



Agenda Date: 4/15/15
Agenda Item: 5B

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th 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 BOROUGH OF HADDONFIELD, COUNTY OF)
CAMDEN) DOCKET NO. WE15010073

Parties of Record:

Robert J. Brabston, Esq., New Jersey-American Water Company, Inc.
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel
Stuart A. Platt, Esq., Platt & Riso, P.C., on behalf of the Township of Haddon

BY THE BOARD¹:

New Jersey-American Water Company, Inc. ("NJAWC", or "Company") is a regulated public utility corporation engaged in the production, treatment and distribution of water and collection of sewage within its defined service territory within the State of New Jersey. Said 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 January 13, 2015, the Company filed a Petition with the New Jersey Board of Public Utilities ("Board"), pursuant to N.J.S.A. 48:2-14 and N.J.A.C. 14:1-5.5, and such other regulations and statutes as may be deemed applicable and appropriate by the Board, for approval of Municipal Consent Ordinance No. 2014-13 granted to the Company on July 15, 2014 by the Borough of Haddonfield ("Borough"), in the County of Camden, to allow NJAWC to construct, lay, maintain, and operate the necessary water and wastewater mains, pipes, and appurtenances throughout the geographical area of the Borough and to provide water and wastewater services in the Borough. (Petition at 1-2.) The Municipal Consent adopted by the Borough was part of a sale process conducted, pursuant to the procedures set forth in N.J.S.A. 40:62-3 to N.J.S.A. 40:62-6, in which the Borough sought public bids for the sale of its water and wastewater systems. (Petition at 2.) Finally, by its Petition, NJAWC is only seeking Board approval of the Municipal

¹ President Richard S. Mroz and Commissioner Upendra J. Chivukula recused themselves due to a potential conflict of interest, and as such, took no part in the discussion or deliberation of this matter.

Consent and does not seek the Board's determination on any ratemaking treatment on the purchased utility systems. (Petition at 3-4.)

The Borough currently services the Township of Haddon ("Township") through a bulk contract for sewer service only. There are approximately 225 residential units within the Township that are served through this bulk agreement. The Township, in turn, services the 225 residential units. Additionally, the Borough provides water service to the National Church Residence in the Township. This service is provided directly through an agreement between the Borough and the National Church Residence. The Township is not a party to the water service agreement.

By motion dated February 23, 2015, and filed with the Board on March 2, 2015, the Township moved to intervene pursuant to N.J.S.A. 48:2-32.2(a) and N.J.A.C. 1:1-16.1. The Township claimed the Borough did not notify the Township of the Municipal Consent Ordinance granting NJAWC the right to serve the Township with bulk sewer service. Thus, the Township believed the transfer of service would have an impact on service and current rates.

The Township provided that, pursuant to a June 15, 1988 Agreement between the Borough and the Township ("1988 Agreement"), (i) approximately 225 residential units within the Township ("Sewer Area") are serviced by the Borough for purposes of collecting and conveying sewage flow generated in the Service Area; (ii) the Township owns and maintains the sewer infrastructure, facilities, and equipment within the Sewer Area; (iii) the Borough collects the sewage flow from the Sewer Area and conveys it to the Camden County Municipal Utilities Authority's treatment plant located in the City of Camden; and (iv) for this service, the Borough bills or invoices the Township annually for the Borough's services at a rate that is 15% less than the Borough's regular rate for the same services. (Certification of Cheryl Lyn Walters, Esq., at 1-2.)

The Township further avers that: (i) the 1988 Agreement does not contain an assignment provision, and the Borough has not contacted the Township to obtain or negotiate the Township's consent to assign the 1988 Agreement to NJAWC; (ii) the 1988 Agreement does not contain an expiration or termination date, and it does not contemplate the parties' rights upon the Borough's sale of its sewer system; (iii) the Township never granted municipal consent or a franchise to the Borough pertaining to the 1988 Agreement; (iv) the anticipated sewer rate increase provided to the residents of the Borough during a public meeting indicated a sewer rate increase of 12.5% for the first year, and 3.5% thereafter; (v) any attempt by the Borough to assign its rights without the consent of the Township is void; and (vi) the Township is concerned about the potentially significant increase to the sewer rate charged for the Sewer Area, which will have a substantial impact on the rates the Township will be forced to charge property owners connected to the Township's sewer system. (Certification of Cheryl Lyn Walters, Esq., at 2-4.)

On April 8, 2015, a duly noticed public hearing on the Company's Petition was held at the Board's Trenton office. The notice indicated that no change in rates would result from the Petition. Legal Specialist, James Kane, Esq., presided over the hearing at which representatives of the Company, the New Jersey Division of Rate Counsel and Board Staff appeared. Two representatives from the Company testified during the public hearing. No members of the public appeared at the hearing.

N.J.S.A. 48:2-32.2(a) provides: "Every municipality may intervene . . . in any hearing or investigation held by the board, which involves public utility rates, fares or charges, service or facilities, affecting the municipality . . ." Also, the standards for intervention are set forth in

N.J.A.C. 1:1-16.1 et seq. N.J.A.C. 1:1-16.1(a) that provides "[a]ny person or entity not initially a party, who has a statutory right to intervene or who will be substantially, specifically and directly affected by the outcome of a contested case, may on motion, seek leave to intervene." In addition, generally, in determining whether intervention will be granted, the Board must consider: (1) the nature and extent of the movant's interest in the outcome of the case; (2) whether the movant's interest is sufficiently different from that of any other party so as to add measurably and constructively to the scope of the case; (3) the prospect for confusion and delay arising from the movant's inclusion; and (4) other appropriate matters. See N.J.A.C. 1:1-16.3.

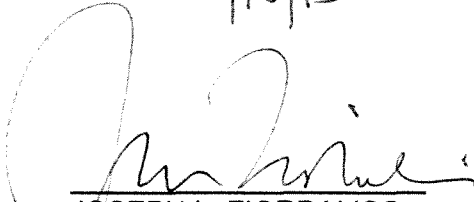
The Board received no comments from any party on the Township's motion. The Board **HEREBY FINDS** that NJAWC's Petition involves public utility service or facilities affecting the Township to such an extent as to satisfy the statutory requirements for intervention under N.J.S.A. 48:2-32.2(a). Nevertheless, the Board does not claim jurisdiction over any dispute arising from the 1988 Agreement.

Based upon N.J.S.A. 48:2-32.2(a) and N.J.A.C. 1:1-16.1, the Board **HEREBY GRANTS** the Township's motion to intervene.


This Order shall be effective on April 25, 2015.

DATED: 4/15/13

BOARD OF PUBLIC UTILITIES
BY:



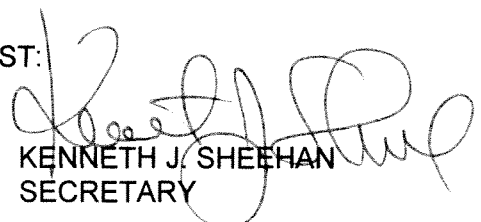
JOSEPH L. FIORDALISO
COMMISSIONER



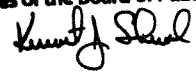
MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER

ATTEST: 

KENNETH J. SHEEHAN
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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WATER COMPANY, INC. FOR APPROVAL OF MUNICIPAL CONSENT GRANTED BY THE
BOROUGH OF HADDONFIELD, COUNTY OF CAMDEN
DOCKET NO. WE15010073

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