



Agenda Date: 9/10/25

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.)	MUNICIPAL CONSENT
FOR APPROVAL OF A MUNICIPAL CONSENT)	
GRANTED BY SOUTH ORANGE VILLAGE,)	DOCKET NO. WE25030175
COUNTY OF ESSEX)	

Parties of Record:

Stephen R. Bishop, Esq., on behalf of 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 March 26, 2025, pursuant to N.J.S.A. 48:2-14 and N.J.A.C. 14:1-5.5, for approval of municipal consent granted by South Orange Village ("Village" or "South Orange") on March 24, 2025 via Ordinance No. 2025-03 ("Municipal Consent"), authorizing the Company to provide water service to residents and property owners within the geographical area of the Village ("Proposed Franchise Area") ("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 sewage within its defined service territory throughout the State of New Jersey including portions of Atlantic, Bergen, Burlington, Camden, Cape May, Essex, Gloucester, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Salem, Somerset, Union, and Warren counties.

The Village encompasses approximately 2.85 square miles and has a population of approximately 18,484 people. The Village currently owns a water utility and distribution system ("System"), which serves the Proposed Franchise Area. The System provides water service to approximately 5,000 connections in the Village and is currently operated and maintained by American Water Operations & Maintenance, LLC, an affiliate of NJAWC, via an operation and maintenance

¹ Ordinance No. 2025-03 is attached to this Order as Exhibit A.

agreement. NJAWC provides the Village with all of its water supply via a water sales agreement. Prior to the Village's grant of the Municipal Consent, the Village sought public bids for the sale of the System pursuant to N.J.S.A. 40:62-3 through 40:62-6. The Village subsequently adopted Ordinance No. 2024-15, which formally accepted NJAWC's bid and authorized the placement of the proposed sale on the ballot for consideration by voters in the next general election. Pursuant to N.J.S.A. 40:62-5, on November 5, 2024, the Village held a referendum on whether to approve the acquisition of the System by the Company, whereby the Village's voters approved the referendum. On February 24, 2025, the Village approved Resolution 2025-041, which authorized the sale of the System to NJAWC.

The Municipal Consent was introduced and adopted pursuant to N.J.S.A. 48:2-14, N.J.S.A. 48:3-11 to 15, N.J.S.A. 48:19-17, and N.J.S.A. 48:19-20 to permit the Company to construct, lay, maintain, and operate the necessary water mains, pipes and appurtenances throughout the Proposed Franchise Area.

PETITION

By the Petition, NJAWC sought Board approval of the Municipal Consent and did not seek ratemaking treatment relative to the System. NJAWC indicated that the sale of the System would be completed upon Board approval of the Municipal Consent.

By the Petition, the Company noted that the Municipal Consent would serve the public interest by permitting NJAWC's significant resources to support more efficient service as well as provide additional system reliability to the Village. The Company noted that the addition of the approximately 5,000 customers will enhance the Company's economies of scale and enlarge the pool of customers that support NJAWC's capital investments and fixed costs of service.

The Company further noted that expanding its franchise territory to the Village will serve the public convenience and will properly conserve the public interest by providing water utility service to the Proposed Franchise Area.

On June 26, 2025, the Board conducted a duly noticed virtual municipal consent hearing on the Petition, presided over by a hearing officer of the Board. Representatives of the Company, the New Jersey Division of Rate Counsel ("Rate Counsel"), and Board Staff ("Staff") appeared. No members of the public attended the hearing, and the Board received no written comments from the public.

By letter dated June 30, 2025, Rate Counsel submitted its comments on the Petition noting that, subject to certain conditions, it did not oppose Board approval of the Municipal Consent. Rate Counsel identified that the Municipal Consent grants the Company a perpetual franchise and access to streets and public places with no duration. Rate Counsel noted that N.J.S.A. 48:3-15 limits such grants to fifty (50) years and, as such, recommended that the Board similarly limit the term of the Municipal Consent to a term of fifty (50) years. In addition, Rate Counsel recommended that any Board Order approving the Petition include language stating, among other recommendations, that nothing in the Order addresses the rates to be paid by customers in the Village and any rates represented by the Company are not considered in this matter.

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 will grant approval

when, after a duly notice public hearing, it determines the franchise is necessary and proper for the public convenience, and properly conserves 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 interest of the public.

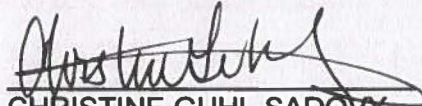
Accordingly, the Board **HEREBY APPROVES** the Municipal Consent and the expansion of NJAWC's service territory to include the Proposed Franchise Area. The Board **FURTHER FINDS** that the Company has the ability to provide safe, adequate, and proper service in the Village. The approvals granted herein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

1. 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.
2. 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.
3. The Company shall not depreciate any portion of the System expansion funded by Contributions in Aid of Construction.
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 from the effective date of this Order. In order to ensure periodic municipal and Board review, the term of the Municipal Consent to provide water service under N.J.S.A. 48:2-14 is limited to the same period as the Municipal Consent for the use of streets and other places.
5. This Order applies only to the approval of the Municipal Consent and shall not be construed as approving any ratemaking issues.
6. Nothing in this Order shall constitute Board approval of the rates to be paid by customers in the Village. Any rates represented by the Company are not guaranteed and the Board has the authority to set rates at an amount it deems just and reasonable as part of the next base rate case filed by the Company, regardless of any representations made by the Company to the Village or its residents.
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. Within ten (10) days of the signed order, NJAWC shall submit any revised tariff pages.
9. Staff may approve, subject to comments filed by Rate Counsel, any written request by the Company for additional time to comply with these conditions.

This Order shall be effective on September 17, 2025.

DATED: September 10, 2025

BOARD OF PUBLIC UTILITIES
BY:


CHRISTINE GUHL-SADOVY
PRESIDENT


DR. ZENON CHRISTODOULOU
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 APPROVAL
OF A MUNICIPAL CONSENT GRANTED BY SOUTH ORANGE VILLAGE, COUNTY OF ESSEX

DOCKET NO. WE25030175

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Exhibit A

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www.southorange.org
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F 973.763.0987



ORDINANCE #2025-03

Introduction: February 24, 2025

Adoption: March 24, 2025

AN ORDINANCE GRANTING MUNICIPAL CONSENT TO NEW JERSEY-AMERICAN WATER COMPANY, INC. TO PROVIDE WATER SERVICE AND THE CONSTRUCTION, EXPANSION AND MAINTENANCE OF WATER FACILITIES IN THE PUBLIC RIGHT OF WAY IN SOUTH ORANGE VILLAGE IN ORDER TO FURNISH WATER SERVICE WITHIN THE BOUNDARIES OF THE VILLAGE.

WHEREAS, New Jersey-American Water Company, Inc. ("New Jersey-American Water") is in the process of acquiring the water system (the "System") currently owned and operated by South Orange Village (the "Village"), subject to regulatory approvals; and

WHEREAS, the Village is desirous of having New Jersey-American Water acquire the System, which acquisition has been approved by a majority of the legal Village voters on November 5, 2024, pursuant to N.J.S.A. 40:62-5; and

WHEREAS, New Jersey-American Water is a regulated public utility corporation of the State of New Jersey presently seeking the municipal consent of the Village to permit New Jersey-American Water to provide water service to the Village; and

WHEREAS, New Jersey-American Water has requested the consent of the Village to provide water service to the Village pursuant to N.J.S.A. 48:2-14; and

WHEREAS, New Jersey-American Water has requested the consent of the Village for use of its streets, with such consent limited to the fifty (50) year duration set forth in N.J.S.A. 48:3-15, including the consent of the Village pursuant to N.J.S.A. 48:19-17 and N.J.S.A. 48:19-20, 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 by the Mayor and Village Council that granting said consent is in the best interest of the Village and its citizens; 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.

NOW, THEREFORE, be it ordained, by the Village Council of South Orange Village, a municipal corporation of New Jersey located in Essex County thereof, as follows:

{01192160.1}



Section 1.

- A. The Village hereby grants to New Jersey American Water, its successors and assigns, in perpetuity the exclusive municipal consent to provide water services to the Village pursuant to N.J.S.A. 48:2-14.
- B. The Village hereby grants to New Jersey-American Water, its successors and assigns, the municipal consent to use the streets pursuant to N.J.S.A. 48:3-11 and 48:3-15, with such consent limited to fifty (50) years as set forth in N.J.S.A. 48:3-15, as well as the consent pursuant to N.J.S.A. 48:19-17 and 48:19-20, as amended, without charge therefore, (except fees for road permits shall be paid) as the same may be required in order to permit New Jersey-American Water to add to, extend, operate and maintain the necessary water facilities on public streets, roads and property described herein in order to provide said water service.
- C. That a certified copy of this Ordinance, upon final passage, shall be sent to New Jersey-American Water, who will provide to the New Jersey Department of Environmental Protection and the Board of Public Utilities of the State of New Jersey as necessary.
- D. That the consent granted herein shall be subject to New Jersey-American Water complying with all applicable laws of the Village and/or the State of New Jersey including, but not limited to, any and all statutes and administrative agency rules and/or regulations.
- E. The Village Administrator, Mayor, and the Clerk of the Village, or their respective designee, are authorized to execute the documents and agreements necessary to effectuate the limited municipal consent and to protect the rights of the public involved

Section 2

Each section, subsection, sentence, clause, 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 3.

Repealer.

All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistencies.



Section 4.

This ordinance shall take effect upon final passage and publication as required by law.

Section 5.

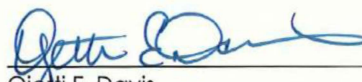
On passage this ordinance shall NOT be codified.

Introduction – First Reading

Council Member	Motion	Second	Ayes	Nays	Abstain	Absent
Brown			X			
Greenberg	X		X			
Haskins			X			
Hartshorn Hilton						X
Jones		X	X			
Lewis Chang			X			

CERTIFICATION

I, Ojetti E. Davis, Village Clerk of South Orange Village, County of Essex, State of New Jersey, do hereby certify that this Ordinance was introduced on first reading by the Village Council at their meeting held on February 24, 2025.


Ojetti E. Davis
Village Clerk

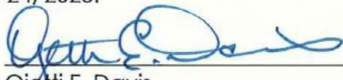
Adoption – Second Reading

Council Member	Motion	Second	Ayes	Nays	Abstain	Absent
Brown			X			
Greenberg			X			
Haskins			X			
Hartshorn Hilton			X			
Jones	X		X			
Lewis Chang		X	X			




CERTIFICATION

I, Ojetti E. Davis, Village Clerk of South Orange Village, County of Essex, State of New Jersey, do hereby certify that this Ordinance was adopted on second reading by the Village Council at their meeting held on March 24, 2025.




Ojetti E. Davis
Village Clerk

Adopted:



Sheena C. Collum
Village Mayor

Attest:



Ojetti E. Davis
Village Clerk