



State of New Jersey
DEPARTMENT OF THE PUBLIC ADVOCATE
DIVISION OF RATE COUNSEL
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August 25, 2008

Via Hand Delivery

Kristi Izzo, Secretary
State of New Jersey Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102

**Re: In the Matter of the Petition of Aqua New Jersey Inc. for Approval of a
Municipal Consent to Provide Water Service to a Portion of Upper Freehold
Township
BPU Docket No. WF08040230**

Dear Secretary Izzo:

Please accept for filing an original and ten copies of the Division of Rate Counsel's ("Rate Counsel") comments regarding the above referenced matter. Enclosed is one additional copy. Please date stamp the copy as "filed" and return it to the courier. Thank you for your consideration and attention to this matter.

Background

On April 14, 2008, Aqua New Jersey Water Company ("Aqua" or "the Company") filed a petition with the New Jersey Board of Public Utilities ("BPU" or "the Board") for approval of a municipal consent granted by Upper Freehold Township ("the Township") pursuant to Ordinance No. 196-08 adopted on February 21, 2008. Ordinance No. 196-08 authorizes Aqua to construct, maintain and operate a water work distribution system for the purpose of supplying, distributing and selling water in a new franchise area. Ordinance No. 196-08 determined that the Township wants to grant the franchise extension to Aqua in response to a request by the Upper

Freehold Regional School District seeking to have the Company provide water service to a new middle school planned for a site on Breza Road.¹ Construction of the school is scheduled to commence shortly, and the Company has been advised that it should be prepared to construct facilities in the August/September timeframe.² Therefore, Aqua requests that the Board review this request on an expedited basis.³

The Company proposes to charge rates for water service in the new franchise area according to its tariffs already on file with the Board. These tariffs apply to other divisions of Aqua. It is requested that these existing tariffs apply to this additional franchise area as well.⁴ It is the intent of Aqua that the new franchise system will be included in and served by the Company's Central Division. The services to be rendered by Aqua in this new franchise area will not be limited to the school, but will also include all other property owners and citizens within the new franchise area.

Discussion

Aqua currently already provides service to a portion of Upper Freehold Township pursuant to a municipal consent previously approved by the BPU in Docket No. WE96010026. In 2005, Aqua was granted an extension of its franchise in Upper Freehold Township to provide water service to a new middle school to be constructed at Ellisdale Road. This franchise extension was adopted on September 8, 2005 by Ordinance No. 158-05. The Ratepayer Advocate (now Rate Counsel) expressed no opposition to the approval of this franchise extension and it was approved by the Board in October 2006 in its Order in Docket No. WE05100882. As a result of the Township's subsequent decision to build the new middle school

¹ Petition para. 3.

² Response to RCR-4.

³ Petition para.3.

⁴ Petition para.4.

on Breza Road rather than Ellisdale Road, the Township granted an additional franchise extension to Aqua, by Ordinance No. 196-08 dated February 21, 2008, in order for Aqua to be able to serve the new school on Breza Road. The proposed new middle school on Breza Road is currently in the design phase and is expected to open September 2010. The school district is presently issuing construction bid packages to prospective general contractors.⁵ Construction for the water main is scheduled to start in August 2008 and be completed by December 2008.

Aqua's Central Division core system is capable of delivering approximately 10 MGD and no additional plant capacity is required to serve the proposed extended franchise area in accordance with NJDEP guidelines.⁶ The regional school district will bear 100% of the cost to construct the water service facilities in the extended franchise area and all of this contributed cost will be recorded on Aqua's books as plant in service and Contributions in Aid of Construction (CIAC);⁷ while the final cost of the facilities is not fully known and measurable at this time, it is currently estimated that this will amount to \$530,000.⁸ It is anticipated that total annual revenues from water service to the new middle school will be approximately \$25,300.⁹

Recommendation

The Division of Rate Counsel has reviewed the application and does not oppose the approval of the municipal consent granted by Upper Freehold Township pursuant to Ordinance No. 196-08. Aqua already currently operates a water distribution system in the Township and the Board previously approved a franchise extension for Aqua in the Township to serve the then-planned new middle school on Ellisdale Road. Aqua has the expertise and managerial, technical

⁵ Response to RCR-3 & S-BCE-1.

⁶ Response to S-BCE-6.

⁷ The project will be reflected in plant accounts 333 – Services; 335 – Hydrants; and 331 – Mains with a corresponding off-set booking in the CIAC account.

⁸ Response to S-BCE-12.

⁹ Response to S-BCE-13.

and financial resources available to provide water service in the expanded service area covering the newly planned middle school on Breza Road. Furthermore, Aqua will not be financially responsible for the costs of the water facilities required for the water service to the new school since all of the funding will be contributed by the Township.

Accordingly, the Division of 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, the value of any tangible or intangible assets now owned or hereafter to be owned by Aqua New Jersey.
2. This Order shall not effect nor in any way limit the exercise of the authority of this Board or of this State, in any future petition or in any future proceeding, with respect to rates, franchises, services, financing, accounting, capitalization, depreciation or in any other matters affecting Aqua New Jersey.
3. In an appropriate subsequent proceeding, Aqua New Jersey shall have the burden of demonstrating whether, and to what extent, any of the direct and indirect cost associated with this petition shall be allocated to ratepayers. Approval of this municipal consent does not include authorization to include in rate base the specific assets that are or will be completed as a result of the new service territory.
4. 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 on 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.

These provisions will satisfy the concerns of Rate Counsel that BPU approval is limited to the municipal consent, and should not indicate authorization to include any specific assets or amounts in rate base, or indicate authorization for any other ratemaking treatment. With these caveats, Rate Counsel is not opposed to approval of the Petition.

Respectfully submitted,

Ronald K. Chen
Public Advocate of New Jersey

Stefanie A. Brand
Director, Rate Counsel

By: _____
Paul E. Flanagan
Deputy Public Advocate

DFR:iaa

c: President Jeanne M. Fox
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Commissioner Elizabeth Randall
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