



Agenda Date: 1/15/25

Agenda Item: VB

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

WATER

IN THE MATTER OF THE PETITION OF NEW)	ORDER APPROVING
JERSEY-AMERICAN WATER COMPANY, INC. FOR)	MUNICIPAL CONSENT
APPROVAL OF A MUNICIPAL CONSENT)	
GRANTED BY THE BOROUGH OF FARMINGDALE,)	
COUNTY OF MONMOUTH)	DOCKET NO. WE24090716

Parties of Record:

Stephen R. Bishop, V.P. Managing General Counsel & Secretary, New Jersey-American Water Company, Inc.

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

By this Order, the New Jersey Board of Public Utilities ("Board") considers a petition filed by New Jersey-American Water Company, Inc. ("NJAWC" or "Company") on September 10, 2024, pursuant to N.J.S.A. 48:2-14 and N.J.A.C. 14:1-5.5, seeking approval of a municipal consent adopted by the Borough of Farmingdale ("Farmingdale" or "Borough") via Ordinance No. 2023-07 ("Municipal Consent"), granting the Company authority to provide public fire service to the Borough ("Petition").¹

BACKGROUND

NJAWC is a regulated public utility corporation engaged in the production, treatment, and distribution of water and the collection and treatment of wastewater within its defined service territory within the State of New Jersey. The Company's service territory includes portions of Atlantic, Bergen, Burlington, Camden, Cape May, Essex, Gloucester, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Salem, Somerset, Union, and Warren counties.

The Borough encompasses approximately 0.52 square miles and has a population of approximately 1,500 people. The Borough is completely surrounded by Howell Township, which is part of the Company's franchise. In June 2023, Farmingdale gave permission to NJAWC to install a transmission main through the Borough to serve Howell Township and requested that NJAWC install public hydrants along the main to service the Borough and its residents.

¹ Ordinance No. 2023-07 is attached to this Order as Exhibit A.

By the Municipal Consent, the Borough permitted the Company to construct, lay, maintain, and operate the necessary water mains, pipes, and appurtenances to furnish public fire service to the Borough. The Municipal Consent was adopted by the Borough on October 17, 2023.

PETITION

By the Petition, NJAWC sought Board approval of the Municipal Consent granting the Company a franchise to provide public fire service to the Borough. The Company did not, as part of its requests in the Petition, seek any ratemaking treatment relative to the Municipal Consent. NJAWC noted that permitting the provision of public fire service to Farmingdale is necessary and proper for the public convenience and properly conserves the public interest.

On November 7, 2024, the Board held a duly noticed virtual public hearing on the Petition, presided over by Michael Hunter, Regulatory Officer. Representatives from the Company, the New Jersey Division of Rate Counsel ("Rate Counsel"), and Board Staff ("Staff") appeared. No members of the public attended and the Board received no written public comments in this matter.

By letter dated November 12, 2024, Rate Counsel submitted comments on the Petition noting that, subject to certain conditions, it did not oppose the request for approval of the Municipal Consent. Rate Counsel recommended that the Board modify the term of the Municipal Consent to be limited to fifty (50) years for the specific authorization to provide public fire service and to access public streets and places within the Borough. Rate Counsel also recommended that the Board condition its approval on the requirement that transaction costs cannot 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 interest may require. Ibid.

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

Accordingly, the Board **HEREBY APPROVES** the Municipal Consent and the expansion of NJAWC's service territory to include the customers in the Borough. The Board **FURTHER FINDS** that the Company has the ability to provide safe, adequate, and proper service to the Borough. The approvals granted hereinabove shall be subject to the following provisions:

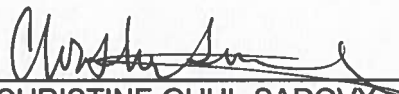
1. This Order shall not affect or in any way limit the exercise of the authority of the Board, or of the State, with regard to any future petition or in any proceeding with respect to rates, franchises, service, financing, accounting, capitalization, depreciation, or in any matter affecting the Company.
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 the Company.

3. This Order applies only to the approval of the Municipal Consent and shall not be construed as approving any ratemaking issues.
4. Pursuant to N.J.S.A. 48:3-15, the Municipal Consent for the use of streets is limited to a term of fifty (50) years.
5. Approval of this Municipal Consent does not constitute approval by the Board of any costs or expenses associated with the 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 of 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.
6. Approval of the Municipal Consent does not constitute approval of any specific main extension or plan for service. In extending service, the Company must comply with all applicable laws.
7. Staff is authorized to approve, subject to comments filed by Rate Counsel, any written request by the Company for additional time to comply with any applicable terms above.

This Order shall be effective on January 22, 2025.

DATED: January 15, 2025

BOARD OF PUBLIC UTILITIES
BY:


CHRISTINE GUHL-SADOVY
PRESIDENT


DR. ZENON CHRISTODOULOU
COMMISSIONER


MARIAN ABDOU
COMMISSIONER


MICHAEL BANGE
COMMISSIONER

ATTEST:


SHERRIL L. GOLDEN
SECRETARY

IN THE MATTER OF THE PETITION OF NEW JERSEY-AMERICAN WATER COMPANY, INC. FOR
APPROVAL OF THE MUNICIPAL CONSENT GRANTED BY THE BOROUGH OF FARMINGDALE,
COUNTY OF MONMOUTH

DOCKET NO. WE24090716

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ORDINANCE 2023 - 07

**BOROUGH OF FARMINGDALE
COUNTY OF MONMOUTH, STATE OF NEW JERSEY**

AN ORDINANCE GRANTING MUNICIPAL CONSENT TO NEW JERSEY-AMERICAN WATER COMPANY, INC., ("COMPANY") TO PERMIT THE CONSTRUCTION, EXPANSION AND MAINTENANCE OF WATER FACILITIES ON PUBLIC PROPERTY IN THE BOROUGH OF FARMINGDALE ("BOROUGH") IN ORDER TO FURNISH PUBLIC FIRE SERVICE WITHIN THE BOUNDARIES OF THE BOROUGH

WHEREAS, the Borough of Farmingdale ("Borough"), Monmouth County, New Jersey is desirous of securing public fire protection services to sites within the Borough not currently within New Jersey American Water's existing franchise; and

WHEREAS, New Jersey-American Water Company, Inc. ("Company") is a regulated public utility corporation of the State of New Jersey presently seeking the municipal consent of the Borough to permit said Company to extend public fire protection service and its facilities in the Borough; and

WHEREAS, the Company has requested the consent of the Borough as required by N.J.S.A. 48:19-17 and 48:19-20, as amended, to lay its pipes beneath and restore such public roads, streets and places as it may deem necessary for its corporate purposes, free from all charges to be made for said privilege (except fees for road opening permits shall be paid), provided that said pipes shall be laid at least three feet (3') below the surface and shall not in any way unnecessarily obstruct or interfere with the public travel or cause or permit other than temporary damage to public or private property; and

WHEREAS, it is deemed to be in the best interest of the citizens of the Borough with regard to the entire municipality to provide this consent.

NOW THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Farmingdale, County of Monmouth and State of New Jersey as follows:

SECTION I.

The Borough hereby grants to the Company, its successors and assigns, in perpetuity, the municipal consent required under the provisions of N.J.S.A. 48:19-17 and 48:19-20, as amended without charge therefore, (except fees for road opening perm its shall be paid) as the same may be required in order to permit the said Company to add to, extend, operate and maintain said water facilities on the public property described herein in order to provide public fire service. The privilege granted herein shall include the construction, installation and maintenance of hydrants on and along the Borough roads, streets and places at locations as the Borough shall designate. The Borough or its designee will pay to the Company the filed tariff rates for public fire protection service rendered through said hydrants.

SECTION II.

That a certified copy of this Ordinance, upon final passage, shall be sent to the Company, the New Jersey Department of Environmental Protection and the Board of Public Utilities of the State of New Jersey.

SECTION III.

That the consent granted herein shall be subject to the Company complying with all applicable laws of the Borough and/or the State of New Jersey including, but not limited to, any and all statutes and administrative agency rules and/or regulations.

SECTION IV.

The Borough Manager, Mayor and the Clerk of the Borough be authorized to execute the documents and agreements necessary to effectuate the municipal consent and to protect the rights of the public involved.

SECTION V.

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

SECTION VI

The consent granted herein extends only to the provision of public fire service within the Borough of Farmingdale. Any extension of the consent granted herein for services or territory other than the area described herein must be approved by the Borough by ordinance.

SECTION VI

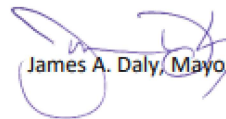
All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

DATE INTRODUCED: October 3, 2023
DATE ADOPTED: October 17, 2023

ATTEST



Corinne DiCorcia Williams, RMC
Date: 10/17/2023


James A. Daly, Mayor