY, INC. FOR)
APPROVAL OF MUNICIPAL CONSENT GRANTED BY)
THE TOWNSHIP OF LIVINGSTON, COUNTY OF)
ESSEX) DOCKET NO. WE13040330

Parties of Record:

Jordan S. Mersky, Deputy General Counsel for New Jersey-American Water Company Inc.,
Petitioner
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

New Jersey-American Water Company, Inc. (“NJAWC” or “Company”) is a regulated public utility corporation engaged in the production, treatment and distribution of water and collection of sewage within its defined service territory within the State of New Jersey. Said service territory includes portions of the following counties: Atlantic, Bergen, Burlington, Camden, Cape May, Essex, Gloucester, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Salem, Somerset, Union and Warren.

On April 18, 2013, the Company filed a Petition with the New Jersey Board of Public Utilities (“Board”) pursuant to N.J.S.A. 48:2-14, N.J.S.A. 48:3-11 to 15, N.J.S.A. 48:19-17 and 20 and N.J.A.C. 14:1-5.5 for approval of a Municipal Consent Ordinance No. 12-2012 adopted on June 4, 2012, by the Township of Livingston (“Township”) to allow NJAWC to construct, lay, maintain and operate the necessary mains, pipes and appurtenances for the rendering of water services on property located in the Township (“proposed franchise area”).

On August 27, 2013, a duly noticed public hearing on the Company’s Petition was held at the Board’s Trenton office. Legal Specialist, James Kane, Esq., presided over the hearing at which representatives of the Company, Division of Rate Counsel (“Rate Counsel”) and Board Staff appeared. No members of the public appeared at the hearing.

The proposed franchise area consists of one lot of vacant land along White Oak Ridge Road and South Orange Avenue also referred to as Block 7001, Lot 1.01. The property is located within the R-1 zone of the Township, which allows a variety of residential, light commercial and rural uses, including planned unit developments. The developer, TMB Partners LLC, proposes to develop the property with a total of 62 units, including 3 one bedroom units, 56 two bedroom units and 3 three bedroom units.

According to the petition, the expansion of the Company's service territory will not impose any negative impact on current customers and will not cause any adverse consequences on these customers or the Company's ability to provide safe, adequate and proper service. NJAWC's will service the system by extending its current water distribution system in Millburn, New Jersey. The Company currently provides wholesale water service to the Township.

The Company represents that it will serve the Township as part of its Passaic Basin System. The Passaic Basin System has a firm capacity of 65.8 million gallons per day ("MGD"), with a daily and committed demand of 56.309 MGD. NJAWC asserts that the Passaic Basin System has sufficient capacity to serve the development by using 9.491 MGD of excess capacity for the proposed franchise area. It is estimated that the average domestic demand will be 10,970 gallons per day. The Company will charge for water service according to its current approved tariff.

Livingston Township operates a water utility that provides service within the Livingston municipal boundaries. The Township does not currently have enough capacity to serve any new development. Wastewater service will be provided by the Joint Meeting of Essex and Union ("Joint Meeting"). The Joint Meeting owns and operates the Edward P. Decher Secondary Wastewater Treatment Facility located in Elizabeth, New Jersey.

NJAWC has agreed with the Township to a franchise term of one hundred years with an automatic one hundred year renewal with a one year opt out right of the Township in year 98-99 of the franchise term. NJAWC has also agreed with the Township to a term of fifty years for use of the streets within the Township.

The Petitioner proposes to use its current Rate Schedule A-1. The current rate per thousand gallons is \$6.34, which includes the Purchased Water Adjustment Clause charge. There is also a tariffed fixed service charge of \$10.60 per month for a 5/8-inch meter.

By letter dated September 27, 2013, Rate Counsel submitted its comments to the petition and stated that it is not opposed to its approval. Rate Counsel recommends that the Board condition its approval on limitation of the municipal consent to a reasonable period not exceeding fifty years. The Board acknowledges Rate Counsel's recommendations; however, Ordinance 12-2012 adopted by the Township purports to provide municipal consent for water service for 100 years with an automatic 100 year extension.

The Board has reviewed Rate Counsel's recommendations and has determined not to limit the term of the municipal consent to operate in the franchise area.

Based on the foregoing and a thorough review of the record to this proceeding, the Board **HEREBY APPROVES** the Municipal Consent, Ordinance No. 12-2012 dated June 4, 2012, granted to New Jersey-American Water Company, Inc. by the Township of Livingston. The Board **FURTHER APPROVES** the use of New Jersey-American Water Company, Inc.'s existing water tariff applicable in the new service territory.

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. 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 construction, depreciation on 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, NJAWC must comply with all applicable laws.
6. As set forth in Ordinance 12-2012, the municipal consent for the use of streets is limited to a reasonable term not to exceed 50 years.

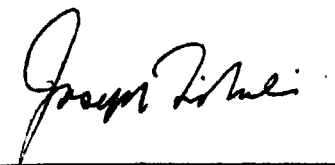
This Order shall be effective on October 26, 2013.

DATED: 10/21/13

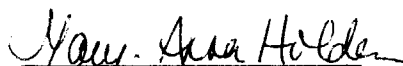
BOARD OF PUBLIC UTILITIES
BY:



ROBERT M. HANNA
PRESIDENT



JOSEPH L. FIORDALISO
COMMISSIONER



MARYANNA HOLDEN
COMMISSIONER




DIANNE SOLOMON
COMMISSIONER

DISSENT BY COMMISSIONER JEANNE M. FOX

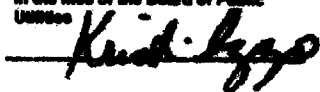
I have concerns regarding the approval of a utility franchise for 100 years. I believe that Rate Counsel's arguments are persuasive and that we should limit the terms of this utility franchise. Municipal grants for the use of the streets are explicitly limited to fifty years pursuant to N.J.S.A. 48:3-15. Since the utility will have to renew its use of the streets approval in fifty years, I believe it is in the public interest and good public policy to also review the terms of the utility franchise at that time. Because I am concerned about the length of the utility franchise for 100 years, I dissent from the Board's decision.


JEANNE M. FOX
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 NEW JERSEY-AMERICAN WATER COMPANY, INC.
FOR APPROVAL OF MUNICIPAL CONSENT GRANTED BY THE TOWNSHIP OF
LIVINGSTON, COUNTY OF ESSEX
DOCKET NO. WE13040330

SERVICE LIST

<p>Jordan S. Mersky Deputy General Counsel New Jersey-American Water Company, Inc. 1025 Laurel Oak Road Voorhees, NJ 08043</p> <p>Stefanie A. Brand, Esq., Director Division of Rate Counsel 140 Front Street, 4th Floor Post Office Box 003 Trenton, NJ 08625-0003</p> <p>Susan McClure, Esq. Division of Rate Counsel 140 Front Street, 4th Floor Post Office Box 003 Trenton, NJ 08625-0003</p> <p>Geoffrey Gersten, DAG Department of Law & Public Safety Division of Law 124 Halsey Street Post Office Box 45029 Newark, NJ 07101-45029</p> <p>Jennifer Hsia, DAG Department of Law & Public Safety Division of Law 124 Halsey Street Post Office Box 45029 Newark, NJ 07101-45029</p>	<p>Maria Moran, Director Division of Water Board of Public Utilities 44 South Clinton Avenue, 9th Floor Post Office Box 350 Trenton, NJ 08625-0350</p> <p>Mona Mosser, Chief Division of Water Board of Public Utilities 44 South Clinton Avenue, 9th Floor Post Office Box 350 Trenton, NJ 08625-0350</p> <p>Rupal Patel Division of Water Board of Public Utilities 44 South Clinton Avenue, 9th Floor Post Office Box 350 Trenton, NJ 08625-0350</p>
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