



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st 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 A MUNICIPAL CONSENT GRANTED)
BY THE TOWNSHIP OF MANSFIELD, BURLINGTON)
COUNTY)

ORDER

DOCKET NO. WE21081065

Parties of Record:

Stephen R. Bishop, Esq., New Jersey-American Water Company, Inc.
Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

In this matter, the New Jersey Board of Public Utilities (“Board”) considers a petition filed by New Jersey-American Water Company Inc. (“NJAWC” or “Company” or “Petitioner”) for approval of a municipal consent granted by the Township of Mansfield, Burlington County (“Township”).

BACKGROUND

On August 13, 2021, NJAWC filed a verified petition with the Board pursuant to N.J.S.A. 48:2-14, N.J.S.A. 48:13-11 to 15, N.J.S.A. 48:19-17 and 48:19-20 and N.J.A.C. 14:1-5.5, seeking approval of the following: (1) a municipal consent, Ordinance No. 2021-11 (“Ordinance”), adopted July 21, 2020 by the Township to allow Petitioner to provide wastewater service to the customers in the Township (“Proposed Franchise Area”); and (2) the expansion of NJWAC’s service territory to include customers in the Proposed Franchise Area.

NJAWC is a regulated public utility corporation engaged in the production, treatment, and distribution of water and the collection and treatment of sewage within its defined service territory, which 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.

The Township encompasses approximately 21.89 square miles and has a population of approximately 8,580 residents with a population density of approximately 393.0 per square mile. The Proposed Franchise Area encompasses the Mansfield Warehousing Area, more specifically Block 3, Lot 5.03 (f/k/a Lots 5.01-10.01) and Block 4, Lots 6.01 and 7.

According to the petition, the extension of the NJAWC franchise territory is necessary and proper for the public convenience and properly conserves the public interest by permitting the provision of sewer utility service to allow for the Mansfield Warehouse project to proceed.

THE PROPOSED FRANCHISE AREA EXPANSION

Petitioner has obtained consent from the Township to construct, lay, maintain, and operate the necessary wastewater treatment facilities, main, pipes and appurtenances throughout the geographical area of the Township and to provide wastewater services within the Township. The Township passed the Ordinance providing consent on July 21, 2021.

NJAWC agreed to Mansfield Township's franchise term, which shall be perpetual and the use of surrounding streets pursuant to N.J.S.A. 48:3-11 and 48:3-15, which is limited by a statute to 50 years.

NJAWC is the franchised water provider for the entire Township. In the event of an emergency, NJAWC would follow similar procedures and protocols of their existing operations. Emergencies will be addressed through the Company's 24/7 customer call center, and contact information will be supplied to each customer and all municipal entities including the Police and Fire Departments.

IMPACT ON NEW JERSEY-AMERICAN WATER COMPANY, INC.

The Company represents that the expansion of its service territory will not impose any negative impacts on current NJAWC customers or its ability to provide safe and adequate service. It also indicates that it has successfully owned and operated wastewater systems in New Jersey for many years. This franchise expansion will allow NJAWC, a company with extensive resources, to use its knowledge, expertise, and access to capital to operate in a way that will ensure safe and dependable service to its customers and moderate future rate impacts. It will also result in operational and administrative efficiencies and enable NJAWC to maintain economies of scale as the Township's former customers and assets are integrated into NJAWC's system.

IMPACT ON RATES

NJAWC is requesting that the Proposed Franchise Area be merged into NJAWC tariff Rate Schedule 6-A for sewer usage at \$45.00 for Non-Exempt customers and \$8.0300/1000 gallons for Non-Exempt customers.

SPECIFIC BENEFITS TO CUSTOMERS OF THE WASTEWATER SYSTEM

The Petitioner states that the Agreement will promote the public interest and result in the following positive benefits:

1. NJAWC's size and scale enable the Company to address the wastewater needs of the Township customers well into the future.

2. The customers of the Township will benefit from becoming a part of NJAWC, a substantially larger utility regulated by the Board. These customers will receive reasonable and prudent practices to ensure safe and reliable service.
3. After the approval of the agreement, the Township customers will have access to NJAWC's customer service call center to resolve any customer service issues that may arise.

THE MUNICIPAL CONSENT

The Ordinance provides the Petitioner with an exclusive and perpetual franchise to provide sewer service within Township, and the municipal consent of the Township to permit said Company to extend sewer service and its related facilities to the Township. With regard to the use of the streets, the Ordinance provides in part as follows:

The Township grants unto the Company the municipal consent to use the streets pursuant to N.J.S.A. 48:3-11 and 48:3-15, with such consent limited to the fifty (50) year duration set forth in N.J.S.A. 48:3-15, as well as the municipal consent as required pursuant to N.J.S.A. 48:13-11 as amended, to add to, extend, operate and maintain sewer collection facilities on public and private property located in the Township and shall include the construction, installation, and maintenance of sewer service and its related sewer service on and along the Township roads, streets and places at locations the as the Township shall designate from time to time.

NJAWC intends to operate the Wastewater System pursuant to the existing municipal consent granted under the Ordinance. The municipal consent, adopted on July 21, 2021, by the Township, allows the Petitioner to lay, maintain, and operate the necessary wastewater treatment facilities, mains, pipes, and appurtenances throughout the Township and to provide wastewater service within the Township.

On February 8, 2022, a duly noticed municipal consent hearing on the Company's petition was held via teleconference. Suzanne Patnaude, Esq., Legal Specialist, presided over the hearing at which representatives of the Company, the New Jersey Division of Rate Counsel ("Rate Counsel"), and Staff appeared. No members of the public attended and no written comments from the public were submitted.

RATE COUNSEL COMMENTS

By letter dated February 17, 2022, Rate Counsel submitted its comments to the petition and stated that, subject to certain conditions, it is not opposed to the request for approval of the municipal consent. In sum, Rate Counsel recommends that the Board modify the term of the municipal consent to 50 years for the specific authorization to provide sewer service within the Township. In addition, Rate Counsel also recommends that the Board condition its approval of the petition to specify 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

The Board, having reviewed the Petition and the entire record, **FINDS** that the municipal consent is necessary and proper for the public convenience and properly conserves the public interests.

N.J.S.A. 48:2-14 provides in part as follows:

No privilege or franchise granted after May first, one thousand nine hundred and eleven, to any public utility by a political subdivision of this state shall be valid until approved by the board. Such approval shall be given when, after hearing, the board 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 may impose such conditions as to construction, equipment, maintenance, service or operation as the public convenience and interests may reasonably require.

In the same vein, N.J.S.A. 48:13-11 states in part as follows:

Every sewerage company organized under the laws of this State may lay its pipes and conduits beneath such public roads, streets, avenues and alleys as it may deem necessary for its corporate purposes, upon complying with the terms and conditions upon which the consent of the corporate authorities to the organization of the company shall have been obtained, provided that the consent to the laying of such pipes shall be obtained of any municipality through which the same may be laid.

See also In the Matter of the Petition of New Jersey-American Water Company, Inc. for Approval of a Municipal Consent Granted by the Borough of Mount Ephraim, County Of Camden, Docket No. WE19010117, Order dated June 21, 2019; 2019 N.J. PUC LEXIS 148, *4 (N.J. P.U.C. June 21, 2019) (“NJAW has agreed to the Borough’s franchise term for the provision of service, which is perpetual, as well as the use of the streets pursuant to N.J.S.A. 48:3-11 and 48:3-15, which limits the use to a term of 50 years.”); In the Matter of the Petition of Suez Water New Jersey Inc. for the Approval of Municipal Consent to Own and Operate Water and Sewer Systems in the Township of West Milford and Approval of the Issuance of Revised Tariff Sheets Setting Forth Suez Water New Jersey Inc.’s Expanded Service Area Related to the Transfer of Water and Sewer Assets from the Township of West Milford to Suez Water New Jersey Inc., Docket No. Order dated October 29, 2018; 2018 N.J. PUC LEXIS 235, *12-13 (N.J. P.U.C. October 29, 2018) (“Although the Ordinance does not specify a period for the use of the streets, a municipality may consent to the use of its streets or surfaces, but only for a period not exceeding 50 years. N.J.S.A. 48:3-15. However, N.J.S.A. 48:2-14 sets no limit for the duration of the municipal consent or franchise for the provision of service.”).

NJAWC represents it will continue to charge the Township customers’ existing rates until at least NJAWC’s next base rate case.

Accordingly, the Board **HEREBY APPROVES** the municipal consent, Ordinance No. 2021-11, adopted July 21, 2021, granted to NJAWC by the Township, and the expansion of NJWAC’s service territory to include customers in the Proposed Franchise Area. The Board **FURTHER**

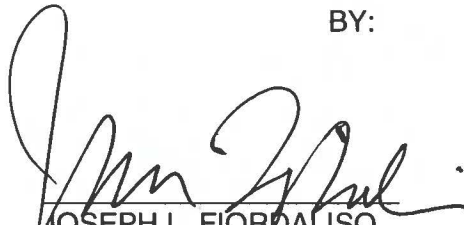
APPROVES the use of NJAWC's existing wastewater tariff applicable in the new service territory. The Board **HEREBY FINDS** that the rates set forth above and included in the provisional initial tariff to be just and reasonable and necessary to permit NJAWC to provide safe, adequate and proper service. 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, in 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 NJAWC.
3. The Petitioner shall not depreciate any portion of the wastewater system expansion that is funded by Contributions in Aid of Construction.
4. As required by N.J.S.A. 48:3-15, the municipal consent for the use of streets is limited to a term of 50 years.
5. 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 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.
6. 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.
7. Tariff pages conforming to the terms of this Order must be submitted within five (5) business days of the effective date of this Order.
8. Board Staff is authorized to approve, subject to comments filed by Rate Counsel, any written request by the Petitioner for additional time to comply with any applicable items above.

The Order shall be effective on March 16, 2022.

DATE: March 9, 2022

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER



UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST: 

AIDA CAMACHO-WELCH
SECRETARY

IN THE MATTER OF THE PETITION OF NEW JERSEY-AMERICAN WATER COMPANY, INC. FOR
APPROVAL OF A MUNICIPAL CONSENT GRANTED BY THE TOWNSHIP OF MANSFIELD,
BURLINGTON COUNTY - DOCKET NO. WE21081065

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