



RECEIVED

JAN 19 2016

BOARD OF PUBLIC UTILITIES
MAIL ROOM

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

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

STEFANIE A. BRAND
Director

January 19, 2016

VIA HAND DELIVERY

Irene Kim Asbury, Secretary
State of New Jersey, Board of Public Utilities
44 South Clinton Avenue, 10th Floor
P.O. Box 350
Trenton, New Jersey 08625-0350

Re: I/M/O the Joint Petition of New Jersey American Water Company, Inc. and Roxiticus Water Company for, Among Other Things, Approval of a Change in Control of Roxiticus Water Company, Inc. BPU Docket No. WM15080982

Dear Secretary Asbury:

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

In this Petition, New Jersey American Water Company ("American") and Roxiticus Water Company ("Roxiticus") (collectively, the "Joint Petitioners") jointly request approval of the purchase of assets of Roxiticus by American. Approval of the Board of Public Utilities ("Board") is being sought under N.J.S.A. 48:2-51.1, which governs all changes of control of New Jersey Public Utilities. Rate Counsel does not object to Board approval of the Joint

*Case Mgmt
List Copied*

Petitioners' request. However, Rate Counsel recommends language that should be included in any Board Order approving the request in this proceeding.

Background & Analysis

On or about August 24, 2015, the Joint Petitioners filed a Petition with the Board requesting the Board's approval of the purchase of the assets of Roxiticus by American for the purchase price of \$300,000. Petition, para. 3 & 4. American is the State's largest regulated water utility, providing service to approximately 613,000 customers in eighteen counties in New Jersey. Petition, para. 1. Roxiticus is a small water utility, providing service to approximately one hundred customers in the town of Mendham, Morris County. Petition, para. 2. Roxiticus currently purchases all of its water from American. Response to SE-18. Roxiticus' rates are currently among the highest water rates in the State. Under the proposed transaction, Roxiticus customers will be transitioned to American's SA-1 tariff rate and related public fire service rate. Response to SE-1. Roxiticus will continue to exist as a separate entity, with liabilities and obligations that will endure post-closing. Petition, para. 3 & 13.

N.J.S.A. 48:2-51.1 governs the Board's review of the proposed transaction. The statute provides, in part, that "[i]n considering a request for approval of an acquisition of control, the board shall evaluate the impact of the acquisition on competition, on the rates of the ratepayers affected by the acquisition of control, on the employees of the affected public utility or utilities, and on the provision of safe and adequate utility service at just and reasonable rates." N.J.S.A. 48:2-51.1. In reviewing a petition for change of control of a New Jersey utility, the Board must ensure that "positive benefits will flow to customers and the State of New Jersey," and that there are "no adverse impacts" on rates, competition, employees and the provision of safe and adequate service. N.J.A.C. 14:1-5.14(c). The Joint Petitioners must satisfy these requirements

by a “preponderance of the evidence.” N.J.A.C. 14:1-5.14(d). Rate Counsel has reviewed the petition and accompanying exhibits, and all of the discovery responses provided by the Joint Petitioners. Rate Counsel believes that the Joint Petitioners have satisfied the requirements of N.J.S.A. 48:2-51.1 and N.J.A.C. 14:1-5.14, and therefore does not object to the Board’s approval of the Petition.

Since Roxiticus customers will be transitioned to American’s SA-1 rate tariff post-closing, Roxiticus customers will benefit from lower rates as a result of the asset purchase. For example, a Roxiticus customer using 6,000 gallons of water per month currently pays \$81.85 monthly. Under American’s SA-1 rate, that same customer will pay \$53.41 monthly.

Responses to RA-7 & RA-8.

Regarding employees, Roxiticus currently has no employees. Petition, para. 14. There will be no change in the existing collective bargaining agreements for American Employees. Petition, para. 10. There will be no impact on competition as a result of the transaction. Both Roxiticus and American are regulated water utilities subject to traditional rate base, rate of return regulation. Unlike the gas and electric industries, the water utilities have never been deregulated. Regarding the impact on the provision of safe and adequate service, Rate Counsel believes that the transaction will benefit Roxiticus customers. Roxiticus is currently a very small water utility serving only one hundred customers. If and when capital improvements to the system are necessary, Roxiticus customers will benefit by having access to the expertise and financial resources of a large water utility such as American. Furthermore, customers in need will also have access to American’s customer assistance payment programs – H2O Help to Others and Low Income Payment plan. Para. 21.

Neither American's Petition, nor any discovery response, offers any financial analysis of the proposed purchase price on rates for current American customers.¹ Furthermore, the Joint Petitioners are not proposing any change to American's rates at this time. Accordingly, the Company's next rate case should examine the issue of American's request for an acquisition adjustment.

Recommendation

Rate Counsel does not object to the Joint Petitioners' request to approve the proposed transaction under N.J.S.A. 48:2-51.1. However, approval of the Petition should not include authorization to include in rate base the specific assets that will be acquired as a result of the proposed transaction. The determination of any assets to be included in rate base, including whether or not an acquisition adjustment is appropriate, 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 American.
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 American.
3. American shall not depreciate the portion of the water system that is funded by CIAC.

These provisions will satisfy the concerns of Rate Counsel that BPU approval is limited to approval of the asset purchase under N.J.S.A. 48:2-51.1, and that there is no authorization to

¹ In RCR-2, when Rate Counsel asked the Joint Petitioners to provide evidence supporting the \$300,000 purchase price, the Joint Petitioners responded only that the purchase price "was the result of negotiations between the seller and New Jersey American Water." No financial analysis of the impact on rates was provided.

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 Joint Petition.

Respectfully submitted,

STEFANIE A. BRAND, ESQ.

Director, Rate Counsel

By: 

Christine M. Juarez, Esq.

Assistant Deputy Rate Counsel

CMJ/ddg

cc: Service List *via e-mail and regular mail*

1/M/0 The Joint Petition of New Jersey
American Water Company, Inc., and
Roxiticus Water Company, Inc., for
Among Other Things Approval of a
Change in Control of Roxiticus Water
Company, Inc.
BPU Docket No.:WM15080982

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

*Debra F. Robinson, Esq.
Water & Wastewater
Division of Rate Counsel
140 East Front Street 4th Floor
P.O. Box 003
Trenton, New Jersey 08625

Christine M. Juarez, Esq.
Division of Rate Counsel
140 East Front Street 4th Floor
P.O. Box 003
Trenton, New Jersey 08625

Darlene Duque-Garcia, Paralegal
Division of Rate Counsel
140 East Front Street 4th Floor
P.O. Box 003
Trenton, New Jersey 008625

Irene Asbury, Secretary
Board of Public Utilities
44 S. Clinton Avenue, 3rd Floor
Suite 314
P.O. Box 350
Trenton, New Jersey 08625

Maria Moran, Director
Board of Public Utilities
44 S. Clinton Avenue, 3rd Floor
Suite 314
P.O. Box 350
Trenton, New Jersey 08625

Mark Beyer, Chief Economist
Board of Public Utilities
44 S. Clinton Avenue, 3rd Floor
Suite 314
P.O. Box 350
Trenton, New Jersey 08625

Howard J. Woods, Jr., P.E.
Howard J. Woods & Assoc. L.L.C.
138 Liberty Drive
Newtown, Pennsylvania 18940

Mike Kammer
Board of Public Utilities
44 S. Clinton Avenue, 3rd Floor
Suite 314
P.O. Box 350
Trenton, New Jersey 08625

Robert J. Brabston, Esq.
New Jersey American Water Co.
167 J.F. Kennedy Parkway
Shorthills, New Jersey 07078

Mona Mosser, Bureau Chief
Division of Water & Wastewater
Board of Public Utilities
44 S. Clinton Avenue, 3rd Floor
Suite 314
P.O. Box 350
Trenton, New Jersey 08625

Alex Moreau, DAG
Division of Law
Board of Public Utilities
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101

Geoffrey Gersten, DAG
Division of Law
Board of Public Utilities
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101

Jordan Mersky, Esq.
New Jersey American Water Co.
1025 Laurel Oak Road
Voorhees, New Jersey 08043

William F. Ziegler
Holston, MacDonald, Uzdavinis
Ziegler, Lodge & Myles
66 Euclid Street
Woodbury, New Jersey 08096

•Receives all correspondence
except discovery.

**Receives e-mail only