



Agenda Date: 9/4/24  
Agenda Item: 5B

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 1<sup>st</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

WATER

IN THE MATTER OF THE APPLICATION FOR	)	ORDER APPROVING
APPROVAL OF A RESOLUTION BY THE	)	RESOLUTION
BOROUGH OF FLORHAM PARK REQUESTING	)	
THE SOUTHEAST MORRIS COUNTY MUNICIPAL	)	
UTILITIES AUTHORITY TO CONVERT EXISTING	)	
BULK WATER SALES AND TO ALLOW THE SALE	)	
OF WATER AT RETAIL WITHIN THE BOROUGH	)	
AS AND WHEN NECESSARY AND PROPER FOR	)	
PUBLIC CONVENIENCE PURSUANT TO N.J.S.A.	)	
46:14B-20(6)	)	DOCKET NO. WO24060409

**Parties of Record:**

**David J. Ruitenbergh, Esq.**, on behalf of Southeast Morris County Municipal Authority  
**Brian Lipman, Esq., Director**, New Jersey Division of Rate Counsel

**BY THE BOARD:**

On June 14, 2024, the Southeast Morris County Municipal Utilities Authority ("SMCMUA" or "Company") petitioned the New Jersey Board of Public Utilities ("Board"), pursuant to N.J.S.A. 40:14B-20(6), for approval of a resolution authorizing an amendment ("Amended Agreement") to an existing agreement between the Borough of Florham Park ("Borough" or "Florham Park") and the Company for water services which would convert existing bulk water sales customers to retail customers ("Petition"). The Company filed an amended petition with the Board on July 23, 2024, which clarified that SMCMUA, in addition to its request for authority to convert existing customers, further requested authority to sell water at retail rates within the Borough to new customers within the Borough by their request when deemed necessary for the public convenience by the Board ("Amended Petition"). By this Order, the Board considers the requests in the Petition and Amended Petition.

**PETITION**

According to the Petition, SMCMUA is a municipal utilities authority established in 1976 pursuant to the Municipal and County Utilities Authority Law, N.J.S.A. 40:14B-1 to -78, by the Town of Morristown, the Townships of Morris and Hanover, and the Borough of Morris Plains, all in Morris County, New Jersey (collectively, "Creating Municipalities"), to acquire the water system then owned and operated by the Town of Morristown.

By Order dated November 3, 1976, the Board granted the Town of Morristown permission to discontinue service, provided that SMCMUA assumed the operation of the system and continued uninterrupted service to customers previously served by the Town of Morristown.<sup>1</sup>

By the Petition, SMCMUA identified that it presently provides water service to approximately 17,262 consumers within its district consisting of the territorial limits of the Creating Municipalities and to approximately 583 customers outside of its district in Florham Park and the Townships of Mendham, Parsippany-Troy Hills, Randolph, Harding, and Chatham – all in the County of Morris, New Jersey. Customers outside the district are either served pursuant to bulk sale (wholesale) water agreements between SMCMUA and the respective municipality or served on a retail basis in accordance with earlier authorization of the Board.

The Borough is a municipal corporation of the State of New Jersey and is outside of the SMCMUA's service territory. SMCMUA presently provides bulk service to approximately thirty-eight (38) customers in Florham Park pursuant to a Bulk Water Sales Agreement, dated January 21, 1977, between SMCMUA and Florham Park ("1977 Agreement").<sup>2</sup>

On April 4, 2024, the Borough Council adopted Resolution #24-73, whereby Florham Park requested, pursuant to N.J.S.A. 40:14B-20(6), that the 1977 Agreement be amended to convert those thirty-eight (38) customers served within Florham Park to retail customers to be served and charged directly by SMCMUA.

On April 18, 2024, SMCMUA adopted Resolution #38-24 authorizing the preparation and submittal of an application to seek the Board's approval of the Amended Agreement pursuant to which the current bulk service within the Borough would be converted to retail services.

According to the Petition, the retail sale of water under these circumstances will serve the public convenience because: 1) it will have no impact on water service to those in the Borough currently connected to and served by the SMCMUA system; 2) it will shift the administrative burden currently carried by the Borough to SMCMUA, which is more ably suited to measure and charge for water usage; 3) it will facilitate more accurate tracking of water usage because SMCMUA will have direct ownership of the customer accounts; 4) it will allow Florham Park customers to be notified of water quality alerts and other information that they do not currently receive as bulk customers; and 5) it will facilitate better data for water loss tracking as required by New Jersey's Water Quality Accountability Act.

By the Amended Petition, SMCMUA noted that the Company is not actively soliciting new customers with the Borough, but recognized that under some circumstances it may be practicable and convenient to provide retail water service to other properties within the Borough when, and if, requested by a property owner and subsequently authorized by the Board and with the consent of the Borough, the Creating Municipalities, and the Company.

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<sup>1</sup> In re the Application of the Town of Morristown to Discontinue Water Service in the Town of Morristown the Boroughs of Morris Plains and Florham Park, and the Townships of Morris, Hanover, Mendham, Parsippany-Troy Hills, Randolph, Harding and Chatham, In the County of Morris, State of New Jersey, BPU Docket No. 769-930, Order dated November 3, 1976.

<sup>2</sup> After the initial filing on June 14, 2024, the Company amended the number of bulk water sales customers from thirty-five (35) to thirty-eight (38) via amended discovery responses on July 23, 2024.

The New Jersey Division of Rate Counsel ("Rate Counsel") did not file comments on the Petition.

### **DISCUSSION AND FINDINGS**

SMCMUA is a municipal water authority created by the Municipal and County Utilities Authority Law, N.J.S.A. 40:14B-1 to -78. Generally, a municipal utility authority is granted independent authority by the Legislature and "shall not be subject to regulation as to its service charges by any other officer, board, agency, commission or other office of the State . . ." N.J.S.A. 40:14B-68.

N.J.S.A. 40:14B-20(6) further provides that every municipal authority shall have the authority "[t]o produce, develop, purchase, accumulate, distribute and sell water and water services, facilities and products within or without the district, provided that no water shall be sold at retail in any municipality or county without the district unless the governing body of such municipality or county shall have adopted a resolution requesting the municipal authority to sell water at retail in such municipality or county. . . ." However, this provision requires approval by the Board concerning the resolution adopted by the municipality for the sale of water by a municipal utility authority as "necessary and proper for the public convenience." N.J.S.A. 40:14B-20(6).

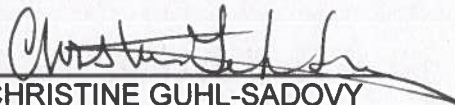
In this instance, the record reflects that SMCMUA already provides water supply to the thirty-eight (38) Florham Park customers through a bulk sales agreement with the Borough and that those customers will not have their water service impacted by the Amended Agreement. Conversion to SMCMUA retail service will allow Florham Park customers to be notified of water quality alerts and other information that they do not currently receive under the bulk sales agreement and will facilitate improved tracking of water usage and loss.

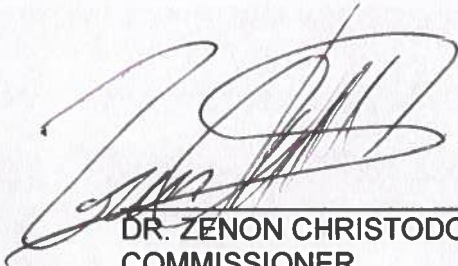
As such, following a review of the record in this matter, and in accordance with N.J.S.A 40:14B-20(6), the Board **HEREBY FINDS** that the Amended Agreement seeking to convert the thirty-eight (38) customers at issue to retail service, is necessary and proper for the public convenience. As such, the Board **HEREBY APPROVES** the Amended Agreement. Additionally, the Board **HEREBY DENIES** the Company's preemptive request for authority to expand its service territory within the Borough upon request by a property owner. In the event SMCMUA requires similar relief from the Board in the future, the Company may petition the Board as appropriate.

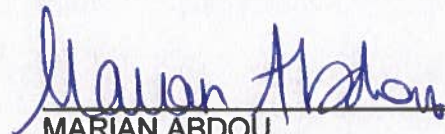
This Order shall be effective on September 11, 2024.

DATED: September 4, 2024

BOARD OF PUBLIC UTILITIES  
BY:

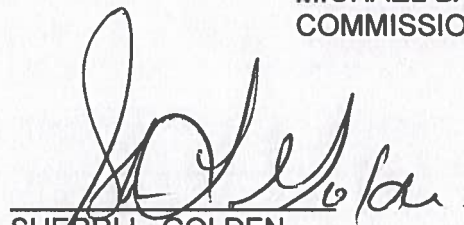
  
CHRISTINE GUHL-SADOVY  
PRESIDENT

  
DR. ZENON CHRISTODOULOU  
COMMISSIONER

  
MARIAN ABDOU  
COMMISSIONER

  
MICHAEL BANGE  
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 APPLICATION FOR APPROVAL OF A RESOLUTION BY THE BOROUGH OF FLORHAM PARK REQUESTING THE SOUTHEAST MORRIS COUNTY MUNICIPAL UTILITIES AUTHORITY TO CONVERT EXISTING BULK WATER SALES AND TO ALLOW THE SALE OF WATER AT RETAIL WITHIN THE BOROUGH AS AND WHEN NECESSARY AND PROPER FOR PUBLIC CONVENIENCE PURSUANT TO N.J.S.A. 46:14B-20(6)

BPU DOCKET NO. WO24060409

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