



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 1<sup>st</sup> Floor  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

WATER

IN THE MATTER OF THE PETITION OF NEW )  
JERSEY-AMERICAN WATER COMPANY, INC. FOR )  
APPROVAL OF THE MUNICIPAL CONSENT )  
GRANTED BY THE CITY OF SALEM, SALEM )  
COUNTY ) DOCKET NO. WE23120922

**Parties of Record:**

**Stephen R. Bishop, V.P. Managing General Counsel & Secretary**, New Jersey American Water Company, Inc.

**Brian O. Lipman, Esq., Director**, New Jersey Division of Rate Counsel

BY THE BOARD:<sup>1</sup>

By this decision and Order, the New Jersey Board of Public Utilities (“Board”) considers a petition filed by New Jersey-American Water Company, Inc. (“NJAWC” or “Company”) on December 28, 2023, pursuant to N.J.S.A. 48:2-14 and N.J.A.C. 14:1-5.5, for approval of a municipal consent granted by the City of Salem (“City” or “Salem”) on December 18, 2023 via Ordinance No. 23-16<sup>2</sup> (“Municipal Consent”) granting the Company authority to provide water and wastewater services throughout the City (“Petition”).

**BACKGROUND**

NJAWC is a regulated public utility corporation engaged in the production, treatment, and distribution of water and the collection and treatment of wastewater within its defined service territory within the State of New Jersey. The Company’s service territory includes portions of Atlantic, Bergen, Burlington, Camden, Cape May Essex, Gloucester, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Salem, Somerset, Union, and Warren counties.

Salem encompasses approximately 2.34 square miles and has a population of approximately 5,324 people. The City currently owns and operates the water and wastewater systems that service its residents and property owners (“Systems”) and comprise the franchise area granted to NJAWC by the Municipal Consent (“Proposed Franchise Area”). The Systems serve

---

<sup>1</sup> Commissioner Michael Bange is recused from this matter.

<sup>2</sup> A copy of the Ordinance is attached to this Order as Exhibit “A”.

approximately 2,309 connections in the City and provide water service to portions of the neighboring townships of Mannington and Quinton.<sup>3</sup>

## **PETITION**

By the Petition, NJAWC sought approval of the Municipal Consent which grants the Company a franchise to provide water and wastewater services to the City in the Proposed Franchise Area. By the Municipal Consent, the City permitted the Company to construct, lay, maintain, and operate the necessary water and wastewater mains, pipes, and appurtenances throughout the geographical area of the City and to provide water and wastewater services to the City.

By the Petition, the Company noted that the Municipal Consent was part of a sale process conducted in compliance with, and pursuant to, procedures set forth in N.J.S.A. 40:62-3. Following evaluation NJAWC's bid, the City awarded the contract to NJAWC, subject to approval by the City's voters, via referendum, and the Board. On November 7, 2023, pursuant to N.J.S.A. 40:62-5, the City held a referendum on whether to approve NJAWC's acquisition of the Systems, whereby the voters approved the referendum.

By the Petition, NJAWC noted that it only seeks Board approval of the Municipal Consent. The Company is not, at this time, seeking any ratemaking treatment relative to the Systems. NJAWC will seek ratemaking treatment for the Systems as part of a future base rate proceeding in a separate docket.

On April 9, 2024, the Board held a duly noticed virtual public hearing on the Petition, presided over by Michael Hunter, Regulatory Officer. Representatives from the Company, the New Jersey Division of Rate Counsel ("Rate Counsel"), and Board Staff ("Staff") appeared. No members of the public attended and the Board received no written public comments in this matter.

By letter dated April 16, 2024, Rate Counsel submitted comments on the Petition noting that, subject to certain conditions, it did not oppose the request for approval of the Municipal Consent. Rate Counsel recommended that the Board modify the term of the Municipal Consent to be limited to 50 years for the specific authorization to provide wastewater service and to access public streets and places within the Township. Rate Counsel also recommended that the Board condition its approval on the requirement that transaction costs cannot be recovered in rates; namely, that there be no authorization to include any specific assets or amounts in rate base, or authorization for any other ratemaking treatment.

## **DISCUSSION AND FINDINGS**

No municipality or other political subdivision of the State may grant a privilege or franchise to any public utility unless approved by the Board. N.J.S.A. 48:2-14. The Board should grant approval when, after hearing, the Board determines the franchise is necessary and proper for the public convenience and properly conserves the interests of the public. Ibid. The Board may impose conditions on its approval as the public convenience and interest may require. Ibid.

---

<sup>3</sup> The townships of Quinton and Mannington are in the process of granting municipal consents to NJAWC, to then be approved by the Board in separate dockets, to continue providing water service to those customers currently being served by the Systems. By agreement, which NJAWC will assume upon approval of the Municipal Consent, the City currently accepts wastewater flow from Quinton and maintains Quinton's wastewater lift station.

The Board, having reviewed the Petition and the entire record in this matter, **HEREBY FINDS** the Municipal Consent is necessary and proper for the public convenience and properly conserves the public interest.

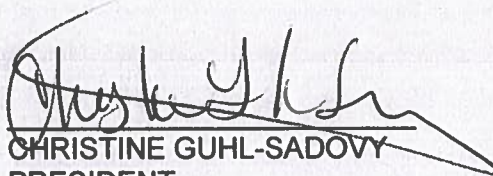
Accordingly, the Board **HEREBY APPROVES** the Municipal Consent and the expansion of NJAWC's service territory to include the customers in the Proposed Franchise Area. The Board **FURTHER FINDS** that the Company has the ability to provide safe, adequate, and proper service in the Proposed Franchise Area. The approvals granted hereinabove shall be subject to the following provisions:

1. This Order shall not affect or in any way limit the exercise of the authority of the Board, or of the State, with regard to any future petition or in any proceeding with respect to rates, franchises, service, financing, accounting, capitalization, depreciation, or in any matter affecting the Company.
2. This Order shall not be construed as directly or indirectly fixing, for any purposes whatsoever, any value of any tangible or intangible assets or liabilities now owned or hereafter to be owned by the Company.
3. NJAWC shall not depreciate any portion of the Systems that are funded by Contributions in Aid of Construction.
4. This Order applies only to the approval of the Municipal Consent and shall not be construed as approving any ratemaking issues.
5. Pursuant to N.J.S.A. 48:3-15, the Municipal Consent for the use of streets is limited to a term of 50 years.
6. Approval of this Municipal Consent does not constitute approval by the Board of any costs or expenses associated with the 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 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.
7. Approval of the Municipal Consent does not constitute approval of any specific main extension or plan for service. In extending service, the Company must comply with all applicable laws.
8. Staff is authorized to approve, subject to comments filed by Rate Counsel, any written request by the Company for additional time to comply with any applicable terms above.

This Order shall be effective on May 29, 2024.

DATED: May 22, 2024

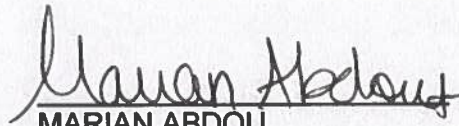
BOARD OF PUBLIC UTILITIES  
BY:




CHRISTINE GUHL-SADOVY  
PRESIDENT



DR. ZENON CHRISTODOULOU  
COMMISSIONER



MARIAN ABDOU  
COMMISSIONER

ATTEST:   
SHERRI L. GOLDEN  
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 THE MUNICIPAL CONSENT GRANTED BY THE CITY OF SALEM, SALEM COUNTY

DOCKET NO. WE23120922

SERVICE LIST

**New Jersey-American Water Company, Inc.**

One Water Street  
Camden, NJ 08102

Stephen R. Bishop, Esq.  
V.P. Managing General Counsel & Secretary  
[stephen.bishop@amwater.com](mailto:stephen.bishop@amwater.com)

Jamie Hawn, Director Rates & Regulatory  
[john.tomac@amwater.com](mailto:john.tomac@amwater.com)

Donna L. Carney, Principal Paralegal  
[donna.carney@amwater.com](mailto:donna.carney@amwater.com)

**Division of Rate Counsel**  
140 East Front Street, 4<sup>th</sup> Floor  
Trenton, NJ 08625-0003

Brian Lipman, Esq., Director  
[blipman@rpa.nj.gov](mailto:blipman@rpa.nj.gov)

Susan McClure, Esq.  
[smcclure@rpa.nj.gov](mailto:smcclure@rpa.nj.gov)

Christine Juarez, Esq.  
[cjuarez@rpa.nj.gov](mailto:cjuarez@rpa.nj.gov)

Emily Lam, Esq.  
[elam@rpa.nj.gov](mailto:elam@rpa.nj.gov)

Felecia, Jackson-Rodgers  
[frodgers@rpa.nj.gov](mailto:frodgers@rpa.nj.gov)

**Board of Public Utilities**

44 South Clinton Avenue, 1<sup>st</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Sherri L. Golden, Board Secretary  
[board.secretary@bpu.nj.gov](mailto:board.secretary@bpu.nj.gov)

Stacy Peterson, Deputy Executive Director  
[stacy.peterson@bpu.nj.gov](mailto:stacy.peterson@bpu.nj.gov)

Division of Engineering

Dean Taklif, Director  
[Dean.taklif@bpu.nj.gov](mailto:Dean.taklif@bpu.nj.gov)

Rupal Patel  
[rupal.patel@bpu.nj.gov](mailto:rupal.patel@bpu.nj.gov)

Counsel's Office

Michael Beck, General Counsel  
[michael.beck@bpu.nj.gov](mailto:michael.beck@bpu.nj.gov)

Carol Artale, Deputy General Counsel  
[carol.artale@bpu.nj.gov](mailto:carol.artale@bpu.nj.gov)

Michael Hunter, Regulatory Officer  
[michael.hunter@bpu.nj.gov](mailto:michael.hunter@bpu.nj.gov)

**Division of Law**

R.J. Hughes Justice Complex, 7<sup>th</sup> Floor  
25 Market Street, P.O. Box 112  
Trenton, N.J. 08625

Pamela L. Owen, Assistant Section Chief, DAG  
[pamela.owen@law.njoag.gov](mailto:pamela.owen@law.njoag.gov)

Meliha Arnautovic, DAG  
[melih.arnautovic@law.njoag.gov](mailto:melih.arnautovic@law.njoag.gov)

Terel Klein, DAG  
[terel.klein@law.njoag.gov](mailto:terel.klein@law.njoag.gov)

Brandon Simmons, DAG  
[brandon.simmons@law.njoag.gov](mailto:brandon.simmons@law.njoag.gov)

Exhibit A

Exhibit A  
Page 1 of 3

**CITY OF SALEM  
ORDINANCE 23-16**

**AN ORDINANCE GRANTING CONSENT AND PERMISSION TO NEW JERSEY-AMERICAN WATER COMPANY, INC. TO FURNISH WATER AND WASTEWATER SERVICE IN THE CITY OF SALEM, NEW JERSEY**

**WHEREAS**, New Jersey-American Water Company, Inc. (“New Jersey-American Water”) is in the process of acquiring the water and wastewater systems (the “Systems”) currently owned and operated by the City of Salem, New Jersey (the “City”), subject to regulatory approvals; and

**WHEREAS**, the City is desirous of having New Jersey-American Water acquire the Systems; and

**WHEREAS**, New Jersey-American Water is a regulated public utility corporation of the State of New Jersey presently seeking the municipal consent of the City to permit New Jersey-American Water to provide water and wastewater service through the Systems; and

**WHEREAS**, New Jersey-American Water has requested the consent of the City as required by N.J.S.A. 48:19-17 and 48:19-20, as amended, to lay its pipes beneath and restore such public roads, streets and places as it may deem necessary for its corporate purposes, free from all charges to be made for said privilege (except that fees for road opening permits shall be paid), provided that all said pipes installed after the date of this ordinance shall be laid at least three feet (3’) below the surface and shall not in any way unnecessarily obstruct or interfere with the public travel or cause or permit other than temporary damage to public or private property; and

**WHEREAS**, it is deemed to be in the best interests of the citizens of the City to provide this consent; and

**WHEREAS**, the Mayor and Council of the City have concluded that granting of said consent shall enhance the health, safety and welfare of the citizens of the City.

**NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY AS FOLLOWS:**

Section 1. That exclusive and perpetual consent and permission to furnish water and wastewater service to the City and all residents, businesses and government buildings therein is hereby given and granted to New Jersey-American Water, its successors and assigns, subject to approval of such consent and permission by the Board of Public Utilities of the State of New Jersey.

Section 2. That exclusive consent and permission is given to New Jersey-American Water, its successors and assigns, under the provisions of N.J.S.A. 48:19-17 and N.J.S.A. 48:19-20, as amended, without charge therefore, (except fees for road opening permits which shall be paid) as the same may be required in order to permit New Jersey American Water to own and operate the Systems add to, extend, replace, operate and maintain said Systems in the public property described herein in order to provide said potable water and wastewater conveyance service. This shall include permission to lay pipes beneath the public roads, streets, public property and public places. The public property shall include roads, streets and public places. The privilege granted herein shall include the construction, installation and maintenance of hydrants on and along the roads of the City, as well as streets, parks and public places at locations within the City. The consent provided pursuant to this paragraph to use the public streets of the City is limited by statute to fifty (50) years.


Section 3. That a certified copy of this Ordinance, upon final passage, shall be sent to New Jersey-American Water, which shall submit said Ordinance to the New Jersey Department of Environmental Protection and the Board of Public Utilities of the State of New Jersey as necessary.

Section 4. The Mayor and the Clerk of the City are authorized to execute the documents and agreements necessary to effectuate this municipal consent.

Section 5. Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

Section 6. All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

ATTEST:   
 Ben Angeli, RMC

**CITY OF SALEM**  
  
 Earl Gage, Council President

COUNCIL	MOVED	SECONDED	Y	N	ABSTAIN	ABSENT
S. Cline			X			
R. Davis			X			
T. Gregory			X			
V. Groce						X
S. Kellum	X		X			
G. Slaughter			X			
C. Smith		X	X			
E. Gage			X			

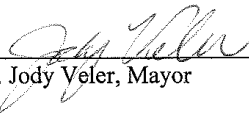
I, Ben Angeli, City Clerk of the City of Salem, in the County of Salem, do hereby certify the foregoing to be a true and correct copy of an Ordinance introduced by the Common Council of the City of Salem on November 20, 2023. Public Hearing shall take place on December 18, 2023.

11-20-23  
 Date

  
 Ben Angeli, RMC

COUNCIL	MOVED	SECONDED	Y	N	ABSTAIN	ABSENT
S. Cline			X			
R. Davis			X			
T. Gregory	X		X			
V. Groce			X			
S. Kellum		X	X			
G. Slaughter			X			
C. Smith			X			
E. Gage			X			

12-18-23  
 Date

  
 Dr. Jody Veler, Mayor

I, Ben Angeli, Municipal Clerk of the City of Salem, in the County of Salem, do hereby certify the foregoing to be a true and correct copy of an Ordinance adopted by the Common Council of the City of Salem after a second reading and public hearing on December 18, 2023.

12-18-23  
 Date

  
 Ben Angeli, RMC