



Agenda Date: 10/14/26
Agenda Item: 3A

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

ENGINEERING

IN THE MATTER OF THE PETITION OF SHORE)
WATER COMPANY FOR A DECLARATORY)
JUDGMENT CONCERNING ITS FRANCHISE FOR)
SOUTH SEASIDE PARK) DOCKET NO. WO26040130

Parties of Record:

Shane P. Simon, Esq., Saul Ewing, LLP, on behalf of Shore Water Company
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 Shore Water Company ("Shore" or "Company") on April 21, 2026, pursuant to N.J.S.A. 52:14B-8, seeking a declaratory judgment that its franchise for South Seaside Park from the Township of Berkeley ("Township") remains current, valid, and effective following Ordinance 2026-19 ("Annexation Ordinance") adopted on March 30, 2026, by the Borough of Seaside Park ("Borough") authorizing the annexation of the territory ("Petition").¹

BACKGROUND

Shore is a family-owned and operated public utility corporation of the State of New Jersey subject to the jurisdiction of the Board. Within its service territory, known as South Seaside Park, Shore serves approximately 1,250 water service customers. South Seaside Park is a barrier island nestled between the Atlantic Ocean and Barnegat Bay separate from the mainland Township.

On October 23, 1952, the Township adopted Ordinance No. 108A ("1952 Ordinance") authorizing Shore to provide water service to the entirety of South Seaside Park pursuant to the provisions of N.J.S.A. 48:19-17 and 48:19-20.

On August 29, 2002, the Township adopted Ordinance No. 02-36-OAB ("2002 Ordinance") renewing or reapproving the same franchise pursuant to N.J.R.S 48:19.1, *et seq.* The 2002 Ordinance did not alter Shore's approved service territory.

¹ Ordinance 2026-19 is attached to this Order as Exhibit A.

On July 10, 2025, the Supreme Court of New Jersey issued an opinion ordering the Township to consent to de-annex South Seaside Park from the Township so that it could be annexed to the Borough.² On March 30, 2026, the Borough Council voted to annex South Seaside Park from the Township via the Annexation Ordinance pursuant to N.J.S.A. 40A:7-14. The Annexation Ordinance did not extinguish or impair the Shore's rights under the 2002 Ordinance. In addition, a letter of support from the Borough expressed its desire that the Company continues to provide water service to the residents of South Seaside Park without interruption.

PETITION

On April 21, 2026, Shore filed the Petition with the Board seeking a declaratory judgment that its existing franchise for South Seaside Park, via the 2002 Ordinance by the Township is still valid and effective following the adoption of the Annexation Ordinance. Shore indicated that the Company has continuously and exclusively provided service for more than seventy-five (75) years.

By the Petition, Shore argued that its requested relief was governed under the Declaratory Judgement Act, N.J.S.A. 2A:16-50 to -62. Shore further argued that declaratory judgements may also be sought from administrative agencies pursuant to N.J.S.A. 52:14B-8.

By letter dated August 7, 2026, Rate Counsel submitted comments on the Petition. Rate Counsel stated that vested operational right cannot be denied based on annexation of the territory by the Borough pursuant to N.J.S.A. 40A:7-14 ("Annexation statute"). In addition, Rate Counsel noted that Shore has a formal written municipal franchise granted by the municipality of the Township and has provided water service under that franchise for seventy-five (75) years to the ratepayers of South Seaside Park. Therefore, Rate Counsel believes that a declaratory judgment from the Board that Shore's franchise from the Township remains current, valid, and effective to service South Seaside Park would be necessary to provide continuous water service to the residents without interruption.

DISCUSSION AND FINDINGS

The Board has been requested to make a declaratory judgment that the Shore's existing franchise to provide water service to the entirety of South Seaside Park as renewed by the Township via the 2002 Ordinance remains current, valid, and effective following the Annexation Ordinance within the Annexation statute of N.J.S.A. 40A:7-14. The Board, in its discretion, may render a declaratory ruling which binds the agency and all parties to the proceedings on the facts alleged, but only after the interest parties have been afforded full opportunity for hearing under N.J.S.A. 52:14B-8. All of the parties to this proceeding have agreed that there are no facts in dispute. The Board **HEREBY FINDS** that it has sufficient information to proceed and make its determination based on the facts as set forth in the Petition and the applicable Board rules and policies.

The Board agrees with Rate Counsel's position that a vested operational right cannot be denied solely because that same location was annexed by the Borough is reasonable, as their argument is compelling and consistent with the Board's understanding of N.J.S.A. 40A:7-14.

Having reviewed the Petition and the entire record on this matter, including the comments submitted by Rate Counsel, the Board **HEREBY FINDS** that the Shore's franchise for South

² See Whiteman v. Twp. Council of Berkeley Twp., 261 N.J. 106 (2025).

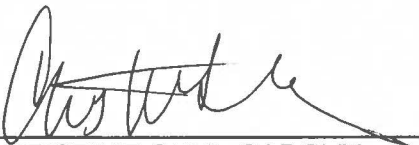
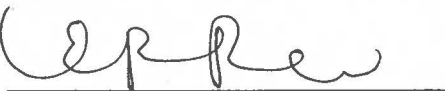
Seaside Park, created and maintained by the 1952 and 2002 Ordinances from the Township, remains current, valid, and effective following the Annexation Ordinance for the duration of its existing statutory life (*i.e.*, until August 29, 2052).

Accordingly, the Board **HEREBY APPROVES** Shore's continued provision of water service to the residents of South Seaside Park without interruption. The Board **FURTHER FINDS** that the Company has the ability to provide safe, adequate, and proper service to the residents of South Seaside Park.

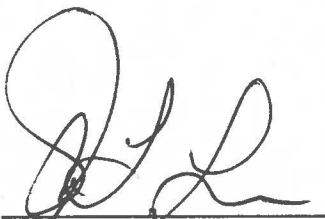
This Order shall be effective on October 21, 2026.

DATED: October 14, 2026

BOARD OF PUBLIC UTILITIES
BY:


BEN HERTZ-SHARGEL
PRESIDENT
CHRISTINE GUHL-SADOVY
COMMISSIONER
MICHAEL BANGE
COMMISSIONER
EMMA REBORN
COMMISSIONER
JOSEPH COVIELLO
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 SHORE WATER COMPANY FOR A DECLARATORY JUDGMENT
CONCERNING ITS FRANCHISE FOR SOUTH SEASIDE PARK

DOCKET NO. WO26040130

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ORDINANCE NO. 2026-19

**AN ORDINANCE OF THE BOROUGH COUNCIL OF THE
BOROUGH OF SEASIDE PARK IN THE COUNTY OF OCEAN AND
STATE OF NEW JERSEY ACCEPTING ANNEXATION OF 168
ACRES KNOWN AS SOUTH SEASIDE PARK IN THE TOWNSHIP
OF BERKELEY**

WHEREAS, in accordance with N.J.S.A. 40A:7-12, the Borough has been presented with an Annexation Petition dated September 22, 2014 on behalf of South Seaside Park Homeowners & Voters Association, requesting that the area known as South Seaside Park be annexed by the Borough of Seaside Park; and

WHEREAS, on July 10, 2025 the Supreme Court of the State of New Jersey issued an opinion ordering Berkeley Township to Consent to De-Annex South Seaside Park from the Township of Berkeley so that it could be annexed to the Borough of Seaside Park; and

WHEREAS, the governing body of the Borough of Seaside Park has commissioned and considered reports from planning, financial and municipal operations professionals as well as input from the Planning Board and from residents solicited at multiple public sessions.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Seaside Park, in the County of Ocean County, State of New Jersey as follows:

1. The Borough Council accepts annexation of the 168 acres known as South Seaside Park located in the Township of Berkeley.
2. The Borough Clerk is hereby authorized and directed to transmit a copy of this Ordinance to the Municipal Clerk for the Township of Berkeley.
3. The Borough Clerk is hereby authorized and directed to transmit a copy of this Ordinance to the Ocean County Clerk's Office and the New Jersey Secretary of State.
4. All Borough officials and employees are hereby authorized and directed to take all actions necessary to effectuate this Ordinance.

SECTION 2. If any section, paragraph, subsection, clause or provision of this Ordinance shall be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any part thereof.

SECTION 3. This ordinance shall take effect immediately upon its final passage, approval and publication as provided by law.



Approved this 30th day of March, 2026:
Borough of Seaside Park
Honorable John A. Peterson Jr., Mayor

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed by the Borough Council on first reading at a meeting of the Borough Council of Borough of Seaside Park held on the **19th** day of March, **2026**, and will be considered for second and final passage at a meeting of the Borough Council to be held on the **30th** day of March, **2026**, at 7:00 p.m. at the Municipal Building located at Sixth & Central Avenues, Seaside Park, New Jersey, at which time and place any persons desiring to be heard upon the same will be given the opportunity to be so heard.



JENNA JANKOWSKI, RMC, Clerk
Borough of Seaside Park