



Agenda Date: 4/23/25

Agenda Item: 5A

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 1<sup>st</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 NEW JERSEY-AMERICAN WATER COMPANY, INC. )  
FOR: (1) APPROVAL OF ITS AGREEMENT WITH HOPEWELL BOROUGH, MERCER COUNTY, )  
NEW JERSEY FOR THE PURCHASE AND SALE OF WATER SYSTEM; (2) A DETERMINATION )  
THAT THE PURCHASE PRICE IS REASONABLE; (3) A DETERMINATION THAT THE )  
TRANSACTION COSTS ARE REASONABLE; AND (4) FOR SUCH OTHER APPROVALS AS MAY BE )  
NECESSARY TO COMPLETE THE PROPOSED TRANSACTION )

ORDER DESIGNATING COMMISSIONER AND SETTING MANNER OF SERVICE AND BAR DATE

DOCKET NO. WM25040191

**Parties of Record:**

**Christine Soares, Esq.**, New Jersey-American Water Company, Inc.

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

**BY THE BOARD:**

On April 4, 2025, New Jersey-American Water Company, Inc. ("NJAWC" or "Company") filed a petition with the New Jersey Board of Public Utilities ("Board") seeking: 1) approval pursuant to the provisions of the Water Infrastructure Protection Act, N.J.S.A. 58:30-1 et seq. ("WIPA"), of an agreement between Hopewell Borough, Mercer County ("Borough") and NJAWC ("Agreement"); 2) a determination that the purchase price pursuant to the Agreement is reasonable and thus the rate base of the Borough's water system; 3) approval that NJAWC's transaction, closing, and transition costs are reasonable and prudent and may be deferred for recovery in a future base rate case; and 4) such other approvals as may be necessary to complete the proposed transaction ("Petition"). Herein, the Board will designate a Presiding Commissioner and set a bar date for motions to intervene, participate, and for admission *pro hac vice* in this matter.

## **BACKGROUND**

In 2015, the New Jersey Legislature passed WIPA, which authorizes certain owners of water or wastewater systems to enter into long-term lease contracts, or sell their water or wastewater assets to a capable private or public entity, without a referendum, if an emergent condition exists as defined in N.J.S.A. 58:30-5(b). In order to qualify for WIPA consideration, an owner must demonstrate the existence of at least one (1) of the five (5) emergent conditions specified by WIPA.

As noted in the Petition, NJAWC serves approximately 672,000 water and fire service customers and approximately 70,300 wastewater service customers. The Borough currently owns and operates a water system ("System") that serves approximately 888 water service along with forty-one (41) connections in the Township of Hopewell.<sup>1</sup>

Pursuant to N.J.S.A. 58:30-5(a), Boswell Engineering ("Boswell") conducted an engineering analysis of the System ("Asset Management Plan"). In March 2024, Boswell completed its Asset Management Plan, which found that the Borough's System met Emergent Conditions Nos. 3 and 5 as described by WIPA.<sup>2</sup>

The Borough hired Phoenix Advisors, LLC ("Phoenix") as its independent financial advisor pursuant to N.J.S.A. 58:30-5(c). On April 4, 2024, the Borough adopted Resolution No. 2024-56 accepting the Water System Evaluation Report prepared by Phoenix.

On April 9, 2024, the Borough submitted the Water System Evaluation Report to the New Jersey Department of Environmental Protection ("DEP"), the Board, and the Director of the Division of Local Government Services ("DLGS") pursuant to N.J.S.A. 58:30-5(e).

On April 9, 2024, the Borough posted on its website a Notice of Public Hearing on May 13, 2024, under N.J.S.A. 58:30-5(d), to consider and evaluate the Borough's Certification of Emergent Conditions in anticipation of the proposed sale of the System in accordance with WIPA.

Pursuant to N.J.S.A. 58:30-5(e), on May 13, 2024, the Borough adopted Resolution No. 2024-69 certifying the existence of Emergent Conditions Nos. 3 and 5 and stated its intent to proceed with the sale of the System.

On May 16, 2024, resolution 2024-69 was transmitted to the Board, DEP, and DLGS.

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<sup>1</sup> NJAWC represents that Hopewell Township will be granting NJAWC municipal consent to serve the portion of Hopewell Township currently served by the Borough. NJAWC serves other portions of Hopewell Township through previous municipal consents granted and approved by the Board. NJAWC will be seeking approval of such municipal consent in a separate docket.

<sup>2</sup> Emergent Condition No. 3 states "[t]here is a present deficiency or violation of maximum contaminant levels established pursuant to the 'Safe Drinking Water Act,' P.L. 1977, c. 224 (C.58:12A-1 et seq.), concerning the availability of potability of water, or concerning the provision of water at adequate volume or pressure, or distribution or treatment of wastewater." Emergent Condition No. 5 states "[t]he system owner lacks the financial, technical, or managerial capacity to adequately address any of the foregoing on a sustainable basis or own and operate the system in a way that supports economic activity in the municipality on a sustainable basis."

On June 13, 2024, DEP issued a determination that approved the Borough's certification as to the existence of Emergent Conditions Nos. 3 and 5.

Pursuant to N.J.S.A. 58:30-5(f), on June 21, 2024, the Borough issued a public notice regarding DEP's approval of Emergent Conditions Nos. 3 and 5 and provided notice of the forty-five (45)-day period pursuant to N.J.S.A. 58:30-5(g) for the public to file a petition in protest of the proposed sale of its System without public referendum. Pursuant to N.J.S.A. 58:30-5(g), when a petition for referendum is received, a resolution to lease or sell water or wastewater assets shall not take effect unless the lease or sale of such assets is approved under N.J.S.A. 40:62-4 and N.J.S.A. 40:62-5. Borough residents filed a petition in protest prior to the expiration of the forty-five (45)-day period on August 5, 2024.

As a result, the Borough intends to undertake the public referendum process and place the sale of the System on its November 4, 2025 ballot for voter approval.<sup>3</sup>

Pursuant to N.J.S.A. 58:30-6, on November 8, 2024, the Borough issued a Request for Qualifications. NJAWC, Aqua New Jersey, and Veolia Water New Jersey, Inc. all provided qualified bids and the Borough subsequently issued formal Requests for Proposals pursuant to N.J.S.A. 58:30-6(b).

On February 6, 2025, the Borough adopted Resolution 2025-43 selecting NJAWC as the designated respondent for purposes of commencing negotiations of a contract for the sale of the Borough's System under WIPA pursuant to N.J.S.A. 58:30-6(c). Thereafter, the Borough began negotiations with NJAWC leading up to the Agreement.

On March 20, 2025, the Borough adopted Resolution No. 2025-51 approving the execution of the Agreement, and authorizing NJAWC to file a petition for approval of the Agreement by the Board. Pursuant to the Agreement, the purchase price for the System is \$6,400,000. According to an appraisal conducted by Weinert Appraisal and Depreciation Services, LLC, the appraised value of the System is \$6,422,881.

As stated in the Petition, the Borough is financially unable to properly operate and maintain the System for the proper benefit of the Borough's residents. According to the Company, the financial resources and backing of NJAWC enhances its ability to access capital markets, which will be a benefit to the System's customers in the rehabilitation and replacement of infrastructure and compliance with environmental laws and regulations. Therefore, NJAWC stated that the Board should approve the transaction pursuant to WIPA. Further, NJAWC stated that the Board should determine that the purchase price is reasonable and that the transaction costs (approximately \$19,000 to date) should be deferred for recovery in a future base rate case.

## **DISCUSSION AND FINDINGS**

The Board **HEREBY ORDERS** that the Petition be retained by the Board for hearing and, pursuant to N.J.S.A. 48:2-32, **HEREBY DESIGNATES** President Guhl-Sadovy as the presiding officer with authority to rule on all motions that arise during the pendency of this proceeding, and modify any schedules that may be set as necessary to secure a just and expeditious determination of the issues. Further, the Board **HEREBY DIRECTS** that any entities seeking to intervene or participate

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<sup>3</sup> Because N.J.S.A. 40:62-5 requires the price of the sale to be included in the referendum, NJAWC is seeking the Board's approval as to the price of the sale, pursuant to N.J.S.A. 58:30-7(c), before the matter is placed on the ballot for referendum.

in this matter file the appropriate application with the Board by May 9, 2025. Any party wishing to file a motion for admission of counsel, *pro hac vice*, should do so concurrently with any motion to intervene or participate.

In addition, in compliance with the Board's Orders in Docket No. EO20030254, all parties are **HEREBY DIRECTED** to serve all documents electronically.<sup>4</sup> No hard copies shall be filed until the Board lifts the restrictions imposed by the Orders. The Board **FURTHER DIRECTS** Staff to post this Order to the Board's website.

This Order shall be effective April 30, 2025.

DATED: April 23, 2025


BOARD OF PUBLIC UTILITIES  
BY:



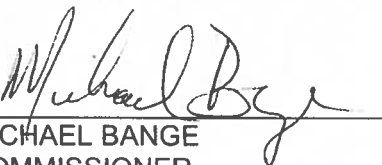
DR. ZENON CHRISTODOULOU  
COMMISSIONER



CHRISTINE GUHL-SADOVY  
PRESIDENT

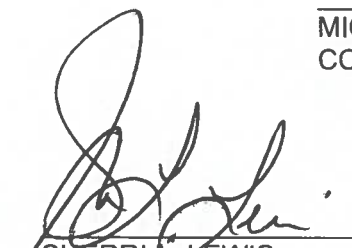


MARIAN ABDOU  
COMMISSIONER



MICHAEL BANGE  
COMMISSIONER

ATTEST:



SHERRI L. LEWIS  
BOARD SECRETARY

I HEREBY CERTIFY that the within  
document is a true copy of the original  
in the files of the Board of Public Utilities.

<sup>4</sup> In re the New Jersey Board of Public Utilities' Response to the COVID-19 Pandemic for a Temporary Waiver of Requirements for Certain Non-Essential Obligations, BPU Docket No. EO20030254, Orders dated March 19, 2020 and June 10, 2020.

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DOCKET NO. WM25040191

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