



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
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 MANVILLE,)
COUNTY OF SOMERSET) DOCKET NO. WE24030202

Parties of Record:

Stephen R. Bishop, V.P. Managing General Counsel & Secretary, New Jersey-American Water Company, Inc.

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD¹:

By this Order, the New Jersey Board of Public Utilities (“Board”) considers a petition filed by New Jersey-American Water Company, Inc. (“NJAWC” or “Company”) on March 27, 2024, pursuant to N.J.S.A. 48:2-14 and N.J.A.C. 14:1-5.5, seeking approval of a municipal consent granted by the Borough of Manville (“Borough” or “Manville”) on March 11, 2024 via Ordinance No. 24-1312 (“Municipal Consent”) granting the Company authority to provide wastewater services throughout the Borough (“Petition”).²

BACKGROUND

NJAWC is a regulated public utility corporation engaged in the production, treatment, and distribution of water and the collection and treatment of wastewater within its defined service territory within the State of New Jersey. The Company’s service territory includes portions of Atlantic, Bergen, Burlington, Camden, Cape May, Essex, Gloucester, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Union, and Warren counties.

The Borough encompasses approximately 2.45 square miles and has a population of approximately 10,875 people. The Borough currently owns and operates the wastewater system (“System”) that serves the residents and property owners within the Borough (“Proposed

¹ Commissioner Michael Bange is recused from this matter due to a potential conflict of interest and, as such, took no part in discussions or deliberations on this matter.

² Ordinance No. 24-1312 is attached to this Order as Exhibit A.

Franchise Area”). The System serves approximately 3,729 connections in the Borough and provides wastewater service to portions of the neighboring Township of Hillsborough.

PETITION

By the Petition, NJAWC sought Board approval of the Municipal Consent granting the Company a franchise to provide wastewater services to the Borough in the Proposed Franchise Area. By the Municipal Consent, the Borough permitted the Company to construct, lay, maintain, and operate the necessary water and wastewater mains, pipes, and appurtenances throughout the geographical area of the City and to provide wastewater services to the Borough.

By the Petition, the Company noted that the Municipal Consent was part of a sale process conducted in compliance with, and pursuant to, procedures set forth in N.J.S.A. 40:62-3 through -6. Following evaluation of NJAWC’s bid, the Borough awarded the sale to NJAWC, subject to approval by the Borough’s voters, via referendum, and the Board. On November 7, 2023, pursuant to N.J.S.A. 40:62-5, the Borough held a referendum on whether to approve NJAWC’s acquisition of the System, whereby the voters approved the sale of the System.

By the Petition, NJAWC noted that it only seeks Board approval of the Municipal Consent. The Company did not, as part of its requests in the Petition, seek any ratemaking treatment relative to the System. NJAWC indicated that it would seek ratemaking treatment for the System as part of its base rate proceeding.³

On June 18, 2024, the Board held a duly noticed virtual public hearing on the Petition, presided over by Michael Hunter, Regulatory Officer. Representatives from the Company, the New Jersey Division of Rate Counsel (“Rate Counsel”), and Board Staff (“Staff”) appeared. No members of the public attended, and the Board received no written public comments in this matter.

By letter dated August 5, 2024, Rate Counsel submitted comments on the Petition noting that, subject to certain conditions, it did not oppose the request for approval of the Municipal Consent. Rate Counsel recommended that the Board modify the term of the Municipal Consent to be limited to fifty (“50”) years for the specific authorization to provide wastewater service and to access public streets and places within the Borough. Rate Counsel also recommended that the Board condition its approval on the requirement 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. N.J.S.A. 48:2-14. 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 interests of the public. Ibid. The Board may impose conditions on its approval as the public convenience and interest may require. Ibid.

³ In re the Petition of New Jersey-American Water Company, Inc. for Approval of Increased Tariff Rates and Changes for Water and Wastewater Services and Other Tariff Modifications, BPU Docket No. WR24010056; OAL Docket No. PUC 02409-24.

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

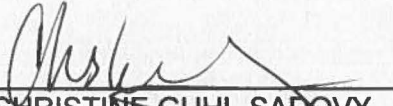
Accordingly, the Board **HEREBY APPROVES** the Municipal Consent and the expansion of NJAWC's service territory to include the customers in the Proposed Franchise Area. The Board **FURTHER FINDS** that the Company has the ability to provide safe, adequate, and proper service in the Proposed Franchise 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, with regard to 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 Company.
3. NJAWC shall not depreciate any portion of the Systems that are 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 fifty ("50") years.
6. Approval of this Municipal Consent does not constitute approval by the Board of any costs or expenses associated with the 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 the Municipal Consent does not constitute approval of any specific main extension or plan for service. In extending service, the Company must comply with all applicable laws.
8. Staff is authorized to approve, subject to comments filed by Rate Counsel, any written request by the Company for additional time to comply with any applicable terms above.

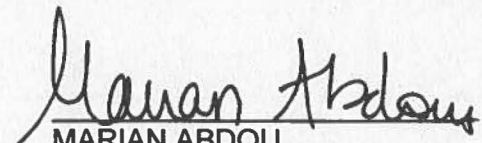
This Order shall be effective on September 25, 2024.

DATED: September 25, 2024

BOARD OF PUBLIC UTILITIES
BY:


CHRISTINE GUHL-SADOVY
PRESIDENT


DR. ZENON CHRISTODOULOU
COMMISSIONER


MARIAN ABDOU
COMMISSIONER

ATTEST: 
SHERRYL 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.

IN THE MATTER OF THE PETITION OF NEW JERSEY-AMERICAN WATER COMPANY, INC. FOR
APPROVAL OF THE MUNICIPAL CONSENT GRANTED BY THE BOROUGH OF MANVILLE, COUNTY
OF SOMERSET

DOCKET NO. WE24030202

SERVICE LIST

New Jersey American Water

One Water Street
Camden, NJ 08102

Stephen R. Bishop, Esq.
V.P. Managing General Counsel & Secretary
stephen.bishop@amwater.com

Jamie Hawn, Director Rates & Regulatory
jamie.hawn@amwater.com

Donna L. Carney, Principal Paralegal
donna.carney@amwater.com

Division of Rate Counsel

140 East Front Street, 4th Floor
Trenton, NJ 08625-0003

Brian Lipman, Esq., Director
blipman@rpa.nj.gov

Christine Juarez, Esq.
cjuarez@rpa.nj.gov

Emily Lam, Esq.
elam@rpa.nj.gov

Division of Law

R.J. Hughes Justice Complex, 7th Floor
25 Market Street, P.O. Box 112
Trenton, N.J. 08625

Pamela L. Owen, Assistant Section Chief, DAG
pamela.owen@law.njoag.gov

Meliha Arnautovic, DAG
meliha.arnautovic@law.njoag.gov

Terel Klein, DAG
terel.klein@law.njoag.gov

Board of Public Utilities

44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, NJ 08625-0350

Sherri L. Golden, Board Secretary
board.secretary@bpu.nj.gov

Stacy Peterson, Deputy Executive Director
stacy.peterson@bpu.nj.gov

Division of Engineering

Dean Taklif, Director
dean.taklif@bpu.nj.gov

Nisa Rizvi
nisa.rizvi@bpu.nj.gov

Counsel's Office

Robert Brabston, Acting General Counsel
robert.brabston@bpu.nj.gov

Colin Emerle, Deputy General Counsel
colin.emerle@bpu.nj.gov

Carol Artale,
carol.artale@bpu.nj.gov

Kit Burnette, Regulatory Officer
kit.burnette@bpu.nj.gov



BOROUGH OF MANVILLE

Ordinance No. 2024-1312

AN ORDINANCE GRANTING CONSENT AND PERMISSION TO NEW JERSEY AMERICAN WATER, INC. TO FURNISH WASTEWATER COLLECTION AND CONVEYANCE SERVICE IN THE BOROUGH OF MANVILLE, NEW JERSEY

WHEREAS, the Borough of Manville, County of Somerset and State of New Jersey (the “Borough”), hereby grants consent and permission to New Jersey American Water, Inc. (“NJAW”), a New Jersey Corporation to furnish wastewater collection and conveyance service within the Borough; and

WHEREAS, NJAW is in the process of acquiring the wastewater system (the “System”) currently owned and operated by the Borough, which has been approved by the voters of the Borough on November 7, 2023, pursuant to N.J.S.A. §40:62-5; and

WHEREAS, the Borough is desirous of having NJAW acquire the System and the voters of the Borough of Manville approved same by passage of a referendum on November 7, 2023, by a vote of 1,552 to 325; and

WHEREAS, NJAW is a regulated public utility corporation of the State of New Jersey presently seeking the municipal consent of the Borough to permit NJAW to provide wastewater collection and conveyance service through the System; and

WHEREAS, NJAW has requested the consent of the Borough as required by N.J.S.A. §48:19-17 and §48:19-20, as amended, to lay its pipes beneath and restore such public roads, streets and places as it may deem necessary for its corporate purposes, free from all charges to be made for said privilege (except that fees for road opening permits shall be paid), provided that all said pipes installed after the date of this ordinance shall be laid at least three feet (3’) below the surface and shall not in any way unnecessarily obstruct or interfere with the public travel or cause or permit other than temporary damage to public or private property; and

WHEREAS, it is deemed to be in the best interests of the citizens of the Borough to provide this consent; and

WHEREAS, notice of this Ordinance was published in accordance with the requirements of N.J.S.A. §48:3-13 and N.J.S.A. §48:3-14; and

WHEREAS, the Mayor and Council of the Borough have concluded that granting of said consent shall enhance the health, safety and welfare of the citizens of the Borough.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE BOROUGH AS FOLLOWS:

Section 1. That exclusive and perpetual consent and permission to furnish wastewater collection and conveyance to the Borough and all residents, businesses and government buildings therein is hereby given and granted to NJAW, its successors and assigns for the maximum duration permitted by law (50 years), subject to the permission by the Board of Public Utilities of the State of New Jersey.

Section 2. That exclusive consent and permission is given to NJAW, its successors and assigns, under the provisions of N.J.S.A. §48:19-17 and N.J.S.A. §48:19-20, as amended, without charge therefore, (except fees for road opening permits which shall be paid) as the same may be required in order to permit NJAW to own and operate the System, add to, extend, replace, operate and maintain said System in the public property described herein in order to provide said wastewater collection and conveyance service. This shall include permission to lay pipes beneath the public roads, streets, public property and public places.

Section 3. That a certified copy of this Ordinance, upon final passage, shall be sent to NJAW, the New Jersey Department of Environmental Protection and the Board of Public Utilities of the State of New Jersey.

Section 4. That the consent granted herein shall be subject to NJAW complying with all applicable laws of the Borough and/or the State of New Jersey including, but not limited to, any and all applicable statutes and administrative agency rules and/or regulations and contingent upon the Borough and NJAW executing the *Agreement of Sale Between the Borough of Manville and New Jersey American Water, Inc.*, as the same may be amended from time to time.

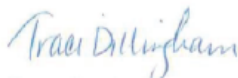
Section 5. The Mayor and the Borough Administrator are authorized to execute the documents and agreements necessary to effectuate this municipal consent.

Section 5. Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

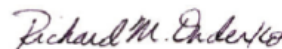
Section 6. All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

BE IT FURTHER ORDAINED, that if any portion of this Ordinance shall be declared invalid as a matter of law, such declaration shall not affect the remainder of said Ordinance; and

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with law.



TRACI DILLINGHAM
ACTING BOROUGH CLERK



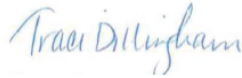
RICHARD M. ONDERKO
MAYOR

INTRODUCED this
26th day of February, 2024:

**ORDINANCE # 2024-1312
FIRST READING: 2/26/2024
ROLL CALL**

Introduced	Seconded	Council	Yes	No	Abstain	Absent
		Agans	x			
x		Camacho	x			
		DeVito	x			
		Madak	x			
		Puia	x			
	x	Skirkanish	x			
		Onderko				

Attest:



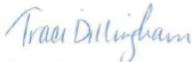
Traci Dillingham
Acting Borough Clerk

ADOPTED this
11th day of March, 2024:

**ORDINANCE # 2024-1312
SECOND READING AND FINAL ADOPTION: 3/11/2024
ROLL CALL**

Introduced	Seconded	Council	Yes	No	Abstain	Absent
		Agans				x
x		Camacho	x			
		DeVito	x			
		Madak	x			
	x	Puia	x			
		Skirkanish	x			
		Onderko				

Attest:



Traci Dillingham
Acting Borough Clerk

ADOPTED this 11th day of March, 2024