

April 19, 2006

VIA HAND DELIVERY

Kristi Izzo, Secretary
State of New Jersey, Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102

Re: I/M/O the Petition of Applied Wastewater Management, Inc. for Approval of (1) Municipal Consent by the Township of Union, Hunterdon County, New Jersey; and (2) Extension of its Existing “COWS” Sewer Tariff to the new Service Area BPU Docket No.: WE05050414

Dear Secretary Izzo:

Please accept for filing an original and eleven copies of the Division of the Ratepayer Advocate’s (“Ratepayer Advocate”) comments regarding the above referenced matter. Please date stamp the additional copy as “filed” and return it in the courier.

Thank you for your consideration and attention to this matter.

Background

On May 4, 2005 Applied Wastewater Management Inc. (“Applied Wastewater” or “Company”) filed a Petition with the State of New Jersey, Board of Public Utilities (“BPU” or “Board”), for approval of a Municipal consent in Union Township, Hunterdon County and for approval of the application of its current “COWS” sewer tariff in that area.

Applied Wastewater provides sewerage collection, treatment and disposal system to approximately 3,750 customers in municipalities located in Union, Somerset, Morris and Burlington Counties in New Jersey.¹

On March 16, 2005, the Company obtained the consent of the Township of Union to own and operate a wastewater system in an area know as Lookout Pointe. The system will serve 46 new single family homes (3 bedrooms or larger), one existing single family home (3 bedroom or larger) six townhome units (3 bedrooms) and two townhome units (1 bedroom).² The sewerage system will be acquired by Applied Wastewater and they propose to implement their “COWS” tariff in the area.

Analysis

The Lookout Pointe development is being constructed by Toll Brothers. The project is located within state Planning Area PA-2.³ The Company will be acquiring the wastewater system for a cost not exceeding \$50,000. The assets have an estimated value of \$1,852,638.⁴ The acquisition cost is below the maximum allowable limits set by the Board’s current extension rules for utility company participation in development projects. The Board’s rules would authorize a refund as high as \$547,250 assuming there are no rate increases over the next ten years.

The Purchase agreement provides for a monthly operating subsidy paid by Toll Brothers to cover the cost of maintenance and operations until the point where normal revenues are sufficient to cover all costs. The subsidy varies form a high of \$4,800 per month to a low of \$2,200 per month and is related to the number of customers served by

¹Petition, para. 1

² Petition, exhibit B Fact Sheet.

³ RAR-E-4

⁴ SE-32.

the system.⁵ The operating subsidy ceases when 50 of the anticipated 55 customers are connected to the system. The Company estimated annual operations costs, including taxes and capital costs at \$51,113.34.⁶ Some costs are variable, so actual expenses should be less when fewer than 55 customers are connected to the system. Nevertheless, the developer-paid operating subsidy will protect the Company and its existing customers until a break-even point is reached. At build out, the project will be revenue positive and should produce a downward pressure on rates for the COWS tariff group with all other things being equal.

Recommendation

The Ratepayer Advocate has reviewed the Petition and is not opposed to approval of the proposed franchise. The financial conditions resulting from this project will be favorable to existing ratepayers in the COWS tariff group. This is because the Purchase Agreement has limited the purchase price to \$50,000. Alternatively, if the Company made the full refund allowed by the Board's rules (N.J.A.C. 14:3-8.10), the project would not be revenue supporting at build-out. This would ultimately lead to a request for increased rates for all COWS customers.

Although the proposed franchise is proximate to an existing sewer system owned and operated by the Town of Clinton, that system does not have adequate capacity to service the franchise area.⁷ Furthermore, the Township's DEP approved Water Quality Management Plan calls for Lookout Pointe to be served by an onsite wastewater system. Permits for this system have already been issued to Toll Brothers and will be transferred

⁵ RAR-E-3; Purchase Agreement; Schedule A.

⁶ RAR-E-5.

⁷ RAR-E-9.

to the Company on closing.⁸ Although the wastewater treatment must be addressed through an on-site system, public water supply will be provided by the Town of Clinton.⁹

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 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 base rate proceeding.

Accordingly, the Ratepayer Advocate recommends that any Board Order approving the Petition contain the following language:

1. This Order shall not be construed as directly or indirectly fixing for any purposes whatsoever any value of any tangible or intangible assets now owned or hereafter to be owned by the Petitioner.
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, service, financing, accounting, capitalization, depreciation, or in any other matter affecting the Petitioner.

These provisions will satisfy the concerns of the Ratepayer Advocate that BPU approval is limited to the municipal consent, and should not indicate authorization to include any specific assets or amounts in rate base, or indicate authorization for any other ratemaking treatment. With these caveats, the Ratepayer Advocate is not opposed to approval of the Petition.

⁸ The Petition, Exhibit B and Exhibit C.

⁹ RAR-E-2.

Respectfully submitted,

Seema M. Singh, Esq.,
Director & Ratepayer Advocate

By: _____
Susan E. McClure
Assistant Deputy Ratepayer Advocate

SM:iaa

- c: Jeanne M. Fox, President (*via hand delivery*)
Frederick F. Butler, Commissioner (*via hand delivery*)
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