



Agenda Date: 02/11/10  
Agenda Item: VA

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
Two Gateway Center  
Newark, NJ 07102  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

WATER

IN THE MATTER OF THE PETITION OF ANDOVER  
UTILITY COMPANY, INC., FOR APPROVAL OF  
MUNICIPAL CONSENT, ISSUANCE OF A  
CERTIFICATE OF PUBLIC CONVENIENCE AND  
NECESSITY, ISSUANCE OF STOCK AND  
INDEBTEDNESS AND APPROVAL OF SEWER )  
SERVICE AGREEMENTS

ORDER

DOCKET NO. WE00040223

Craig M. Goodstadt, Esq. Lyndhurst, NJ for Petitioner

(SERVICE LIST ATTACHED)

BY THE BOARD:

Andover Utility Company, Inc., ("Petitioner") a corporation of the State of New Jersey, provides sewer service to a portion of the Township of Andover, Sussex County, and is subject to the jurisdiction of the Board of Public Utilities ("Board").

On April 4, 2000, the Petitioner filed a petition with the Board requesting: (a) approval from the Board for a Municipal Consent and grant to Petitioner a certificate of public convenience and necessity pursuant to N.J.S.A. 48:2-14 and N.J.A.C. 14:1-5.5; (b) authority to issue shares of no-par value common stock and a note, pursuant to N.J.S.A. 48:3-7 and 48:3-9 and N.J.A.C. §14:1-5.9; and (c) approval of three sewer service agreements.

The Petition was filed as a result of a proceeding before Administrative Law Judge ("ALJ") Diana C. Sukovich in Docket No. WC94080364 (I/M/O the Petition of Rolling Hills Condominium Association v. Andover Nursing Home Wastewater Treatment Plant, et al. for the establishment of an Initial Tariff Rate), that, among other matters, ordered that Respondents file proof of a petition for municipal consent. A stipulation was signed among the Parties noting that: (a) Petitioner was created to provide sewer service to the customers; (b) the Township of Andover ("Andover") approved and issued a Municipal Consent to Petitioner, Ordinance # 99-1; (c) Petitioner would file a petition with the Board seeking, among other things, approval of the Municipal Consent; and (d) Petitioner will comply with all the requirements governing public utilities set forth by New Jersey Statutes as to the issuance of stock. ALJ Sukovich issued an Initial Decision recommending approval of the stipulation that was adopted by the Board on August 15, 2001.

On January 28, 1999, the Andover governing body certified Ordinance No.99-1 ("Ordinance"), which granted a Municipal Consent and a franchise to construct, lay, maintain, operate and replace sewerage mains, pipes, connections, apparatus and appurtenances to serve three customers consisting of the development known as Rolling Hills Condominiums, Andover Nursing Home, Inc. and Andover Intermediate Care Center.

On August 29, 2001, a duly noticed public hearing on the petition was held at the Board's Newark office. Legal Specialist, Edward D. Beslow Esq. presided over the hearing at which representatives of the Petitioner, the Department of Public Advocate, Division of Rate Counsel ("Rate Counsel") and Board Staff (collectively the "Parties") appeared. No members of the public appeared at the hearing

Andover Utility Company issued capital stock and long term debt for construction costs in order to recapture a portion of the construction costs of the sewage collection and treatment plant and system. Petitioner issued 1000 shares of capital stock having no par value, in the amount of \$204,400 representing 40% of the authorized shares, and long term debt in the amount of \$306,600 at an interest rate of 9.5 percent per annum. Petitioner currently seeks a rate increase before the Board in Docket number WR09050413. In that matter, Petitioner states that its current average debt yield is 7.23 percent per annum.

Andover has been collecting and treating sewage from the three customers. The Board approved the rates for the three customers in Docket No. WC94080364, including the rates addressed in the sewer service agreements attached to the Petition. Such rates will continue to be addressed as a separate proceeding. On February 4, 2010, Petitioner submitted a letter withdrawing a request for approval of the sewer service agreements.

Therefore, the Board **HEREBY FINDS** that the extension requested is necessary and proper for the public convenience and properly conserves the public interests, and **HEREBY APPROVES** the Borough of Andover Ordinance 99-1 certified on January 28, 1999, for the provision of water service in the Township of Andover to Rolling Hills Condominiums and the facilities known as Andover Nursing Home, Inc. and Andover Intermediate Care Center. This approval is made as within time.

The Board **HEREBY AUTHORIZES** Andover Utility Company to issue stock and debt as set forth in this petition.

The Board further conditions these approvals upon the following conditions:

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 Andover Utility Company;

2. In an appropriate separate proceeding, the Company shall have the burden of demonstrating whether, and to what extent, any of the costs associated with this petition shall be allocated to ratepayers. Approval of this acquisition and/or 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;
3. Approval of this municipal consent ordinance does not constitute Board approval 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 cost and expenses, shall be made in an appropriate subsequent proceeding; and


4. 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, services, financing, accounting, capitalization, depreciation, or in any other matters affecting Andover Utility Company.

DATED: 2/17/10


BOARD OF PUBLIC UTILITIES  
BY:

  
ELIZABETH RANDALL  
ACTING PRESIDENT

  
FREDERICK F. BUTLER  
COMMISSIONER

  
JEANNE M. FOX  
COMMISSIONER

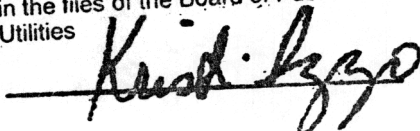
  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
NICHOLAS ASSELTA  
COMMISSIONER

ATTEST:

  
KRISTI IZZO  
SECRETARY

I HEREBY CERTIFY that the within  
document is a true copy of the original  
in the files of the Board of Public  
Utilities



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APPROVAL OF MUNICIPAL CONSENT, ISSUANCE OF A CERTIFICATE OF PUBLIC  
CONVENIENCE AND NECESSITY, ISSUANCE OF STOCK AND INDEBTEDNESS AND  
APPROVAL OF SEWER SERVICE AGREEMENTS

BPU Docket No. WE0004023

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