



Agenda Date: 1/10/24
Agenda Item: VA

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

WATER

IN THE MATTER OF THE PETITION OF VEOLIA)
WATER NEW JERSEY, INC. FOR APPROVAL TO)
EXPAND ITS FRANCHISE AREA IN THE TOWNSHIP)
OF COLTS NECK, IN THE COUNTY OF MONMOUTH,)
STATE OF NEW JERSEY)

ORDER APPROVING
MUNICIPAL CONSENT

DOCKET NO. WE23060397

Parties of Record:

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel
Bryant Gonzales, Esq., Veolia Water New Jersey

BY THE BOARD:¹

By this Order, the New Jersey Board of Public Utilities ("Board") considers a petition filed pursuant to N.J.S.A. 48:2-14 and N.J.A.C. 14:1-5.5 by Veolia Water New Jersey, Inc. ("VWNJ," "Company," or "Petitioner") for approval of a municipal consent, granting the Company authority to provide water and sewer services throughout a portion of Colts Neck Township ("Township"), which was granted by the Township on May 31, 2023 via Resolution No. 2023-96 ("Municipal Consent Ordinance") ("Petition").

¹ Commissioner Michael Bange abstained from voting on this matter.

BACKGROUND

The Company is engaged in the business of collecting, treating and distributing water for retail service and wastewater collection and treatment services to approximately 260,000 customers located in portions of Bergen, Hudson, Hunterdon, Middlesex, Monmouth, Morris, Ocean, Passaic, Sussex, and Warren counties.

The Township encompasses approximately 31.79 square miles and has a population of approximately 9,957 people. The Petitioner currently provides water and sewer services within the portion of the Township located on Lot two (2) of Block 41.01 also known as “Grande at Colts Neck.”²

The Township adopted the Municipal Consent Ordinance on May 31, 2023, allowing the expansion of VWNJ’s service area to a planned multi-family development project site (“Project”). Under the terms of the Municipal Consent Ordinance, VWNJ may expand its existing franchise area in the Township to provide water and sewer service to the Project.

PETITION

By the Petition, VWNJ sought Board approval of the Municipal Consent Ordinance. The Company noted that it does not currently serve the proposed franchise area, which is depicted on Exhibit 2 to the Petition (“Proposed Franchise Area”), where the developer of the Project requested VWNJ’s service. The Company explained that the Project consists of the construction of nine (9) buildings with 68 total residential units including 15 affordable housing units. The Project abuts VWNJ’s currently existing service area in the Township.

In its discovery responses, the Company indicated that, given its proximity to its Matchaponix operational center, the Proposed Franchise Area could easily be included in the existing daily rounds of VWNJ maintenance personnel and crews to VWNJ system and can quickly be reached by VWNJ staff in the event of an emergency.

VWNJ noted that the Proposed Franchise Area should not have an adverse impact on the provision of safe, adequate and proper service to the Company’s present customers. Similarly, the addition of customers within the Proposed Franchise Area should not have an adverse impact on the service provided to current customers in other portions of the Company’s service territory.

VWNJ identified that the customers in the Proposed Franchise Area will pay general service tariff rates for water and sewer service provided by the Company already on file with, and approved by, the Board. These customers would be subject to any changes to those tariffs when, and if, the Board approves any such modifications by regulation or order.

The Petitioner additionally proffered that approval of the Municipal Consent Ordinance is necessary and proper for the public convenience, and service will be available where it is necessary and proper within the Proposed Franchise Area. The Proposed Franchise Area will permit VWNJ to provide water and sewer service to the Project.

² In re Joint Petition of SUEZ Water Toms River Inc. and SBW&S Corp. for Authorization (i) for SBW&S Corp. to Discontinue the Service of its Utility Companies and Sell Utility Assets, and (ii) for SUEZ Water Toms River Inc. to Acquire Control of SBW&S Corp.’s Utility Assets and to Expand its Service Area Related to the Acquisition of Assets, BPU Docket No. WM16030197, Order dated July 29, 2016 (“2016 Order”).

MUNICIPAL CONSENT

By the Municipal Consent Ordinance, the Township consented and agreed to the assignment of water and sewer franchises within a portion of the Township from SUEZ Water Toms River, Inc. (“SUEZ”) to WWNJ, subject to conditions, noting that the Township’s consent shall be effective upon Board approval of the transfer of SUEZ’s assets to WWNJ.³ The Municipal Consent Ordinance does not contain a time limit or expiration date.

On November 14, 2023, the Board held a duly noticed hearing via video conference on the Petition. Michael Hunter, Regulatory Officer, presided over the hearing at which representatives of the Company, the New Jersey Division of Rate Counsel (“Rate Counsel”), and Board Staff appeared. No members of the public attended or submitted written comments.

COMMENTS

By letter dated December 21, 2023, Rate Counsel submitted its comments on the Petition noting that, subject to certain conditions, it did not oppose the Municipal Consent Ordinance. Rate Counsel identified that the Municipal Consent Ordinance grants the Company a perpetual franchise and access to streets and public places with no duration. Rate Counsel noted that in order to ensure periodic Board review, the term of the Municipal Consent Ordinance to provide water and sewer service under N.J.S.A. 48:2-14 should be limited to 50 years. . Rate Counsel further recommended that the Board condition its approval on the condition that transaction costs not 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 interests may require. Ibid.

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

Accordingly, the Board **HEREBY APPROVES** the Municipal Consent Ordinance and the expansion of WWNJ’s service territory to include 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 Board’s, or the State’s, exercise of authority, in any future petition or in any proceeding with respect to rates, franchises, service, financing, accounting, capitalization, depreciation, or in any matter affecting

³ The Board approved the transfer in December 2021. In re the Joint Petition of Veolia Environment S.A., Veolia North America, Inc., SUEZ S.A., and SUEZ Water New Jersey, Inc. for Approval of a Change of Control of SUEZ Water New Jersey, Inc., and Other Related Approvals, BPU Docket No. WM21060909, Order dated December 15, 2021.

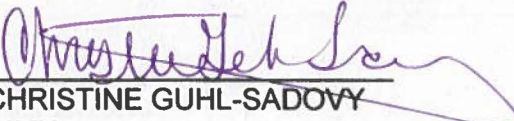
the Company.


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 VWNJ.
3. The Petitioner shall not depreciate any portion of the water and sewer system expansion funded by Contributions in Aid of Construction.
4. This Order applies only to the approval of the Municipal Consent Ordinance and shall not be construed as approving any ratemaking issues.
5. Pursuant to N.J.S.A. 48:3-15, the Municipal Consent Ordinance for the use of streets is limited to a term of 50 years.
6. Approval of the Municipal Consent Ordinance does not constitute Board approval of any costs or expenses associated with the Petition. Any determination as to reasonableness of costs and expenses related to the franchise, including, but not limited to, cost of construction, Contributions in Aid of Construction, depreciation of contributed plant, 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 Ordinance does not constitute approval of any specific main extension or plan for service. In extending service, VWNJ must comply with all applicable laws.
8. Within 10 days of the signed order, VWNJ shall submit any revised tariff pages.
9. Board Staff may approve, subject to comments filed by Rate Counsel, any written request by the Petitioner for additional time to comply with these conditions.

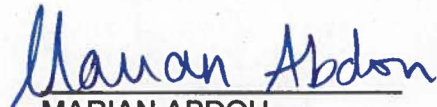
The effective date of this Order is January 17, 2024.

DATED: January 10, 2024

BOARD OF PUBLIC UTILITIES
BY:


CHRISTINE GUHL-SADOVY
PRESIDENT


DR. ZENON CHRISTODOULOU
COMMISSIONER


MARIAN ABDOU
COMMISSIONER

ATTEST: 
SHERRI 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 VEOLIA WATER NEW JERSEY INC. FOR THE APPROVAL
TO EXPAND ITS FRANCHISE AREA IN THE TOWNSHIP OF COLTS NECK, IN THE COUNTY OF
MONMOUTH, STATE OF NEW JERSEY

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