



**State of New Jersey**  
 DIVISION OF RATE COUNSEL  
 140 EAST FRONT STREET, 4<sup>TH</sup> FL  
 P. O. BOX 003  
 TRENTON, NEW JERSEY 08625

January 30, 2015

RECEIVED  
 2015 JAN 30 PM 3 01  
 NJ BPU  
 MAILROOM

RECEIVED  
 FEB 02 2015  
 By *OCMG*  
*Jan 2/2/15*

CHRIS CHRISTIE  
 Governor

KIM GUADAGNO  
 Lt. Governor

STEFANIE A. BRAND  
 Director

**VIA OVERNIGHT DELIVERY**

Kenneth Sheehan, Secretary  
 State of New Jersey, Board of Public Utilities  
 44 South Clinton Avenue, 9<sup>th</sup> Floor  
 P.O. Box 350  
 Trenton, New Jersey 08625

**Re: I/M/O the Petition for Approval of the Acquisition of the Assets of the Seaview Harbor Water Company, LLC and Other Required Approvals  
 BPU Docket No. WM13100957**

Dear Mr. Sheehan:

Please accept for filing an original and eleven copies of the Division of Rate Counsel’s (“Rate Counsel”) comments regarding the above referenced matter. Please date stamp the additional copy as “filed” and return it in the enclosed, self-addressed, stamped envelope. Thank you for your consideration and attention to this matter.

**Summary of Position**

The Division of Rate Counsel (“Rate Counsel”) does not object to Aqua New Jersey Inc.’s (“Aqua” or “Company”)’ request for: 1) Approval of the acquisition of the utility assets of Seaview Harbor Water Company, LLC (“Seaview”); 2) Approval of the municipal consent granted by the Township of Egg Harbor; 3) Approval of the Company’s request to implement

monthly billing; and 4) Approval of Aqua's petition to abandon the provision of public fire service in the Seaview franchise area. In addition, Rate Counsel's comments suggest recommended language that should be included in any Board Order approving the Company's requests in this proceeding.

### **Background**

On or about October 16, 2013, Aqua filed a Petition with the Board requesting:

1. The Board's approval of the acquisition of the utility plant assets of Seaview Water Company by Aqua in accordance with the terms and conditions of an Asset Purchase Agreement dated February 22, 2013;
2. The Board's approval of the municipal consent granted by the Township of Egg Harbor, Atlantic County to allow Aqua to provide water service in the Seaview Harbor section of the Township;
3. The Board's approval of Aqua's request to allow Aqua to implement monthly billing for water service on closing of the asset purchase;
4. The Board's approval to allow Seaview Harbor Water Company, LLC to discontinue the provision of service on closing of the asset sale to Aqua; and
5. The Board's approval to allow Aqua to abandon the provision of public fire service provided by Seaview Harbor Water Company, LLC.

Discovery was propounded on Aqua and Seaview by Board Staff and Rate Counsel and a discovery conference was held on this matter on October 31, 2014 at the offices of Saul Ewing in Newark, NJ. Public notice of the proposed transactions was provided and the Board held a Public Comment Hearing on December 9, 2014 at the Board's offices in Trenton, New Jersey. Three members of the public put comments on the record that were in support of the proposed transaction, however there were some concerns regarding the transition from fire hydrants to flush hydrants and the retention of certain property on the part of Seaview.

2015 JAN 30 PM 3 01  
RECEIVED  
NJ DPU  
MAILROOM

## Analysis

Seaview is a very small water company serving a total of 93 customers, including a marina. The system is located on an island in the southeastern-most part of Egg Harbor Township, west of the Borough of Longport, in Atlantic County. The system was originally granted a franchise to operate in February 1957.<sup>1</sup> The system has two wells with a total rated capacity of 540 gallons per minute and a 10,000-gallon hydropneumatic storage tank. The distribution network is comprised entirely of 6-inch diameter cast iron pipe.<sup>2</sup> The current rates charged by Seaview have been in effect since November 30, 2007.<sup>3</sup>

Aqua and Seaview negotiated an Asset Purchase Agreement dated February 2, 2013. Under the terms of this agreement, Seaview has agreed to sell and Aqua has agreed to purchase the assets of the water system including all mains, valves, hydrants, wells, services meters, structures and the land on which the two wells and the hydro pneumatic storage tank are located. Seaview will retain ownership of two lots adjacent to the well site. The negotiated purchase price for the assets is \$225,000.<sup>4</sup> The purchase price is less than the original cost value less depreciation and CIAC for the assets being acquired by Aqua. Rate Counsel has estimated the net asset value to be \$270,035 based on information contained in Seaview's 2013 Annual Report to the Board and various responses to discovery responses provided during this proceeding.

Seaview has no employees, so approval of the proposed transaction will have no adverse impact on employment. Seaview Harbor is an isolated community. Nearby, water service is provided by the Borough of Longport within the limits of the Borough. The Borough of

---

<sup>1</sup> Annual Report of the Seaview Harbor Water Company, L.L.C. to the Board of Public Utilities, State of New Jersey for the Year Ended December 31, 2013; p. 4.

<sup>2</sup> Ibid; p. 25, 28 and 30.

<sup>3</sup> Petition; Exhibit C; Q-20.

<sup>4</sup> Petition, Exhibit A, p. 4 of 28, Section 1.3(a).

RECEIVED  
2015 JAN 30 PM 3 01  
NJ BPU  
MAIL ROOM

Somers Point and portions of the Township of Egg Harbor are served by New Jersey American Water Company. The proposed acquisition will not impact competition because there is little to no competition to provide water service in the immediate area.

Aqua has proposed to maintain the rates now in effect and authorized by the Board. These rates have been in effect since 2007 and were approved in BPU Docket No. WE05090784. The quarterly fixed service charge levied by Seaview is \$109.31 for a customer served through a 5/8-inch meter. In addition, customers also pay a volumetric charge of \$9.602 per thousand gallons of water used. A customer using 5,500 gallons per month would pay an average quarterly bill of \$267.74. Winter quarter bills would be somewhat less but summer quarter billing would be significantly higher reflecting the seasonal characteristics of use in the area. Aqua has proposed to maintain the same rates as those currently approved by the Board but convert to monthly billing. This would produce an average monthly bill of \$89.25 for a similar customer with the same use. Rate Counsel believes that monthly billing would be advantageous for customers from a budgeting standpoint and it would send a more appropriate economic signal regarding the cost of service.

Aqua has indicated that it will undertake a series of improvements to the system following the acquisition and the Company has represented that it will complete these improvements within five years. The improvements include adding proper disinfection to the water distributed to customers, the installation of Supervisory Control and Data Acquisition system technology to allow the performance of the system to be adequately and continuously monitored, repairs to the existing hydropneumatic system, metering improvements and repairs and renewals for services and mains. The estimated cost of these improvements is \$327,564.<sup>5</sup>

---

<sup>5</sup> Petition, Exhibit C, Q-12.

The Township of Egg Harbor granted their consent to allow Aqua to provide service in an Ordinance No. 28 dated July 24, 2013.<sup>6</sup> The Ordinance contains no time limits to the consent to provide service.

Aqua has petitioned the Board to allow it to abandon the provision of public fire service following the proposed acquisition. The system currently has eight public fire hydrants and Seaview historically rendered bills for public fire service to Egg Harbor Township. The system is able to deliver limited quantities of water to the eight fire hydrants. Information provided in this proceeding demonstrates that the system was not constructed to provide current ISO recommended fire flows to any of the eight fire hydrants and it is apparent that actual flows available at these hydrants are significantly less than the ISO recommended Needed Fire Flow for the structures in Seaview Harbor. Through the discovery process in this matter, Rate Counsel has learned that major capital improvements, including the construction of an elevated water storage tank and the replacement of many of the system's 6-inch diameter mains with larger diameter mains capable of transmitting higher fire flows, would be required to supply the ISO recommended Needed Fire Flows. There is no regulatory requirement mandating that the system provide public fire protection. Therefore, it is Rate Counsel's opinion that the Company's request to abandon public fire service should be granted.

Aqua is the New Jersey subsidiary of a large investor-owned water and wastewater utility system providing service to roughly three million people in ten States. Aqua provides water service to 50,900 water customers and 5,430 wastewater customers throughout the State of New Jersey. At present, Aqua provides service in Warren, Hunterdon, Mercer, Burlington, Monmouth, Camden, Ocean, Sussex and Gloucester Counties in New Jersey.<sup>7</sup> Aqua has the

---

<sup>6</sup> Petition, Exhibit B.

<sup>7</sup> Petition, p. 2, Para. 2.

technical, financial and managerial capacity to provide safe, adequate and proper service in Seaview Harbor.

**Recommendation**

Rate Counsel does not object to the Company's requests to approve the acquisition of the Seaview system, to approve the municipal consent granted by the Township of Egg Harbor, to authorize monthly billing at present rates and to abandon the provision of public fire service. However, approval of the Petition should not include authorization to include in rate base the specific assets that will be acquired or constructed as a result of approval of this Petition. The determination of any assets to be included in rate base and the ratemaking impact of serving these new customers should be addressed in a future base rate proceeding.

Accordingly, Rate Counsel recommends that any Board Order approving the Company's Petition contain the following language:

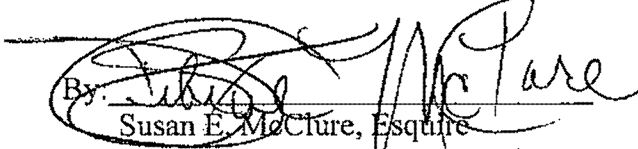
1. This Order shall not be construed as directly or indirectly fixing for any purposes whatsoever any value of any tangible or intangible assets now owned or hereafter to be owned by the Petitioner.
2. This Order shall not affect nor in any way limit the exercise of the authority of this Board or of this State, in any future Petition or in any proceedings with respect to rates, franchises, service, financing, accounting, capitalization, depreciation, or in any other matter affecting the Petitioner.
3. The Petitioner shall not depreciate the portion of the water system that is funded by CIAC.

These provisions will satisfy the concerns of Rate Counsel that the Company complies with the proper statutory framework, that BPU approval is limited to the specific approvals requested, and that there is no authorization to include any specific assets or amounts in rate

base, nor authorization for any other ratemaking treatment. If the Board adopts these conditions, Rate Counsel is not opposed to approval of the Petition.

Respectfully submitted,

Stefanie A. Brand  
Director, Division of Rate Counsel

By:   
Susan E. McClure, Esquire  
Assistant Deputy Rate Counsel

SEM:iaa

cc: Service List *via regular mail*

I/M/O the Petition for Approval of  
the Assets of the Seaview Hoarbor  
Water Company, LLC and Other  
Required Approvals  
BPU Docket No. WM13100957

SERVICE LIST

Stefanie A. Brand, Esq.  
Director, Division of Rate Counsel  
140 East Front Street - 4<sup>th</sup> Floor  
P.O. Box 003  
Trenton, New Jersey 08625

\*Debra F. Robinson, Esq.  
Managing Attorney Water &  
Wastewater  
Division of Rate Counsel  
140 East Front Street - 4<sup>th</sup> Floor  
P.O. Box 003  
Trenton, New Jersey 08625

Susan E. McClure, Esq.  
Division of Rate Counsel  
140 East Front Street - 4<sup>th</sup> Floor  
P.O. Box 003  
Trenton, New Jersey 08625

Darlene Nichols, Paralegal  
Division of Rate Counsel  
140 East Front Street - 4<sup>th</sup> Floor  
P.O. Box 003  
Trenton, New Jersey 08625

Kenneth Sheehan, Secretary  
Board of Public Utilities  
44 South Clinton Avenue  
P.O. Box 350  
Trenton, New Jersey 08625

Michael Kammer  
Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
P.O. Box 350  
Trenton, New Jersey 08625

Maria Moran, Director  
Board of Public Utilities  
44 South Clinton Avenue  
P.O. Box 350  
Trenton, New Jersey 08625

Mark Beyer  
Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
P.O. Box 350  
Trenton, New Jersey 08625

Mona Mosser  
Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
P.O. Box 350  
Trenton, New Jersey 08625

Jim Kane, Legal Specialist  
Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
P.O. Box 350  
Trenton, New Jersey 08625

Yanina Lepore  
Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
P.O. Box 350  
Trenton, New Jersey 08625

Kofi Ocansey  
Dept. of Law & Public Safety  
Division of Law  
124 Halsey Street - 5<sup>th</sup> Floor  
Newark, New Jersey 07101

Caroline Vachier, DAG  
Division of Law  
Dept. of Law and Public Safety  
124 Halsey Street - 5<sup>th</sup> Floor  
Newark, New Jersey 07101

T. David Wand, DAG  
Division of Law  
Dept. of Law and Public Safety  
124 Halsey Street - 5<sup>th</sup> Floor  
Newark, New Jersey 07101

Scott H. Mitchell, Director  
Corporate Development  
Aqua New Jersey, Inc  
10 Black forest Road  
Hamilton, New Jersey 08691

Joe Stewart  
Seaview Harbor Water Company,  
LLC  
107 Hospitality Drive  
Longport, New Jersey 08403

George Miller, Jr., Esq.  
Seaview Harbor Water Company,  
LLC  
28 Pennsylvania Avenue  
Atlantic City, New Jersey 08401

Kenneth Wolfe, Esq.  
Cooper Levenson April Niedleman  
& Wagenbeim, P. A  
1125 Atlantic Avenue, 3<sup>rd</sup> Floor  
Atlantic City, New Jersey 08401



Colleen A. Foley, Esq.  
Saul Ewin, LLP  
One Riverfront Plaza, 15<sup>th</sup> Floor  
1037 Raymond Blvd.  
Newark, New Jersey 07102

Howard J. Woods, Jr.  
Howard J. Woods, Jr., & Ass., LLC  
138 Liberty Drive  
Newton, Pennsylvania 18940-1111

*\* Receives all correspondence  
except discovery.*