



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 TOWNSHIP OF WASHINGTON,)
COUNTY OF WARREN) DOCKET NO. WE23110867

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 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” or “Company”) on November 30, 2023, pursuant to N.J.S.A. 48:2-14, N.J.S.A 48:19-17 and -20, and N.J.A.C. 14:1-5.5, seeking approval of a municipal consent granted by the Township of Washington (“Township”) on April 19, 2023 via Ordinance No. 2023-09 (“Municipal Consent”) granting the Company authority to provide wastewater services throughout the Township (“Petition”).²

BACKGROUND

NJAWC is a regulated public utility corporation engaged in the production, treatment, and distribution of water and the collection of sewage 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, Salem, Somerset, Union, and Warren counties.

Washington is a township of approximately eighteen (18) square miles in the County of Warren and has a population of approximately 6,500. On July 17, 2001, the Township previously granted the Company’s predecessor, Applied Wastewater Management Inc. (“Applied”), municipal consent to provide wastewater collection and treatment services to a portion of the Township

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. 2023-09 is attached to this Order as Exhibit A.

known as the Hawk Pointe Village development, for a term of fifty (50) years (“Initial Franchise Area”).³ Applied was merged with and into NJAWC on September 1, 2010.⁴ The Initial Franchise Area is served by the Company’s Hawk Pointe Wastewater Treatment Plant.

The Municipal Consent was adopted by the Township on April 19, 2023, permitting the Company a franchise to provide wastewater services to an area expanding on its Initial Franchise Area (“Proposed Franchise Area”), pursuant to N.J.S.A. 48:3-11 to -15 and N.J.S.A. 48:13-11. The Proposed Franchise Area will allow for additional development in the Hawk Pointe Village community. By the Municipal Consent, the Township permitted the Company to construct, lay, maintain, and operate the necessary wastewater mains, pipes, and appurtenances throughout the geographical area and to provide wastewater services to the Proposed Franchise Area. The Municipal Consent was part of an asset transfer agreement (“Agreement”) entered into by and between the Company and Asbury Farms Urban Renewal, LLC (“Asbury Farms”) on January 13, 2021. Asbury Farms constructed a wastewater collection system (“System”) to serve the eighty (80) single-family homes within the Proposed Franchise Area and, through the Agreement, this system would be transferred to NJAWC.

PETITION

By the Petition, NJAWC sought Board approval of the Municipal Consent. The Company noted that approval of the Municipal Consent will aid the Company’s ability to provide safe, adequate, and proper service to the customers of the Township and the Company.

The Company noted that customers in the Proposed Franchise Area will pay general service tariff rates for all wastewater service provided by the Company, subject to any changes to those tariffs when, and if, the Board approves any such modifications by regulation or Order.

The Company further noted that expanding the franchise territory is necessary and proper for public convenience and to properly conserve the public interest by providing wastewater utility service to the Proposed Franchise Area.

On May 21, 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 June 11, 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 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.

³ In re the Petition of Applied Wastewater Management, Inc. for Approval of (1) a Municipal Consent by the Township of Washington, Warren County, New Jersey; and (2) Extension of its Existing Sewer Tariff to the New Service Area, BPU Docket No. WE01100627, Order dated September 11, 2003.

⁴ In re the Joint Petition of New Jersey American Water Company, Inc. and Applied Wastewater Management, Inc. for Approval of the Merger of Applied Wastewater Management, Inc. into New Jersey-American Water Company, Inc. and for Related Authorizations, BPU Docket No. WM09110890, Order dated April 16, 2010.

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.

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.

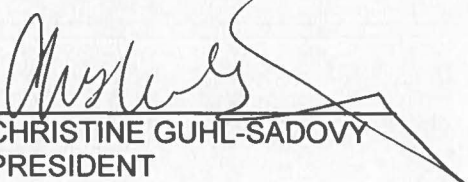
Accordingly, the Board **HEREBY APPROVES** the Municipal Consent and the expansion of NJAWC's service territory to include the customers in the Proposed Franchise Area. The Board **FURTHER FINDS** that the Company has the ability to provide safe, adequate, and proper service in the Proposed Franchise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

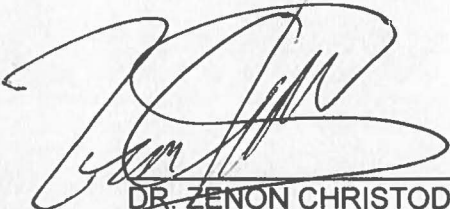
1. This Order shall not affect or in any way limit the exercise of the authority of the Board, or of the State, with regard to any future petition or in any proceeding with respect to rates, franchises, service, financing, accounting, capitalization, depreciation, or in any matter affecting the Company.
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 System that is 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.

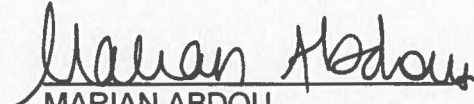
This Order shall be effective on October 2, 2024.

DATED: September 25, 2024

BOARD OF PUBLIC UTILITIES
BY:


CHRISTINE GUHL-SADOVY
PRESIDENT


DR. ZENON CHRISTODOULOU
COMMISSIONER


MARIAN ABDOU
COMMISSIONER

ATTEST: 
SHERRIL 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 A MUNICIPAL CONSENT GRANTED BY THE TOWNSHIP OF
WASHINGTON, COUNTY OF WARREN
DOCKET NO. WE23110867

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ORDINANCE NO. 2023-09

ORDINANCE GRANTING CONSENT TO NEW JERSEY AMERICAN WATER COMPANY, INC. TO PERMIT THE CONSTRUCTION, EXPANSION AND MAINTENANCE OF SEWER COLLECTION AND TREATMENT FACILITIES ON PUBLIC AND PRIVATE PROPERTY IN THE TOWNSHIP OF WASHINGTON, COUNTY OF WARREN

WHEREAS, New Jersey American Water Company, Inc., successor to Applied Wastewater Management, Inc., ("Company") is a regulated public utility corporation of the State of New Jersey seeking from the Township of Washington ("Township") the approval of an exclusive and perpetual franchise to provide sewer service within the Township, and the municipal consent of the Township to permit said Company to extend sewer service and its related facilities to the Township; and

WHEREAS, by Ordinance No. 01-07 adopted July 17, 2001, the Township previously granted the Company consent to construct and maintain sewer utility facilities in public roads and other places in a portion of the Township known as the Hawk Pointe development, for a term of 50 years, and a copy of Ordinance No. 01-07 together with the schedules describing the initial franchise area are attached as Exhibit 1 and referred to as the "Initial Franchise Area"; and

WHEREAS, by Order dated September 11, 2003, the Board of Public Utilities approved Ordinance No. 01-07; and

WHEREAS, the Company has requested the approval of a franchise to modify its right to further provide sewer service within the Township to include the lands designated, depicted and described in Exhibit 2, which is attached hereto and referred to as the "Franchise Extension Area", pursuant to N.J.S.A. 48:2-14, and that the franchise grant to provide service for both the Initial Franchise Area and Franchise Extension Area (hereinafter collectively the "Franchise Area") is exclusive and perpetual; and

WHEREAS, the Company has requested the consent of the Township as required by N.J.S.A. 48:3-11 and 48:3-15 for the use of the streets, with such consent limited to the fifty (50) year duration set forth in N.J.S.A. 48:3-15, including the consent of the Township pursuant to N.J.S.A. 48:13-11, as amended, to lay its pipes, valves, pumps, manholes and other equipment 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 such privilege, provided that said pipes 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 the Township desires and permits the Company to construct and maintain sewer collection and treatment facilities on and along roads, streets and places at locations to be designated by the Township in order to provide sewer service to the Franchise Area;

WHEREAS, the Township has considered the Company's request and has determined that it is the best interest of the Township of Washington for the term of the franchise to be for a period of 50 years consistent with Ordinance No. 01-07 and consistent with the term for the use of the Township streets.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Washington, in the County of Warren, State of New Jersey, as follows:

Section 1. The Township hereby grants to the Company, its successors and assigns, the exclusive franchise to provide sewer service for a 50-year duration to the Franchise Area within the Township pursuant to N.J.S.A. 48:2-14.

EXHIBIT A

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Section 2. The Township hereby further grants to the Company, its successors and assigns, the municipal consent to use the streets pursuant to N.J.S.A. 48:3-11 and 48:3-15, with such consent limited to the fifty (50) year duration set forth in N.J.S.A. 48:3-15; as well as the municipal consent required pursuant to N.J.S.A. 48:13-11 as amended, without charge therefore, as the same may be required in order to permit the said Company to add to, extend, operate and maintain said sewer collection and treatment facilities on public and private property located in the Franchise Area. The privilege granted herein shall include the construction installation and maintenance of sewer collection and treatment facilities on and along the Township roads, streets and places at locations as the Township shall designate from time to time.

Section 3. Certified copies of this Ordinance, upon final passage, shall be sent to the Company who shall forward same to the New Jersey Department of Environmental Protection and the Board of Public Utilities of the State of New Jersey.

Section 4. The consent granted herein shall be subject to the Company's complying with the applicable Township Ordinances, State of New Jersey Statutes and any New Jersey Administrative agency's rules and regulations which apply to the subject matter of this Ordinance; and that the Mayor, Clerk and other Township officials are authorized to execute the documents and agreements necessary to effectuate the municipal consent and to protect the rights of the public involved.

Section 5. All prior Ordinances or parts of Ordinances inconsistent with this Ordinance be and the same are hereby repealed to the extent of such inconsistencies.

Section 6. Should any section, clause, sentence, phrase or provision of this Ordinance be declared unconstitutional or invalid by a Court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

Section 7. This Ordinance shall take effect immediately upon final passage and publication in accordance with law.

NOTICE is hereby given that the foregoing Ordinance was introduced and passed on first reading at a meeting of the Township Committee of the Township of Washington held March 15, 2023 and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a meeting of the Township Committee to be held on April 19, 2023 at 6:30 pm or as soon thereafter as the matter may be heard at the Municipal Building, 211 Route 31 North, Washington, NJ 07882 at which time all persons interested will be given an opportunity to be heard concerning such Ordinance.

Ann Kilduff, RMC
Township Clerk