



State of New Jersey
DEPARTMENT OF THE PUBLIC ADVOCATE
DIVISION OF RATE COUNSEL
31 CLINTON STREET ~ 11TH FLOOR
PO Box 46005
NEWARK NJ 07101

JON S. CORZINE
Governor

RONALD K. CHEN
Public Advocate
STEFANIE A. BRAND
Director

April 28, 2009

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 AQUA NEW JERSEY, INC. FOR APPROVAL
OF MUNICIPAL CONSENT TO PROVIDE WATER SERVICE TO A
PORTION OF THE BOROUGH OF ALPHA
BPU DOCKET NO. WE08040281**

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.

Background

On April 29, 2008, Aqua New Jersey, Inc. ("Aqua-NJ" or "Company") filed a Petition with the State of New Jersey, Board of Public Utilities ("BPU" or "Board"), requesting its approval of a municipal consent granted by the Borough of Alpha, Warren County that would grant Aqua-NJ authority to provide water service to a tract of land located in the Borough, identified specifically as Block 103, Lot 1.¹ The proposed franchised area is in an undeveloped area of the Borough which includes a portion of the Borough's affordable housing compliance parcel.²

¹ Petition para 2.

² *Id.*

Aqua-NJ, formerly Consumers New Jersey Water Company (“CNJ”), provides water and/or wastewater services to nearly 50,000 customers in municipalities located in Warren, Hunterdon, Mercer, Burlington, Monmouth, Camden, Ocean, Sussex and Gloucester Counties, New Jersey. Through its Northern Division headquartered in Phillipsburg, New Jersey, Aqua-NJ provides service to franchise areas located in Phillipsburg, Pohatcong, Lopatcong, Greenwich, Harmony and Holland Townships, in Warren County.

Analysis

Aqua-NJ states in its Petition that the requested approvals are necessary and proper for the public convenience and the proposed franchise will not have an adverse impact on the provision of safe, adequate and proper water service to Aqua present customers. Currently, the municipal water system which serves other portions of the Borough does not have sufficient capacity under its existing New Jersey Department of Environmental Protection withdrawal/diversion permits to serve the proposed franchise area.³ Aqua-NJ represents that it does have sufficient capacity and is willing to make the capital investment necessary to serve the area. In addition, given the close proximity of the Alpha franchise to Aqua-NJ’s Northern Division, Aqua NJ will be able to provide service to Alpha using Aqua-NJ’s experienced, local employees and does not anticipate the hiring of any new employees to serve the expanded franchise area.⁴

Regarding rates, Aqua-NJ proposes to charge customers in the expanded Alpha franchise area the same rates charged to other Aqua-NJ customers.

Recommendation

The Division of Rate Council has reviewed the Petition and is not opposed to its approval. Aqua-NJ provides potable water and wastewater services to residents of 16 municipalities in the State and can efficiently and economically serve the customers in the proposed franchised area. Aqua-NJ has access to experienced employee, technical, operational and financial resources that demonstrate the capacity of the Company to serve the Alpha franchise area.

³ Petition para 4.

⁴ *Id.*

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 any new customers should be addressed in a future base rate proceeding.

Accordingly, Rate Council 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 Rate Council 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, Rate Council is not opposed to approval of the Petition.

Sincerely,

RONALD K. CHEN
PUBLIC ADVOCATE

Stefanie A. Brand
Director, Rate Counsel

By: 

Debra F. Robinson
Deputy Ratepayer Advocate

DFR:iaa

c: Service List

**I/M/O the Petition of Aqua New
Jersey, Inc. for Approval of a
Municipal Consent to Provide
Water Service To a Provide of the
Borough of Alpha
BPU Docket No. WE08040281
SERVICE LIST**

Stefanie A. Brand, Esq.,
Director
Division of Rate Counsel
31 Clinton Street - 11th Floor
P.O. Box 46005
Newark, New Jersey 07101

*Debra F. Robinson, Esq.
Managing Attorney Water &
Wastewater
Division of Rate Counsel
31 Clinton Street - 11th Floor
P.O. Box 46005
Newark, New Jersey 07101

Paul Flanagan, Esq.
Division of Rate Counsel
31 Clinton Street - 11th Floor
P.O. Box 46005
Newark, New Jersey 07101

Bernard Smalls, Legal Associate
Division of Rate Counsel
31 Clinton Street - 11th Floor
P.O. Box 46005
Newark, New Jersey 07101

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

Marco Valdivia, Bureau Chief
Division of Water & Wastewater
Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102

Rupal Patel
Bureau of Conservation &
Engineering
Division of Water & Wastewater
Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102

Maria Moran, Director
Division of Water & Wastewater
Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102

Babette Tenzer, DAG
Dept. of Law & Public Safety
Division of Law
124 Halsey Street - 5th Floor
Newark, New Jersey 07102

Joe Quirolo, Esq.
Board of Public Utilities
Legal Specialist
Two Gateway Center
Newark, New Jersey 07102

William B. Davis
Aqua New Jersey, Inc.
10 Black Forest Road
Hamilton, New Jersey 08691

Colleen A. Foley, Esq.
Saul Ewing LLP
One Riverfront Plaza
5th Floor
Newark, New Jersey 07102

Robert J. Henkes, Consultant
Henkes Consulting
7 Sunset Road
Old Greenwich, CT 06870

*** *Receives all correspondence
except discovery.***