



Agenda Date: 1/8/03

Agenda Item: V C

STATE OF NEW JERSEY

Board of Public Utilities

Two Gateway Center

Newark, NJ 07102

www.bpu.state.nj.us

IN THE MATTER OF THE PETITION OF APPLIED)
WASTEWATER MANAGEMENT, INC. FOR)
APPROVAL OF (1) MUNICIPAL CONSENT BY)
THE TOWNSHIP OF TEWKSBURY, HUNTERDON)
COUNTY, NEW JERSEY; AND (2) EXTENSION)
OF ITS EXISTING SEWER TARIFF TO THE NEW)
SERVICE AREA)

WATER AND WASTEWATER

ORDER OF APPROVAL

DOCKET NO. WE01060355

(SERVICE LIST ATTACHED)

BY THE BOARD:

By petition filed on May 31, 2001, Applied Wastewater Management, Inc. (Applied Wastewater or Company), a public utility subject to the jurisdiction of the Board of Public Utilities (Board), requested Board approval of a municipal consent granted by the Township of Tewksbury (Township) authorizing Applied to construct and maintain sewer utility facilities in public roads and other places in a portion of the Township.

On May 8, 2001, the Township Committee adopted an ordinance granting a municipal consent to Applied Wastewater to construct and maintain sewage collection and treatment facilities to provide service to new office buildings and related facilities that are to be constructed in the Township. A New Jersey Pollutant Discharge Elimination System Permit (Permit # NJ0102563), and a Treatment Works Approval Permit for the wastewater treatment plant have been issued by the N.J. Department of Environmental Protection (NJDEP).

After appropriate notice, a Hearing on this matter, pursuant to N.J.S.A. 48:2-14, was held on May 16, 2002, at the Board's offices in Newark before Donna P. Luhn, Esq., the Board's duly designated Hearing Examiner.

Dr. Andrew Higgins, Chief Engineer for Applied Wastewater, testified as to the type of wastewater system that would be provided. Two buildings, slightly less than 800,000 square feet in total footage are to be built. The Gale Company is the property manager for the owner; therefore, a representative of The Gale Company, Ms. Cayci, attended the hearing to address any land use development questions. A proposed wastewater flow of 77,226 gallons per day is estimated to be generated from these office buildings. The Engineering Report [Exhibit 7 of the transcript record] identifies certain criteria that would be used in the design of the facility including information about the effluent wastewater characteristics and the effluent characteristics of the wastewater treatment facility as part of the discharge permit.

According to Ms. Cayci, Bellemead Development Corporation is the owner and developer of the property. The developer is responsible for the funding of the construction of the plant and when it becomes active, will transfer the deed to Applied Wastewater. Applied Wastewater will then own and operate the wastewater system facility. As provided in the discovery, Applied Wastewater will acquire the system at a cost of \$120,000, of which 60% will be debt financed and 40% will be equity. This would be accomplished through a purchase agreement between the developer and Applied Wastewater. A draft purchase agreement was provided to Board Staff and the Ratepayer Advocate (who, along with the Company, represent the parties to this proceeding), but is yet to be executed.

Mr. Strauss stated that the system will be a stand alone system. Dr. Higgins affirmed that an environmental impact study was required by the Planning Board in Tewksbury. It is not specifically for the treatment plant, but it would address all the environmental issues including the treatment plant. Dr. Higgins further stated that, as part of the submission for the discharge permit, there would be an environmental study to secure that permit. The study does not relate to the office buildings themselves, but to the stream discharge. Ms. Cayci testified that her company went through an extensive site plan approval process for the plant itself with the Township.

By letter dated June 18, 2002, the Ratepayer Advocate advised the Board that it is not opposed to approval of this docket. The letter states Applied Wastewater currently owns and operates eight wastewater systems and two potable water systems in New Jersey, with another five systems pending. Additionally, as a subsidiary of E'Town Corporation, Applied Wastewater has access to additional managerial, technical, and financial resources that demonstrate the capacity of the utility to own and maintain the Tewksbury system in a safe, adequate and proper manner. The Ratepayer Advocate further believes that approval of the petition should not include authorization to include in rate base the specific assets that will be acquired as a result of this petition. The Ratepayer Advocate commented that the determination of any assets to be included in rate base and the ratemaking impact of serving these new customers should be addressed in a future rate base proceeding.

After review of the record, the Board HEREBY FINDS that the consent granted to Applied Wastewater Management, Inc. by the Township of Tewksbury is necessary and proper for the public convenience and properly conserves the public interest. Accordingly, pursuant to N.J.S.A. 42:2-14 and N.J.S.A. 48:19-20, the Board HEREBY APPROVES the consent granted to Applied Wastewater Management, Inc. for the provision of service in the Township of Tewksbury subject to the conditions stated below.

In addition, the Board HEREBY ORDERS that wastewater service provided in the new franchise area shall be billed at the existing tariff rates of Applied Wastewater Management, Inc. Said rates shall remain in effect until modified by the Board in a subsequent appropriate rate proceeding.

The approvals granted hereinabove shall be subject to the following conditions:

1. This Order shall not be construed as directly or indirectly fixing for any purposes whatsoever the value of any tangible or intangible assets now owned or hereafter to be owned by Applied Wastewater.

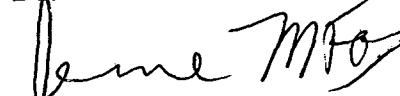
2. This Order shall not affect nor in any way limit the exercise of the authority of this Board or of this State in any future petition or in any proceedings with respect to rates, franchises, services, financing, accounting, capitalization, depreciation, or in any other matters affecting Applied Wastewater.
3. In an appropriate subsequent proceeding, Applied Wastewater shall have the burden of demonstrating whether, and to what extent, any of the costs associated with this petition shall be allocated to ratepayers. Approval of this municipal consent does not include authorization to include in rate base the specific assets that will be completed as a result of the new territory.
4. Approval of this municipal consent ordinance does not constitute Board approval of any costs or expenses associated with this petition. Any determination as to the appropriateness or reasonableness of the costs or expenses related to the franchise, including, but not limited to, the cost of construction, contributions in aid of construction, 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.
5. The approval of the municipal consent shall be subject to Applied Wastewater obtaining all necessary NJDEP approvals and filing copies of the permits with the Board within thirty (30) days of their acceptance.
6. The journal entries relating to the new service territory of Applied Wastewater are approved for accounting purposes only.

7. Approval of this municipal consent ordinance is subject to the execution of a purchase agreement between Bellemead Development Corporation and Applied Wastewater to transfer the wastewater system to Applied Wastewater. An executed purchase agreement is to be provided within five (5) business days of such execution.

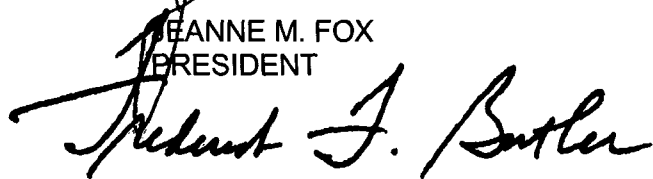
DATED: 1/13/03

BOARD OF PUBLIC UTILITIES

BY:



JEANNE M. FOX
PRESIDENT



FREDERICK F. BUTLER
COMMISSIONER



CAROL J. MURPHY
COMMISSIONER

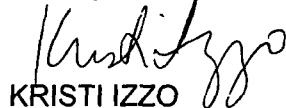


CONNIE O. HUGHES
COMMISSIONER



JACK ALTER
COMMISSIONER

ATTEST:



KRISTI IZZO
SECRETARY

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DOCKET NO. WE01060355

SERVICE LIST

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