

March 28, 2005

**VIA HAND DELIVERY**

Kristi Izzo, Secretary  
State of 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 PAYABLE IN MORE THAN ONE YEAR FROM THE DATE THEREOF (DIRECT LOAN FROM N.J. ENVIRONMENTAL INFRASTRUCTURE TRUST)**

**BPU DOCKET NO. WF04121547**

Dear Secretary Izzo:

Please accept for filing an original and ten copies of the Division of the Ratepayer Advocate's ("Ratepayer Advocate") 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.

On December 8, 2004, Fayson Lake Water Company ("Fayson Lake" or "Company") filed a petition with the New Jersey Board of Public Utilities ("Board") seeking authorization to borrow up to \$720,000 from the New Jersey Environmental Infrastructure Trust ("NJEIT"). The NJEIT was established to make loans available to both local governmental bodies and public utilities for certain qualifying projects designed to improve the quality of the State's water and wastewater infrastructure.

Fayson Lake has filed an application with the NJEIT to borrow \$720,000. The proposed loan would be for a term of twenty years, amortized over a 20-year period. One-half of the face

amount of the loan would be interest free. The other one-half of the face amount would be at an estimated interest rate of between 4% and 6% per annum.<sup>1</sup>

Fayson Lake plans to use the proceeds of the loan as follows: \$290,000 would be used to replace the Company's existing well #4 with a new well, and \$430,000 would be used to replace an existing water storage tank in Kinnelon, New Jersey.<sup>2</sup> It is the Ratepayer Advocate's understanding that the Company expects to place the new well in service during the first quarter of 2005. The storage tank replacement project is expected to be completed in 2006.

The Ratepayer Advocate has reviewed the Company's petition and is not opposed to its approval. As a result of participation in the Company's base rate proceeding, Docket No. WR03040278, the Ratepayer Advocate is familiar with the two projects to be funded with the loan proceeds. We believe these two projects are necessary to assure reliable water service to the Company's customers.

The proposed NJEIT loan would be much less expensive than any other funding available. As noted, the Company anticipates that one-half of the face amount of the loan will be at no interest. Thus, the blended interest rate would be equal to approximately one-half the estimated interest rate for the other half the loan, so that the effective interest rate would be between 2% and 3%. This represents a significant savings to ratepayers compared to other possible sources of financing.

The proposed loan will improve the Company's capital structure by adding low-cost debt. In addition, the Company has taken steps to assure that it will have sufficient cash resources to cover the loan payments. On November 10, 2004 the Company filed a motion initiating a Phase III Supplemental proceeding in the base rate proceeding in which it sought rate recovery for the costs of the well replacement project. The Phase III proceeding will provide the Board with the

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<sup>1</sup> Petition, par. 4.

<sup>2</sup> Petition, par. 6.

opportunity to review the adequacy of the Company's rates to repay the portion of the loan associated with the well replacement project. The proposed loan represents a low-cost financing option that should minimize the rate impact of the well replacement project

Based on a review of the Petition, the Ratepayer Advocate is not opposed to its approval. Approval of the petition, however, should not include authorization to include in base rates the specific assets that will be acquired as a result of loan. The determination of any assets to be included in rate base and their ratemaking treatment should be addressed in the ongoing Phase III proceedings in Docket No. WR03040278 and future base rate proceedings, as appropriate.

Accordingly, the Ratepayer Advocate recommends that the 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 the Board's approval should be limited to the proposed financing, and should not indicate authorization to

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include any specific assets or amounts in rate base. With these caveats, The Ratepayer Advocate is not opposed to approval of the Petition.

Respectfully submitted  
SEEMA M. SINGH, ESQ.  
RATEPAYER ADVOCATE

By: \_\_\_\_\_  
Sarah H. Steindel  
Assistant Deputy Ratepayer Advocate

cc: Jeanne M. Fox, President (via hand delivery)  
Frederick F. Butler, Commissioner (via hand delivery)  
Connie O. Hughes, Commissioner (via hand delivery)  
Jack Alter, Commissioner (via hand delivery)  
Service List *via hand delivery or regular mail*