

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 CHESTER TOWNSHIP, MORRIS COUNTY, NEW)
JERSEY)
ORDER APPROVING)
MUNICIPAL CONSENT)
DOCKET NO. WE22100619)

Parties of Record:

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

BY THE BOARD:¹

By this Order, the New Jersey Board of Public Utilities ("Board") considers a petition filed by New Jersey-American Water Company, Inc. ("NJAWC," "Company," or "Petitioner") for approval of a municipal consent granted by Chester Township ("Township").

BACKGROUND

Petitioner 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 within the State of New Jersey. The 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 October 5, 2022, NJAWC filed a verified petition with the Board, pursuant to N.J.S.A. 48:2-14 and N.J.A.C. 14:1-5.5, for approval of the Township's municipal consent granting the Company a limited franchise to provide water service to Chester School District, specifically for the Dickerson Elementary School and Bragg Elementary School ("Proposed Franchise Area" or collectively, "Schools"). The Municipal Consent was granted pursuant to Ordinance No. 2022-13 ("Ordinance" or "Municipal Consent"), adopted on August 16, 2022.

¹ Commissioner Christodoulou has recused himself from voting on this matter.

THE PROPOSED FRANCHISE AREA EXPANSION

The Municipal Consent authorizes the Company to install and maintain its system in the Township, a community not previously serviced by the Company. The Municipal Consent permits service to Block 25.01, Lot 38.01, and the property on which both Schools exist. It should be noted that the water main needed to provide service to the Schools already exists. The main was previously constructed by the Company to transmit water from its Short Hills system in the Borough of Chester. While the Schools are currently served by wells owned by the School District, the wells are regulated by New Jersey Department of Environmental Protection and monitoring has shown a series of recent water quality violations for lead, copper, Perfluorooctanoic acid and Perfluorooctane sulfonic acid.

IMPACT ON NEW JERSEY-AMERICAN WATER COMPANY INC.

The proposed franchise should not have an adverse impact on the provision of safe, adequate and proper service to NJAWC's present customers. The addition of customers within the Proposed Franchise Area should not have an adverse impact on the service provided to current customers in other portions of the Company's service territory.

IMPACT ON RATES

The Schools will pay general metered service tariff rates for all water service provided by the Company. Additionally, the Schools would be subject to any changes to those tariffs when, and if, the Board approves any such modifications by regulation or order.

SPECIFIC BENEFITS TO CUSTOMERS OF THE WATER SYSTEM

The governing body of the Township deemed it to be in the best interest of the citizens of the Township and enhance the health, safety and welfare of all persons utilizing the Schools to provide the Municipal Consent.

The extension of NJAWC's franchise territory is necessary and proper for public convenience and properly conserve the public interest by permitting the provision of water utility service to the Schools.

MUNICIPAL CONSENT

The Municipal Consent was introduced and adopted pursuant to N.J.S.A. 48:3-11 to -15, N.J.S.A. 48:19-17 and N.J.S.A. 48:19-20 to permit Petitioner to construct, lay, maintain, and operate the necessary water mains, pipers and appurtenances (collectively, "Facilities") to extend its water service to furnish potable water to the Schools.

On March 8, 2023, a duly noticed municipal consent hearing on the Company's petition was held virtually. 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 March 15, 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 Township. 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

No municipality or other political subdivision of the State may grant a privilege or franchise to any public utility unless approved by the Board. 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 public interests. The Board may impose conditions on its approval as the public convenience and interests may require.²

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

Accordingly, the Board **HEREBY APPROVES** the Municipal Consent, adopted August 16, 2022, granted to NJAWC by the Township, and the expansion of NJAWC's service territory to include the Schools in the Proposed Franchise Area. The Board **FURTHER FINDS** that the Company has the ability to provide safe, adequate and proper service in the Township. The approvals granted hereinabove shall be subject to the following provisions:

1. This Order shall not affect or in any way limit the Board's, or the State's, exercise of authority, 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 water system expansion 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.

² N.J.S.A. 48:2-14.

6. Approval of the Municipal Consent does not constitute Board approval of any costs or expenses associated with the Petition. Any determination as to reasonableness of costs and expenses related to the franchise, including, but not limited to, cost of construction, Contributions in Aid of Construction, depreciation of contributed plant, 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, NJAWC must comply with all applicable laws.
8. Within 10 days of the signed order, NJAWC shall submit any revised tariff pages.
9. Staff may approve, subject to comments filed by Rate Counsel, any written request by the Petitioner for additional time to comply with these conditions.

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

ATTEST:



SHERRI L. GOLDEN
SECRETARY

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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APPROVAL OF A MUNICIPAL CONSENT GRANTED BY CHESTER TOWNSHIP, MORRIS COUNTY,
NEW JERSEY

DOCKET NO. WE22100619

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