



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 VEOLIA)
WATER NEW JERSEY, INC. FOR APPROVAL TO)
EXPAND ITS FRANCHISE AREA IN THE BOROUGH)
OF OAKLAND, IN THE COUNTY OF BERGEN,)
STATE OF NEW JERSEY)

ORDER

DOCKET NO. WE22100622

Parties of Record:

Bryant Gonzalez, Esq., on behalf of Veolia Water New Jersey, 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 Veolia Water New Jersey Inc. ("Veolia", "Company", or "Petitioner") for approval of a municipal consent granted by Borough of Oakland ("Borough").

BACKGROUND

Petitioner is a regulated public utility corporation engaged in the business of collecting, treating and distributing water for retail service and wastewater collection and treatment services to approximately 260,000 customers located in portions of Bergen, Hudson, Hunterdon, Middlesex, Monmouth, Morris, Ocean, Passaic, Sussex, and Warren counties.

On October 5, 2022, Veolia filed a verified petition with the Board pursuant to N.J.A.C. 14:1-5.1, N.J.A.C. 14:1-5.5, and other related statues and regulations seeking approval of the Municipal Consent Ordinance No. 22-Code-881 ("Municipal Consent"), adopted on April 13, 2022 by the Borough of Oakland, County of Bergen ("Borough") allowing the Company to provide water service to an area of the Borough, Block 4202, Lots 1, 2 and 3, which is commonly known as 123 McCoy Road ("Proposed Franchise Area"), where it currently does not have a franchise.

The Municipal Consent grants Veolia consent to construct and maintain water facilities and provide water service as defined in N.J.S.A. 48:2-14, N.J.S.A. 48:3-11, and N.J.S.A. 48:3-15. The Municipal Consent also allows access to public streets and places for these purposes.

Veolia is seeking Board approval of the Municipal Consent and does not seek the Board's determination on any ratemaking.

THE PROPOSED FRANCHISE AREA EXPANSION

The Borough is unable to serve the proposed franchise area, which lies adjacent to an area already serviced by the Company. Hydraulic modelling of the Company's system in Franklin Lakes confirms that the Company's system can operate at a sufficient hydraulic grade to provide safe, adequate, and proper service to the proposed franchise area.

Petition stated that 191 residential units and a clubhouse with a swimming pool are being proposed to be developed within the proposed franchise area.

Petitioner has obtained the Municipal Consent adopted by the Borough to construct, lay, maintain and operate the Systems through the Proposed Franchise Area and to provide water service within the Proposed Franchise Area.

The Municipal Consent grants the Company perpetual consent of the proposed franchise area to provide water service to all residents, business and government buildings within the Borough. Veolia agreed to the Borough's franchise term and the use of surrounding streets pursuant to N.J.S.A. 48:3-11 and 48:3-15, which is limited by statute to 50 years.

In the event of an emergency, Veolia would follow similar procedures and protocols of their existing operations. Emergencies would be addressed through the Company's customer call center.

IMPACT ON VEOLIA WATER COMPANY INC.

The expansion of Petitioner's service territory will not impose any negative impacts on current Veolia customers or Veolia's ability to provide safe and adequate service. The franchise extension is necessary and proper for the public convenience and properly serves the public interest.

IMPACT ON RATES

The proposed franchise area will be incorporated into the Company's service area and all rules and regulations contained in the Company's tariff will be applicable.

MUNICIPAL CONSENT

Ordinance No. 22-Code-881 provides the Petitioner with consent to expand its franchise to provide water service within the Borough, and the Municipal Consent of the Borough to permit said Company to extend water service and its related facilities to the proposed franchise area granted by the Borough.

The Municipal Consent, adopted on April 13, 2022 by the Borough, allows the Petitioner to lay, maintain, and operate the necessary water mains, pipes, and appurtenances to provide water service within the franchise proposed area.

On February 15, 2023, a duly noticed municipal consent hearing on the Company's petition was held via teleconference. David Schmitt, Legal Specialist, presided over the hearing at which representatives of the Company, the New Jersey Division of Rate Counsel ("Rate Counsel"), and Board Staff ("Staff") appeared. No members of the public attended and no written comments from the public were submitted.

RATE COUNSEL COMMENTS

By letter dated February 21, 2023, Rate Counsel submitted its comments on 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 recommended that the Board modify the term of the Municipal Consent to be limited to 50 years for the specific authorization to provide water service and to access public streets and places within the Borough. Rate Counsel also recommended 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, **APPROVES** the Municipal Consent as it 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.

The Board **HEREBY FINDS** that the Municipal Consent is necessary and proper for the public convenience and properly conserves the public interest, and that the Company has the ability to provide safe, adequate and proper service in the Borough. Accordingly, the Board **HEREBY APPROVES** the Municipal Consent, adopted April 13, 2022, granted to Veolia by the Borough, and the expansion of Veolia's service territory to include customers 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, 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 the Petitioner.
3. The Petitioner shall not depreciate any portion of the water system expansion that is funded by Contributions in Aid of Construction.
4. This Order only applies to the approval of the Municipal Consent and shall not be construed of any ratemaking.
5. 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.
6. 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.
7. Approval of this Municipal Consent does not constitute approval of any specific main extension or plan for service. In extending service, Petitioner must comply with all applicable laws.
8. 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 April 19, 2023.

DATED: April 12, 2023

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER




DIANNE SOLOMON
COMMISSIONER



DR. ZENON CHRISTODOULOU
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.

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EXPAND ITS FRANCHISE AREA IN THE BOROUGH OF OAKLAND, IN THE COUNTY OF BERGEN,
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DOCKET NO. WE22100622

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