



Agenda Date: 10/23/24
Agenda Item: 5C

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 NEW)	ORDER DESIGNATING
JERSEY-AMERICAN WATER COMPANY, INC.)	COMMISSIONER AND SETTING
FOR: (1) APPROVAL OF ITS AGREEMENT WITH)	MANNER OF SERVICE AND BAR
SHREWSBURY TOWNSHIP, NEW JERSEY FOR)	DATE
THE PURCHASE AND SALE OF WATER)	
SYSTEM; (2) A DETERMINATION THAT THE)	DOCKET NO. WM24100783
PURCHASE PRICE IS REASONABLE; (3) A)	
DETERMINATION THAT THE TRANSACTION)	
COSTS ARE REASONABLE; AND (4) FOR SUCH)	
OTHER APPROVALS AS MAY BE NECESSARY)	
TO COMPLETE THE PROPOSED TRANSACTION)	

Parties of Record:

Stephen R. Bishop, Esq., New Jersey-American Water Company, Inc.
Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:¹

On October 7, 2024, New Jersey-American Water Company, Inc. ("NJAWC" or "Company") filed a petition with the New Jersey Board of Public Utilities ("Board") seeking: 1) approval pursuant to the provisions of the Water Infrastructure Protection Act, N.J.S.A. 58:30-1 et seq. ("WIPA"), of an agreement between Shrewsbury Township, Monmouth County ("Township") and NJAWC ("Agreement"); 2) a determination that the purchase price pursuant to the Agreement is reasonable and thus the rate base of the Township water system; 3) approval that NJAWC's transaction, closing, and transition costs are reasonable and prudent and may be deferred for recovery in a future base rate case; and 4) such other approvals as may be necessary to complete the proposed transaction ("Petition"). Herein, the Board will designate a Presiding Commissioner and set a bar date for motions to intervene, participate, and for admission *pro hac vice* in this matter.

¹ Commissioner Michael Bange is recused from this matter due to a potential conflict of interest and, as such, took no part in discussions or deliberations on this matter.

BACKGROUND

In 2015, the New Jersey Legislature passed WIPA, which authorizes certain owners of water or wastewater systems to enter into long-term lease contracts, or sell their water or wastewater assets to a capable private or public entity, without a referendum, if an emergent condition exists as defined in N.J.S.A. 58:30-5(b). In order to qualify for WIPA consideration, an owner must demonstrate the existence of at least one (1) of the five (5) emergent conditions specified by WIPA.

As noted in the Petition, NJAWC serves approximately 668,000 water and fire service customers and approximately 64,200 wastewater service customers. The Township currently owns and operates a potable water system ("System"), which serves 265 water service customers of the Alfred Vail Mutual Association located in the Township.

Pursuant to N.J.S.A. 58:30-5, the Township engaged the engineering firm Colliers Engineering & Design ("Colliers") to determine whether WIPA was applicable to its System. On September 21, 2021, Colliers completed its Emergent Condition Report, which found that the Township's System met Emergent Conditions Nos. 4 and 5 as described by WIPA.² On October 21, 2021, the Township accepted and adopted the Emergent Condition Report.

On July 19, 2022, following a procurement process, the Township approved the engagement of NW Financial Group, LLC ("NW Financial") as its independent financial advisor pursuant to N.J.S.A. 58:30-5(c). On June 13, 2023, the Township adopted Resolution No. 2023-65 accepting the Emergent Condition Report prepared by Colliers and further adopted the Asset Valuation Report prepared by NW Financial.

On June 20, 2023, the Township submitted the Emergent Condition Report and the Asset Valuation Report to the New Jersey Department of Environmental Protection ("DEP") pursuant to N.J.S.A. 58:30-5(e). On July 21, 2023, the DEP issued a determination that approved the Township's certification as to the existence of Emergent Condition No. 4.

Pursuant to N.J.S.A. 58:30-5(f), on April 14, 2023, the Township issued a public notice regarding the DEP's approval of Emergent Condition No. 4 and provided notice of the forty-five (45)-day petition period pursuant to N.J.S.A. 58:30-5(g) for the public to have the opportunity to protest the proposed sale of its System without referendum pursuant to WIPA. The petition period closed on May 29, 2023, without any protest having been filed.

Pursuant to N.J.S.A. 58:30-6, on September 16, 2023, the Township issued a Request for Qualifications. NJAWC was the only bidder respondent to the Request for Qualifications. On February 20, 2024, the Township unanimously adopted Resolution No. 2024-36 authorizing negotiations with NJAWC pursuant to N.J.S.A. 58:30-6(c). Thereafter, the Township began negotiations with NJAWC leading up to the Agreement.

On July 9, 2024, the Township adopted Resolution No. 2024-69 approving the execution of the Agreement, and authorizing NJAWC to file a petition for approval of the Agreement by the Board.

² Emergent Condition No. 4 states "[t]here is a demonstrated lack of historical investment, repair, or sustainable maintenance as determined by the department, or material damage to the infrastructure of the system." Emergent Condition No. 5 states "[t]he system owner lacks the financial, technical, or managerial capacity to adequately address any of the foregoing on a sustainable basis or own and operate the system in a way that supports economic activity in the municipality on a sustainable basis."

Pursuant to the Agreement, the purchase price for the System is \$525,000. According to an appraisal conducted by Weinert Appraisal and Depreciation Services, LLC, the appraised value of the System is \$561,830.

As stated in the Petition, the Township is financially unable to properly operate and maintain the System for the proper benefit of the Township's residents. According to the Company, the financial resources and backing of NJAWC enhances its ability to access capital markets, which will be a benefit to the System's customers in the rehabilitation and replacement of infrastructure and compliance with environmental laws and regulations. Therefore, NJAWC stated that the Board should approve the transaction pursuant to WIPA. Further, NJAWC stated that the Board should determine that the purchase price is reasonable and that the transaction costs (approximately \$14,125 to date) should be deferred for recovery in a future base rate case.

DISCUSSION AND FINDINGS

The Board **HEREBY ORDERS** that the Petition be retained by the Board for hearing and, pursuant to N.J.S.A. 48:2-32, **HEREBY DESIGNATES** Commissioner Zenon Christodoulou as the presiding officer with authority to rule on all motions that arise during the pendency of this proceeding, and modify any schedules that may be set as necessary to secure a just and expeditious determination of the issues. Further, the Board **HEREBY DIRECTS** that any entities seeking to intervene or participate in this matter file the appropriate application with the Board by November 8, 2024. Any party wishing to file a motion for admission of counsel, *pro hac vice*, should do so concurrently with any motion to intervene or participate.

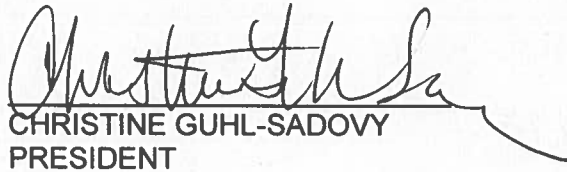
In addition, in compliance with the Board's Orders in Docket No. EO20030254, all parties are **HEREBY DIRECTED** to serve all documents electronically.³ No hard copies shall be filed until the Board lifts the restrictions imposed by the Orders. The Board **FURTHER DIRECTS** Staff to post this Order to the Board's website.

³ In re the New Jersey Board of Public Utilities' Response to the COVID-19 Pandemic for a Temporary Waiver of Requirements for Certain Non-Essential Obligations, BPU Docket No. EO20030254, Orders dated March 19, 2020 and June 10, 2020.

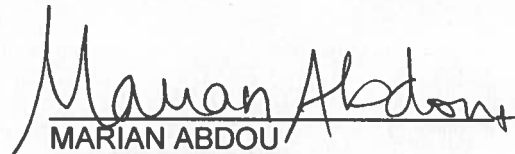
This Order shall be effective October 30, 2024.

DATED: October 23, 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 NEW JERSEY-AMERICAN WATER COMPANY, INC.
FOR: (1) APPROVAL OF ITS AGREEMENT WITH SHREWSBURY TOWNSHIP, NEW
JERSEY FOR THE PURCHASE AND SALE OF WATER SYSTEM; (2) A DETERMINATION
THAT THE PURCHASE PRICE IS REASONABLE; (3) A DETERMINATION THAT THE
TRANSACTION COSTS ARE REASONABLE; AND (4) FOR SUCH OTHER APPROVALS AS
MAY BE NECESSARY TO COMPLETE THE PROPOSED TRANSACTION

DOCKET NO. WM24100783

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