

July 27, 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 Petition of New Jersey-American Water Company for Approval to Sell Real Property Located at 500 Grove Street in the Borough of Haddon Heights, County of Camden
BPU Docket No. WM04111373**

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.

The Ratepayer Advocate has reviewed the petition and does not object to the proposed sale of utility property. However, the sale should be subject to conditions to assure the proper ratemaking treatment of the proceeds, as detailed below.

Background

On November 1, 2004 New Jersey-American Water Company ("NJAWC" or the "Company") filed a Petition with the Board of Public Utilities (the "Board") requesting the Board's approval for the sale of two parcels of land (the "Property") located at 500 Grove Street,

Haddon Heights, New Jersey.¹ NJAWC operates water production, treatment and distribution systems and wastewater collection systems in portions of Atlantic, Burlington, Camden, Cape May, Essex, Gloucester, Hunterdon, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Union and Warren Counties. The Company currently provides service to approximately 362,000 water customers and 26,000 wastewater customers.² The Property served as the Company's corporate headquarters until October 20, 2003, when the Company transferred its headquarters to Lawrenceville, New Jersey.³ The proposed buyer of the Property is Tuscany Partners, LLC ("Tuscany"), which is unrelated to the Company except as the proposed transferee of the Property.⁴

The Property was acquired by the Company in 1993.⁵ The Property has been included in the Company's rate base, and the property taxes, depreciation, and Operation and Maintenance expenses associated with the Property have been included in the Company's rate filings, since 1993.⁶ The Property's original book value at the time of purchase was \$1,816,807, and its net book value as of December 31, 2004 is \$1,867,602.⁷ The Property was appraised in November, 2003 by Appraisal One, which determined a fair market value of \$2,200,000.

Prior to advertising the Property for bid, the Company received a preliminary offer to purchase the Property for \$2,340,000. However, this offer was withdrawn.⁸ The Company advertised the Property for sale in September, 2004. The advertising process resulted in only one bid, from Tuscany, in the amount of 2,415,550.⁹ As a result of Tuscany's due diligence

¹ Petition, par. 2.

² Petition, par. 1.

³ Petition, par. 8.

⁴ Petition, par. 3, 15.

⁵ Petition, par. 6.

⁶ AWWM response to RPA discovery requests RAR-6 and RAR-7.

⁷ AWWM response to RPA discovery request RAR-3.

⁸ Petition, par. 11.

⁹ Petition, par. 4, 13, 14.

evaluation of the Property the originally agreed price was reduced by \$125,000 to \$2,290,550. According to a Company discovery response, the price reduction was to cover remedial work to the structure of the building, remediation of asbestos in the building, and a deed restriction limiting the use of the Property to an office-type building.¹⁰

As noted, the Property was formerly used as the Company's corporate headquarters. The Property currently houses some Information Technology personnel and certain computer and telephone equipment. The Company plans to continue this use under a lease with the buyer until some time in 2008.¹¹

The anticipated net pre-tax gain on the sale of the Property is \$263,954.¹² The Company proposes to directly flow 50% of this amount to the Company's shareholders, and defer the remaining 50% "for disposition as determined by the outcome of the Company's next rate filing."¹³

Recommendation

The Ratepayer Advocate does not object to the proposed sale. Based on the representations in the Petition and the Company's discovery responses, the Company appears to have complied with the pertinent Board regulations.

However, the Board's approval of the sale should be subject to appropriate conditions to assure the proper ratemaking treatment of the proceeds. To date, the Board has followed a policy that net gains from the sale of utility property should be shared on a 50/50 basis between ratepayers and shareholders.¹⁴ As noted, the Company is proposing to flow 50% of the net gain

¹⁰ AWWM response to RPA discovery request RAR-14 (as revised 7/7/05 and 7/20/05).

¹¹ Petition, par. 8; AWWM response to RPA discovery request RAR-1.

¹² AWWM response to RPA discovery request RAR-11.

¹³ AWWM response to RPA discovery request RAR-9

¹⁴ See *I/M/O the Petition of Atlantic City Sewerage Company for Authorization to Execute and Implement an Agreement of Sale, and to Implement a Plan of Distribution of the Net Proceeds Therefrom*, BPU Docket No. WM98090790, Order of Implementation at 4 (Jan. 14, 1999); *I/M/O the Petition of Hackensack Water Company* –

of the sale directly to shareholders, while leaving the ratemaking treatment of the remaining 50% of the gain for determination in a future rate case. This approach would assure that shareholders would receive 50% of the net gain, while leaving the issue of ratepayers' rights to the remaining 50% for future determination. If the Company wishes to assure the shareholders' 50% share of the net gain, then ratepayers should receive similar assurance. The Board should therefore clarify in its Order that the Company will be required to flow 50% of the net gain from the sale of the Property through to ratepayers in the Company's next rate case. In the alternative, the Board could leave the ratemaking treatment of the entire gain for determination in a future rate case. Subject to the above issue, the Ratepayer Advocate does not object to the proposed sale.

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*