



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

WATER

IN THE MATTER OF THE PETITION OF SUEZ WATER)
NEW JERSEY INC. FOR THE APPROVAL OF)
MUNICIPAL CONSENT TO OWN AND OPERATE A)
WATER SYSTEM IN THE TOWNSHIP OF)
INDEPENDENCE AND APPROVAL OF THE)
ISSUANCE OF REVISED TARIFF SHEETS SETTING)
FORTH SUEZ WATER NEW JERSEY INC.'S)
EXPANDED SERVICE AREA RELATED TO THE)
TRANSFER OF WATER ASSETS FROM THE)
TOWNSHIP OF INDEPENDENCE TO SUEZ WATER)
NEW JERSEY INC.)

ORDER

DOCKET NO. WE18010008

Parties of Record:

Katherine M. Jensen, Esq., SUEZ Water New Jersey Inc.
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:¹

On January 8, 2018, SUEZ Water New Jersey, Inc. ("SWNJ," "Company," or "Petitioner"), 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 14:1-5.11, seeking approval of the following: (1) a municipal consent, Ordinance No. 2017-12 ("Ordinance"), adopted October 17, 2017, by the Township of Independence ("Township" or "Seller") to allow the Petitioner to provide water service in two areas of the Township formerly serviced by the Independence Township Municipal Utility Authority ("Independence System" or "IMUA"); (2) the merger of the former IMUA water systems into SUEZ Water New Jersey; (3) the purchase of the water assets of the Independence System; (4) to charge water rates in the proposed franchise areas charged by the former IMUA; and (5) to file revised tariff sheets modifying the billing frequency from the quarterly billing cycle to a monthly billing cycle.

¹ Commissioner Robert M. Gordon recused himself due to a potential conflict of interest and as such took no part in the discussion or deliberation in this matter.

The Independence System is a public body corporate and politic in Warren County, State of New Jersey and is not subject to the jurisdiction of the Board. The Independence System provides water service to 178 customers through approximately three wells, two storage tanks and a series of related distribution systems. Those systems include Valley View and Highland.

SWNJ is a public utility organized and operating under the laws of the State of New Jersey. SWNJ is engaged in the business of treating and distributing water for retail service to customers located in the northern and western portions of the State. SWNJ serves approximately 200,000 customers located in portions of Bergen, Hudson, Passaic, Morris, Hunterdon and Sussex Counties. SWNJ also supplies water service to municipalities, including the Township of Saddle Brook, the Boroughs of Fairlawn, Saddle River, Allendale, Mahwah and Ramsey and the Village of Ridgewood. The Petitioner is a wholly-owned subsidiary of SUEZ Water Resources Inc., a Delaware corporation.

THE PROPOSED TRANSFER AND FRANCHISE AREA EXPANSION

On September 12, 2017, SWNJ entered into an Agreement of Sale ("Agreement") with the Township which provides for SWNJ to purchase the Seller's water system assets serving the customers of the Independence System for \$400,000.

The Township has determined that this sales transaction is not subject to public referendum and the transfer is appropriate pursuant to N.J.S.A. 40:62-3.1. The Township obtained approval for dissolution of the IMUA from the New Jersey Department of Community Affairs ("NJCA") on October 11, 2017.

The Petitioner has obtained consent from the Township to lay, maintain and relay its water pipes, mains, connections and to provide water service to the Independence System. The Township passed the Ordinance providing consent on October 17, 2017.

The Petitioner represents that it intends to merge the Independence System into SWNJ. It will be operated out of SWNJ's office located in Vernon Township, Sussex County. The Independence System will not be connected to the Sussex or Passaic systems and will be operated as a standalone system.

The Seller has two public water systems identified by the New Jersey Department of Environmental Protection ("NJDEP"). The Valley View system provides water to twenty-nine customers and the Highland System provides water to 122 customers. The Valley View system is served by one well. The well has a pump capacity of twenty gallons per minute ("gpm"). The system registered a peak diversion of 0.470 million gpm and a peak annual diversion of 1.651 million gallons per year in 2015. The system is able to produce 15,000 gallons per day to its customers.

The Highland system is served by two wells and a treatment plant. One of the wells, identified as Well #1 by the Petitioner, has pump capacity of seventy-five gpm and the second well, identified as Well #2 by the Petitioner, has a pump capacity of 130 gpm. The treatment plant provides corrosion control and disinfection to the Highland system. The Petitioner has proposed approximately \$600,000 in capital improvements planned for both systems over the next five years, including upgrading/replacing electrical equipment, chemical containment, safety equipment modifications and stand-by power modifications.

The Valley View system has one fire hydrant, but it is unable to provide fire protection. According to the Petitioner, this hydrant is used for flushing purposes only. The Highland system has thirteen fire hydrants and these are utilized for both firefighting and system flushing.

The petition indicates that, given its proximity to the SWNJ's Sussex and Passaic systems, the Independence System can easily be included in the existing daily rounds of SWNJ maintenance personnel to SWNJ systems and can quickly be reached by SWNJ staff in the event of an emergency.

IMPACT ON SUEZ WATER NEW JERSEY, INC.

The Company represents that the expansion of its service territory will not impose any negative impacts on current SWNJ customers or its ability to provide safe and adequate service.

SWNJ claims it has successfully owned and operated water systems in New Jersey for many years. This franchise expansion and transfer will allow SWNJ, a company with extensive resources, to use its knowledge, expertise and access to capital to operate the Seller's system in a way that will ensure safe and dependable service to its customers and moderate future rate impacts. It will also result in operational and administrative efficiencies and enable SWNJ to maintain economies of scale as the Seller's former customers and assets are integrated into SWNJ's system.

IMPACT ON THE INDEPENDENCE SYSTEM CUSTOMERS

SWNJ is requesting that the Independence System be merged into SWNJ. The Petitioner proposes to charge the existing rates of the Independence System until the next rate proceeding, as opposed to its currently pending rate case, I/M/O The Joint Petition for Approval of an Increase in Rates For Water and Wastewater Service and Other Tariff Changes for Suez Water New Jersey Inc., Suez Water Toms River Inc. Suez Water Arlington Hills Inc., Suez Water West Milford Inc., Suez Water Princeton Meadows Inc., and Suez Water Matchaponix Inc., Docket No. WR18050593. The Petitioner proposes to modify the billing frequency from the quarterly billing cycle used by the IMUA to a monthly billing cycle. At the conclusion of the next rate case, SWNJ proposes to move the Independence System customers to SWNJ's approved rates for water service.

The Company anticipates, subject to additional due diligence, capital improvements of approximately \$600,000 over the next five years.

SPECIFIC BENEFITS TO CUSTOMERS OF THE INDEPENDENCE SYSTEM

The Petitioner states that the proposed Agreement will promote the public interest and result in the following positive benefits:

1. The need to comply with increasingly stringent water quality and environmental standards has created substantial demands for capital investment for water and wastewater utilities. The financial resources and backing of SWNJ will be a benefit to the Independence System customers in the replacement of infrastructure and compliance with the Safe Drinking Water Act.

2. SWNJ's size and scale enable the Company to address the water needs of the Independence System customers well into the future.
3. The customers of the Independence System will benefit from becoming part of SWNJ, a substantially larger water company regulated by the Board. These customers will receive the benefits of industry standard best practices in the areas of planning, research, environmental compliance, water quality, customer service, finance, risk management, operations and service delivery and management.
4. After the approval of the proposed Agreement, the Independence System customers will have access to SWNJ's customer service call center to resolve any customer service issues that may arise.

THE MUNICIPAL CONSENT

SWNJ intends to operate the assets of the Independence System pursuant to the existing municipal consent granted by the Ordinance. The municipal consent, adopted on October 17, 2017 by the Township, will allow the Petitioner to lay, maintain and relay its water pipes, mains, connections and to provide water service to the Independence System.

On May 2, 2018, a duly noticed municipal consent hearing on the Company's petition was held at the Board's Trenton office. William Agee, Esq., Legal Specialist, presided over the hearing at which representatives of the Company, Rate Counsel and Staff appeared. No members of the public appeared at the hearing or filed written comments.

THE WATERSHED PROPERTY REVIEW BOARD

The Watershed Property Review Board ("WPRB") consists of the President of the Board of Public Utilities, the Commissioner of the NJDEP and the Commissioner of the NJDCA.

The Township seeks to sell its assets, including certain property containing its water systems located in the Township to SWNJ. The Seller and SWNJ, by way of written request dated June 5, 2018, filed for an exemption from the WPRB to allow this sale to proceed. Without the exemption, conveyance of the property may be prohibited by the Watershed Protection and Moratorium Act, P.L. 1998, c. 163, as amended by P.L. 1990, c. 19.

The WPRB Staff thoroughly investigated the Independence System property for sale. On September 10, 2018, the WPRB issued the attached Order Granting Exemption.

THE NEW JERSEY DIVISION OF RATE COUNSEL ("RATE COUNSEL") COMMENTS

By letter dated June 6, 2018, Rate Counsel submitted its comments to the petition and stated that, subject to certain conditions, it is not opposed to the proposed acquisition of the IMUA or the proposed merger of the acquired assets into the Petitioner.

Rate Counsel also stated it does not object to the proposed initial tariff or the proposal to move customers from the quarterly billing cycle to a monthly billing cycle.

Rate Counsel indicated that it does not object to the Petitioner's request for approval of the municipal consent subject to the recommendation that the Board modify both the term of the consent to serve and the consent to street access to fifty years from the date of the grant of the consent. Rate Counsel recommended that the Board condition its approval on limitation of the municipal consent to a reasonable period not exceeding fifty years, which is the maximum period allowed for the right to use the streets in the municipality under N.J.S.A. 48:3-15. In addition, Rate Counsel recommended that the Board condition its approval of the petition to specify that transaction costs cannot be recovered in rates.

DISCUSSION AND FINDINGS

The Township's Ordinance provides the Petitioner with the consent to provide water service to certain sections of the Township and for the laying of pipes and the installation of other utility facilities as may be necessary. (Ordinance at 1.) N.J.S.A. 48:2-14 provides in part:

No privilege or franchise granted after May first, one thousand nine hundred and eleven, to any public utility by a political subdivision of this state shall be valid until approved by the board. Such approval shall be given when, after hearing, the board determines that the privilege or franchise is necessary and proper for the public convenience and properly conserves the public interests. In granting its approval the board may impose such conditions as to construction, equipment, maintenance, service or operation as the public convenience and interests may reasonably require.

Although the Ordinance does not specify a period for the use of the streets, a municipality may consent to the use of its streets or surfaces, but only for a period not exceeding fifty years. N.J.S.A. 48:3-15. However, N.J.S.A. 48:2-14 sets no limit for the duration of the municipal consent or franchise for the provision of service.

SWNJ will continue to charge the Independence System customers at the existing rates until at least SWNJ's next base rate case.

The Agreement will cause no material changes in the balance sheet or financial position of SWNJ. The need to comply with increasingly stringent water quality and environmental standards, while also rehabilitating and replacing aging water infrastructure, has created substantial demands for capital investments by water utilities. The financial resources and backing of SWNJ will be a benefit to the Independence System customers in the replacement of infrastructure and compliance with the Safe Drinking Water Act. After the completion of the proposed Agreement, customers of the Independence System will have access to the SWNJ customer service call center to resolve customer service issues.

The Board, having reviewed the Petition and the entire record, **FINDS** that the municipal consent is necessary and proper for the public convenience and properly conserves the public interests.

Accordingly, the Board **HEREBY APPROVES** the municipal consent, Ordinance No. 2017-12, October 17, 2017, granted to SWNJ by the Township. The Board **HEREBY APPROVES** an initial tariff for the Independence System customers to be incorporated into the SWNJ tariff. The

Board further **HEREBY APPROVES** the continuation of the current Independence System rates.

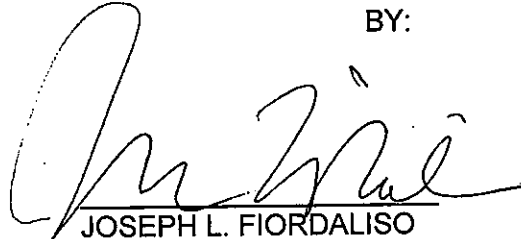
In addition, the Board **HEREBY APPROVES** the proposed acquisition of the Independence System by SWNJ as more fully described in the petition. Having considered the magnitude of the transaction, the Board **HEREBY FINDS** that the proposed acquisition is in the public interest subject to the following conditions:

1. This Order is based upon the specific and particular facts of the Agreement and shall not have precedential value in future transactions that may come before the Board and shall not be relied on as such.
2. This Order shall not affect or in any way limit the exercise of the authority of the Board, or of the State, in any future petition, or in any proceeding with respect to rates, franchises, service, financing, accounting, capitalization, depreciation or in any matters affecting the Company.
3. 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 SWNJ.
4. The Petitioner shall not depreciate any portion of the water system expansion that is funded by Contributions in Aid of Construction.
5. As required by N.J.S.A. 48:3-15, the municipal consent for the use of streets is limited to a term of fifty years.
6. Approval of this municipal consent does not constitute approval by the Board of any costs or expenses associated with this 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 this municipal consent does not constitute approval of any specific main extension or plan for service. In extending service, SWNJ must comply with all applicable laws.
8. Within thirty days of the date of the closing, the Petitioner shall file with the Board proof of the closing, net transaction costs, and final journal entries along with a detailed calculation of all expenses related to the proposed Agreement.
9. Within ten days of the date of the closing, SWNJ shall submit any revised tariff pages that may be necessary as a result of the proposed Agreement.
10. Board Staff is authorized to approve, subject to comments filed by Rate Counsel, any written request by the Petitioner for additional time to comply with items 8 and 9 above.


The Order shall be effective on October 29, 2018.

DATE: 10/29/18

BOARD OF PUBLIC UTILITIES
BY:



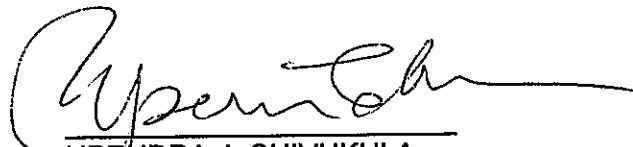
JOSEPH L. FIORDALISO
PRESIDENT



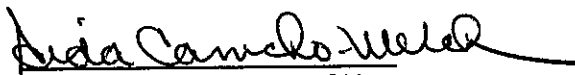
MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER



UPENDRA J. CHIVUKULA
COMMISSIONER

ATTEST: 
AIDA CAMACHO-WELCH
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 SUEZ WATER NEW JERSEY INC. FOR THE APPROVAL OF MUNICIPAL CONSENT TO OWN AND OPERATE A WATER SYSTEM IN THE TOWNSHIP OF INDEPENDENCE AND APPROVAL OF THE ISSUANCE OF REVISED TARIFF SHEETS SETTING FORTH SUEZ WATER NEW JERSEY INC.'S EXPANDED SERVICE AREA RELATED TO THE TRANSFER OF WATER ASSETS FROM THE TOWNSHIP OF INDEPENDENCE TO SUEZ WATER NEW JERSEY INC.

DOCKET NO. WE18010008

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Governor

SHEILA Y. OLIVER
Lt. Governor

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WATERSHED PROPERTY REVIEW BOARD

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Commissioner
Department of
Environmental Protection

JOSEPH L. FIORDALISO
President
Board of Public Utilities

SHEILA Y. OLIVER
Commissioner
Department of Community
Affairs

WATERSHED PROPERTY REVIEW BOARD REQUEST)
FOR AN EXEMPTION BY THE TOWNSHIP OF) ORDER GRANTING
INDEPENDENCE AND SUEZ WATER NEW JERSEY) EXEMPTION
)

(SERVICE LIST ATTACHED)

BY THE WATERSHED PROPERTY REVIEW BOARD:

Introduction

The Township of Independence, Warren County ("Township") has made an application before the Watershed Property Review Board ("Board") to sell its assets, including certain property containing its water systems located in the Township, to SUEZ Water New Jersey Inc. ("SWNJ"). The Township, by way of written request dated June 5, 2018, is seeking an exemption from the Watershed Property Review Board ("Board") to allow this sale to proceed. Without the exemption, conveyance of the property may be prohibited by the Watershed Protection and Moratorium Act, P.L. 1988, c. 163, as amended by P.L. 1990, c. 19 ("Act"). This Order adopts Board Staff's recommendation to grant the requested exemption.

Background

In 1975, the Township created the Independence Township Municipal Utility Authority ("IMUA") to provide water service to its residents. Currently, the IMUA provides water service to approximately 178 customers located in the Township. The IMUA currently owns and operates two small water systems (the "System"), one at the Highlands of Independence and the other at Valley View Estates. The System consists of three wells, two storage tanks and a series of related distribution systems in its service area.

The IMUA and Township have been interested in privatizing the System for some time due to the mounting operation and capital improvement costs, which would create an increase in water rates and create additional debt obligation for the IMUA. SWNJ recently approached the IMUA with a proposal to purchase the System and to commence upgrades. The Township felt that the proposal was one that, without question, was in the best interest of the Township and as such, has decided to pursue the sale. SWNJ will purchase the System for \$400,000.

There are three parcels ("the Properties") included in this sale, which will be transferred in fee, as inventoried in Exhibit 1. In addition to these properties, the IMUA's utility rights within certain road rights-of-way ("ROW") and seven utility easements across private properties will also be transferred to SWNJ. On October 11, 2017, the Local Finance Board approved the dissolution of the IMUA contingent upon the sale and satisfaction of the debt. No public referendum on the sale was required pursuant to *N.J.S.A. 40:62-3.1* since it serves less than 5% of the population of the Township.

Two properties are located within the headwaters area of Pohatcong Creek watershed and the third property is located in the Pequest River (below Bear Swamp) watershed. The IMUA's water system relies entirely on groundwater resources (three wells); none of its supply is generated by surface water. Board Staff conducted preliminary reviews and site visits of the Properties. Other than the IMUA's facilities (which include treatment facility, wellhouses, water storage tanks and associated access driveways and fencing), all of these properties are undeveloped.

Discussion

The Act prohibits any "municipality, municipal utility authority, or public utility" from conveying "any land utilized for the purpose of the protection of a public water supply." Section 1 of P.L. 1988, c. 163. In other words, the Act places a moratorium on all conveyances of watershed property. The Act permits the Board to grant an exemption from the moratorium under three circumstances. Section 2(a) of P.L. 1988, c. 163. The Board may permit the conveyance of watershed property if it finds: "(1) that there is a compelling public need for the conveyance of the property, (2) the denial of the exemption would result in extraordinary hardship, or (3) the sale or development of the watershed property is otherwise consistent with the purposes of this act" (which are generally to protect water quality and encourage open space preservation).

The Township is seeking an exemption which will allow it to convey its interest in the Properties, ROWs and easements to SWNJ on the basis that the sale is consistent with the purposes of the Act. Board Staff concurs that the Properties will continue to be subject to the Act since they will be conveyed from one regulated entity to another. The sale would further allow SWNJ to improve the system to meet current DEP standards. SWNJ anticipates routine capital improvements of approximately \$600,000 to this system over the next five years. If in the future SWNJ decides to convey any interest in these properties to a third party, SWNJ has committed to contact the Board for a jurisdictional determination on each property proposed for sale, as would be required under the Act.

Conclusion

Based on the foregoing discussion, the Board **HEREBY FINDS** that the proposed conveyance by the Township to SWNJ is consistent with the purposes of the Act, which are to protect water quality and encourage open space preservation. The Board **FINDS** that the Properties will continue to be subject to the Act, and any future conveyance of property interests in the Properties would require the Board Staff conduct a detailed jurisdictional determination for each property interest proposed for conveyance and/or an exemption from the Board. The Board **HEREBY ORDERS** any future sale of the Properties would require the Board Staff to conduct a detailed jurisdictional determination for each property proposed for sale. The Board **FURTHER ORDERS** to the extent that the Township and SWNJ identify additional property interests that will transfer to SWNJ at closing, the Township must report these properties to Board Staff within 30 days of closing, via an updated Exhibit 1 inventory.

Therefore, the Board **HEREBY ORDERS** that the application for the transaction for sale of the Properties, ROWs and easements be granted an exemption, pursuant to Section 2(a) of P.L. 1988, c. 163, as amended, shall be and hereby is **APPROVED** subject to the conditions recited above.

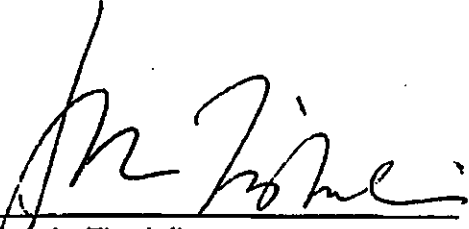
This Order addresses consideration of an exemption from the Act and does not relieve SWNJ, the Township and/or IMUA of any other obligations that may be required pursuant to any statute or regulation. This order is contingent on the applicant obtaining approvals pursuant to any other statute or regulation.

This Order confirms the vote on this matter taken at the duly noticed open public meeting of the Watershed Property Review Board on September 10, 2018.

DATED: 9/10/18

WATERSHED PROPERTY REVIEW BOARD

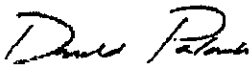
BY:



Joseph L. Fiordaliso
President
Board of Public Utilities



Ray Bukowski, Assistant Commissioner
As designee of
Catherine R. McCabe
Commissioner
Department of Environmental Protection
Pursuant to delegation order dated August 23, 2018



Donald Palombi, ~~Administrative Practice Officer~~
As designee of *Chief Regulatory Officer*
Lt. Governor Sheila Y. Oliver
Commissioner
Department of Community Affairs
Pursuant to delegation letter dated August 15, 2018

EXHIBIT 1
PROPERTY INVENTORY LIST

Independence Municipal Utilities Authority

All properties are located in Independence Township, Warren County, New Jersey

25-Apr-2018

Description	Fee/ Esmt	Grantee	Address	Tax Block	Tax Lot
Wellhouse and Treatment Plant	Fee	Independence Municipal Utilities Authority	10 Springdale Road	1.01	57.01
Wellhead Esmt	Esmt	Independence Municipal Utilities Authority	12 Springdale Road	1.01	57
Water Main Esmt	Esmt	Independence Municipal Utilities Authority	13 Springdale Road	1.02	10
Water Main Esmt	Esmt	Independence Municipal Utilities Authority	4 Pohatcong Drive	1.02	9
Water Storage Tank	Fee	Independence Municipal Utilities Authority	9 Crestwood Court	1.03	29.01
Water Main Esmt	Esmt	Independence Municipal Utilities Authority	22 Highland Road	1.03	7
Water Main Esmt	Esmt	Independence Municipal Utilities Authority	26 Highland Road	1.03	8
Water Main Esmt	Esmt	Independence Municipal Utilities Authority	9 Crestwood Court	1.03	29
Driveway Esmt ⁽¹⁾	Esmt	Highlands of Independence, Inc.	11 Crestwood Court	1.03	28
Wellhouse Site	Fee	Independence Municipal Utilities Authority	(No #) Autumn Lane	15.01	2

⁽¹⁾Driveway easement was reserved by Highlands of Independence, Inc. prior to transfer of water system to IMUA.

IN THE MATTER OF THE WATERSHED PROPERTY REVIEW BOARD
REQUEST FOR AN EXEMPTION BY THE TOWNSHIP OF WEST MILFORD
AND SUEZ WATER NEW JERSEY

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