



State of New Jersey  
DEPARTMENT OF THE PUBLIC ADVOCATE  
DIVISION OF RATE COUNSEL  
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February 13, 2008

**Via Hand Delivery**

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

**RE: In the Matter of the Application of Fayson Lake Water Company, a New Jersey Corporation, for Authority, to Execute a Note or Notes Payable in More than One Year from the Date Thereof. BPU Docket No. WF07080593**

Dear Secretary Izzo:

Please accept for filing an original and ten copies of the Division of Rate Counsel's ("Rate Counsel") comments regarding the above-referenced matter. Enclosed is one additional copy. Please date stamp the copy as "filed" and return it to the courier. Thank you for your consideration and attention to this matter.

**Background**

On July 31, 2007, Fayson Lake Water Company ("Company") filed a petition with supporting documentation requesting the New Jersey Board of Public Utilities ("Board") to grant authority for the Company to execute two Notes payable in more than one year from the date thereof. The lender involved with both notes will be Sussex Bank, a New Jersey Banking Corporation.

The first Note will be for a 25 year term loan in the amount of \$960,000 with an interest rate of 7.50% for the first 5 years. During the remaining twenty years, the interest will adjust on each fifth anniversary thereafter to a rate equal to 260 basis points above the five year treasury index.

The Company plans to use the proceeds of the first Note as follows: (1) \$275,000 allocated to direct costs already utilized for the completed project of replacing well #4 with a new well #7; (2) \$30,000 allocated to the consolidation of debt service; and (3) \$655,000 allocated to the Company's water main replacement.

The second Note is for a commercial line of credit in the amount of \$100,000 for 2 years with an initial interest rate of 9.25% floating for two years. This Note is planned to be used for the planning and design of the Company's water filtration project and for emergency cash flow needs.<sup>1</sup>

### **Analysis**

Rate Counsel has carefully reviewed the Company's petition and responses to data requests. We have concluded that the proposed Notes Payable Financings are reasonable and in the public interest.

The reasons for this conclusion shall be discussed herein.

The first Note for \$960,000 is a 25 year Note with an initial 5 year interest rate of 7.50% that in essence refinances a short-term note for \$960,000<sup>2</sup> with an interest rate of 8.5% that came due in July 2007. This refinancing is favorable to the Company's long-term financial status.

As a consequence of the rate increase recently authorized by the Board, the Company is now in a position to service the debt requirements associated with both the new \$960,000 long-

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<sup>1</sup> Response to Staff data request #13

<sup>2</sup> As of December 31, 2006, the outstanding balance of this short-term note was \$891,904

term Note and the \$100,000 line of credit, under the assumption that this line of credit will be fully drawn down by the Company.

The Board, in its September 26, 2006 Order in Docket No. WF06040321, has already approved the Company's application for permission to borrow \$960,000 from Sussex Bank. This Board approval was based on the Board's opinion that the Company is in need of this financing requirement.<sup>3</sup>

The second line of credit Note for \$100,000 gives the Company the flexibility to draw on this available credit source in case of sudden cash flow needs or other emergency requirements. While the interest of 9.25% that is associated with this line of credit is high, in our opinion, it is not an unusual rate for a loan secured by a second mortgage of a small company.

Rate Counsel wishes to emphasize that in the future the Company should make all efforts possible to obtain lower-cost financing from New Jersey Environmental Infrastructure Trust, ("NJEIT"), prior to negotiating financing from private sources, i.e. Sussex Bank. In the instant case, the Company set forth reasons as to why it was unable to obtain state financing. The Company was not able to obtain such lower-cost state financing because the projects for which the state financing would be used were already completed at the time of the NJEIT financing application. The Company should prior to the start of future projects, which require outside financing, determine the amount of financing required, obtain relevant information for NJEIT financing and make said application. At the same time, the Company should also acquire a preliminary loan authorization from outside sources. The Company should then compare the

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<sup>3</sup> This \$960,000 Board approved financing requirement had a slightly different purpose allocation than the purpose allocation claimed in the instant petition, i.e. instead of the allocation of \$655,000 for the water main replacement project, it allocated \$455,000 to the water main replacement project and \$200,000 to a two-year operating line of credit (see response to RCR-4)

financing alternatives favorable to the Company and ratepayers. This process should be followed by the Company in its next application for financing before the Board.

In conclusion, Rate Counsel has no objection to this petition so long as the Board's approval is limited to the proposed financing, and does not indicate authorization to include any specific assets or amounts in rate base. The determination of whether assets are appropriate for inclusion in rate base should be deferred to a future base rate case proceeding.

These provisions will satisfy the concerns of the Ratepayer Advocate that Board approval is limited to the Notes as described herein, and should not indicate authorization to include any specific assets or amounts in rate base, or indicate authorization for any other ratemaking treatment.

Respectfully Submitted,

RONALD K. CHEN  
PUBLIC ADVOCATE

Stefanie A. Brand  
Director, Division of Rate Counsel

By: **Gina M. Hunt**  
Gina M. Hunt  
Assistant Deputy Public Advocate

GMH:ers  
c:Service List