



Agenda Date: 3/19/25

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 NEW)	ORDER APPROVING
JERSEY-AMERICAN WATER COMPANY, INC. FOR)	MUNICIPAL CONSENT
APPROVAL OF A MUNICIPAL CONSENT GRANTED)	
BY THE TOWNSHIP OF HILLSBOROUGH, COUNTY)	
OF SOMERSET)	DOCKET NO. WE24090674

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 Company, Inc. ("NJAWC," "Company," or "Petitioner") on September 9, 2024, pursuant to N.J.S.A. 48:2-14, N.J.S.A. 48:19-17, N.J.S.A. 48:19-20, and N.J.A.C. 14:1-5.5, seeking approval of a municipal consent granted by the Township of Hillsborough ("Township") on June 11, 2024, via Ordinance No. 2024-06 ("Municipal Consent"), granting the Company authority to provide wastewater service in a portion of the Township ("Petition").¹

BACKGROUND

The Company is a regulated public utility corporation engaged in the business of the production, treatment and distribution of water and 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.

By the Municipal Consent, the Township permitted the Company to construct, lay, maintain, and operate the necessary wastewater mains, pipes, and appurtenances in a portion of the Township ("Proposed Franchise Area") and to provide wastewater services to residents, businesses, and government buildings in the Township formerly served by the Borough of Manville ("Manville").

¹ Ordinance No. 2024-06 is attached to this Order as Exhibit A.

PETITION

By the Petition, NJAWC sought Board approval of the Municipal Consent granting the Company a franchise to provide wastewater service to the Proposed Franchise Area. The Company identified that the Township previously received wastewater service from the system owned and operated by Manville ("Manville System") prior to its sale to NJAWC.² The Manville System provides wastewater service to approximately 440 connections in the Township.

Following the sale of the Manville System to NJAWC, the Township adopted the Municipal Consent to permit NJAWC to provide wastewater service to the Township. The Company noted that the Proposed Franchise Area would, following Board approval of the Municipal Consent, benefit from the industry practices followed by the Company, the Company's ability to provide quality, reliable service, and NJAWC's access to financial resources to maintain and improve the Manville System. In addition, the Company stated that the customers in the Township presently receive water service from NJAWC and that the approval will benefit these customers by allowing them to have a single utility provider for both water and wastewater service. Finally, the Petitioner stated that the approval of the Municipal Consent is necessary and proper for the public convenience, and service will be available where it is necessary and proper within the Proposed Franchise Area.

By the Petition, the Company further noted that it only seeks Board approval of the Municipal Consent and did not seek any ratemaking treatment relative to the Manville System. NJAWC indicated that it would seek ratemaking treatment in its next base rate case proceeding.

On January 7, 2025, the Board held a duly noticed virtual public hearing on the Petition, presided over by a hearing officer of the Board. Representatives from 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 with the Board related to this proceeding.

By letter dated January 16, 2025, Rate Counsel submitted its comments on the Petition noting that, subject to certain conditions, it was not opposed to approval of the Municipal Consent. Rate Counsel identified that the Municipal Consent grants the Company a perpetual franchise to provide sewer service and access to streets and public places. Rate Counsel noted that in order to ensure periodic Board review, the term of the Municipal Consent to provide sewer service under N.J.S.A. 48:2-14 should be limited to a term to fifty (50) years for the specific authorization to provide wastewater service and to access public streets and places within the Township. Rate Counsel further recommended that the Board condition its approval on the requirement 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.

² See In re the Petition of New Jersey-American Water Company, Inc. for Approval of a Municipal Consent Granted by the Borough of Manville, County of Somerset, BPU Docket No. WE24030202, Order dated September 25, 2024.

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 is necessary and proper for the public convenience and properly conserves the public interest.

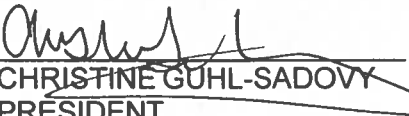
Accordingly, the Board **HEREBY APPROVES** the Municipal Consent and the expansion of NJAWC's service territory to include customers in the Proposed Franchise Area. The Board **FURTHER FINDS** that the Company has the ability to provide safe, adequate, and proper service in the Proposed Franchise Area. 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 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 NJAWC.
3. The Petitioner shall not depreciate any portion of the wastewater system expansion funded by Contributions in Aid of Construction.
4. This Order applies only to the approval of the Municipal Consent and shall not be construed as approving any ratemaking issues.
5. 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.
6. Approval of the Municipal Consent 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 does not constitute approval of any specific main extension or plan for service. In extending service, NJAWC must comply with all applicable laws.
8. 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 March 26, 2025.

DATED: March 19, 2025

BOARD OF PUBLIC UTILITIES
BY:


CHRISTINE GUHL-SADOVY
PRESIDENT


DR. ZENON CHRISTODOLOU
COMMISSIONER


MARIAN ABDOU
COMMISSIONER


MICHAEL BANGE
COMMISSIONER

ATTEST:


SHERRI L. LEWIS
BOARD 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
 THE APPROVAL OF A MUNICIPAL CONSENT GRANTED BY THE TOWNSHIP OF HILLSBOROUGH,
 COUNTY OF SOMERSET
 DOCKET NO. WE24090674

SERVICE LIST

<p><u>New Jersey-American Water</u> 1 Water Street Camden, NJ 08102</p> <p>Stephen R. Bishop, Esq. V.P. Managing General Counsel & Secretary stephen.bishop@amwater.com</p> <p>Jamie Hawn, Director Rates & Regulatory jamie.hawn@amwater.com</p> <p>Donna Carney, Principal Paralegal donna.carney@amwater.com</p> <p><u>Division of Rate Counsel</u> 140 East Front Street, 4th Floor Trenton, NJ 08625-0003</p> <p>Brian Lipman, Esq., Director blipman@rpa.nj.gov</p> <p>Susan McClure, Esq. smcclure@rpa.nj.gov</p> <p>Christine Juarez, Esq. cjuarez@rpa.nj.gov</p> <p>Emily Smithman, Esq. esmithman@rpa.nj.gov</p> <p>Felicia Jackson-Rodgers frodgers@rpa.nj.gov</p> <p><u>Division of Law</u> Richard J. Hughes Justice Complex 25 Market Street, P.O. Box 112 Trenton, NJ 08625</p> <p>Pamela Owen, Assistant Section Chief, DAG pamela.owen@law.njoag.gov</p> <p>Meliha Arnautovic, DAG meliha.arnautovic@law.njoag.gov</p> <p>Terel Klein, DAG terel.klein@law.njoag.gov</p>	<p><u>Board of Public Utilities</u> 44 South Clinton Avenue, 1st Floor Post Office Box 350 Trenton, NJ 08625-0350</p> <p>Sherri L. Lewis, Board Secretary sherri.golden@bpu.nj.gov</p> <p>Stacy Peterson, Deputy Executive Director stacy.peterson@bpu.nj.gov</p> <p><u>Division of Engineering</u></p> <p>Dean Taklif, Director dean.taklif@bpu.nj.gov</p> <p>John Masiello, Deputy Director john.masiello@bpu.nj.gov</p> <p>Yanina Lepore, Staff yanina.lepore@bpu.nj.gov</p> <p><u>Counsel's Office</u></p> <p>Elsbeth Faiman Hans, Deputy General Counsel elsbeth.hans@bpu.nj.gov</p> <p>Kit Burnette, Regulatory Officer kit.burnette@bpu.nj.gov</p>
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O-2024-6



Township of Hillsborough

COUNTY OF SOMERSET
THE PETER J. BIONDI BUILDING
379 SOUTH BRANCH ROAD
HILLSBOROUGH, NJ 08844
(908) 369-4313
www.hillsborough-nj.org

ORDINANCE 2024-06

An Ordinance Granting Consent and Permission to New Jersey-American Water Company, Inc., to Furnish Wastewater Collection and Conveyance Service in a Portion of the Township of Hillsborough, Somerset County, New Jersey.

WHEREAS, the Township of Hillsborough, County of Somerset, State of New Jersey ("Township"), hereby grants consent and permission to New Jersey-American Water Company, Inc. ("NJAW"), a New Jersey corporation, to furnish wastewater service within a portion of the Township; and

WHEREAS, NJAW is in the process of acquiring the wastewater system ("System") currently owned and operated by the Borough of Manville ("Manville") subject to regulatory approvals; and

WHEREAS, Manville is desirous of having NJAW acquire the System; and

WHEREAS, the Manville System currently provides wastewater service to approximately 440 customers located in the Township in the area shown on the map attached hereto as **Schedule A**; and

WHEREAS, these Township residents have historically been customers of the Manville System and following the completion of the acquisition of the Manville System by NJAW, these Township residents will become customers of NJAW; and

WHEREAS, the Township residents who are currently served by the Manville System, and who will continue to be served by said System and become customers of NJAW upon completion of the acquisition will, with approval of the Board of Public Utilities of the State of New Jersey, be subject to the seven-year rate plan provided for in the Agreement of Sale by and between Manville and NJAW; and

WHEREAS, NJAW is a regulated public utility corporation of the State of New Jersey currently providing water service to the Township and seeking the municipal consent of the Township to permit NJAW to provide wastewater collection and conveyance service through the Manville System to a portion of the Township currently served by the Manville System; and

WHEREAS, NJAW has requested the consent of the Township, as required by N.J.S.A. 48:13-10 and N.J.S.A. 48:13-11, to lay its pipes and conduits beneath such public roads, streets, avenues and alleys as it may deem necessary for its corporate purposes, in the area shown on the map attached hereto as **Schedule A**, provided all such pipes shall be laid henceforth at least three feet (3') below the surface and shall not unnecessarily interfere with public travel or damage public or private property; and

WHEREAS, it is deemed to be in the best interests, health, safety and welfare of the Hillsborough residents and property owners currently serviced by the Manville System to provide this consent; and

WHEREAS, notice of this Ordinance was published in accordance with the requirements of N.J.S.A. 48:3-13 and N.J.S.A. 48:3-14.

O-2024-6

Exhibit A
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NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Hillsborough, County of Somerset, State of New Jersey, as follows:

Section 1. Exclusive and perpetual consent and permission to furnish wastewater collection and conveyance for those residents, businesses and government buildings in the area of the Township depicted on **Schedule A** is hereby given and granted to NJAW, its successors and assigns for the maximum duration permitted by law, subject to the permission by the New Jersey Board of Public Utilities.

Section 2. Exclusive consent and permission is given to NJAW, its successors and assigns, under the provisions of N.J.S.A. 48:13-10 and N.J.S.A. 48:13-11, to lay its pipes and conduits beneath such public roads, streets, avenues and alleys as it may deem necessary for its corporate purposes, in the area shown on the map attached hereto as **Schedule A**, provided all such pipes shall be laid henceforth at least three feet (3') below the surface and shall not unnecessarily interfere with public travel or damage public or private property. All work and maintenance of the System shall be performed in accordance with all applicable federal, state and local statutes, rules, regulations, codes, ordinances and permit requirements. NJAW shall be responsible for the continued upkeep and maintenance of the System. This consent is limited by statute to fifty (50 years).

Section 3. A certified copy of this Ordinance, upon final passage, shall be sent to NJAW, the New Jersey Department of Environmental Protection and the New Jersey Board of Public Utilities.

Section 4. The consent granted herein shall be subject to NJAW complying with all applicable federal, state and local statutes, rules, regulations, codes, ordinances and permit requirements. This consent is expressly contingent upon New Jersey Board of Public Utilities approval and the Borough and NJAW completing the acquisition of the Manville System.

Section 5. The Mayor and the Administrator of the Township are authorized to execute the documents and agreements necessary to effectuate this municipal consent.

Section 6. If any provisions of this Ordinance shall be adjudged invalid, such adjudication shall not affect the validity of the remaining provisions which shall be deemed severable therefrom.

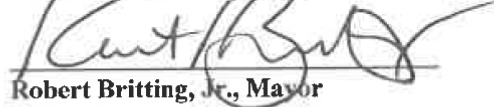
Section 7. This Ordinance shall take effect upon passage and publication.

ATTEST:



Sarah Brake, Township Clerk

TOWNSHIP OF HILLSBOROUGH:



Robert Britting, Jr., Mayor

Introduced: 5/14/2024

Published: 4/26/2024, 5/3/2024

Public Hearing: 6/11/2024

Adopted: 6/11/2024

Published: 6/21/2024

