

December 11, 2007

**VIA HAND DELIVERY**

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

**Re: In The Matter of the Petition of New Jersey-American Water Company, Inc. for Approval of a Limited Municipal Consent Granted by the Township of Mantua, County of Gloucester and a Resolution Issued by the Mantua Township Municipal Utilities Authority to Serve the Area to be Developed as the South Jersey Technology Park  
BPU Docket No.: WE07060372**

Dear Secretary Izzo:

Please accept for filing an original and ten copies of the comments of the Department of the Public Advocate, Division of Rate Counsel (“Rate Counsel”) regarding the above referenced matter. Please date stamp a copy as “filed” and return it in the enclosed, self-addressed, stamped envelope. Thank you for your consideration and attention to this matter.

**Background**

On June 6, 2007, the New Jersey-American Water Company, Inc. (“NJAWC” 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, Ordinance No. O-

08-2007 (“Ordinance”), granted in perpetuity by the Township of Mantua (“Mantua” or “Township”) on March 27, 2007, to add, extend, operate and maintain water facilities on property located in the Township in an area delineated in Schedule A to the Ordinance.<sup>1</sup>

By way of this Petition, the Company is also seeking approval of Resolution No. 2006-41 adopted by Mantua MUA on January 22, 2007 which was introduced and adopted to cede the rights of Mantua MUA in the Proposed Franchise Area and permit NJAWC to add to, extend, operate and maintain water in the Proposed Franchise Area.<sup>2</sup>

The Company is a regulated public utility of the State of New Jersey, subject to the jurisdiction of the BPU. The Company produces, treats and distributes water, and collects sewerage from customers within the state. NJAWC’s service territory includes portions of: Atlantic; Burlington; Camden; Cape May; Essex; Gloucester; Hunterdon; Mercer; Middlesex; Monmouth; Morris; Ocean; Passaic; Somerset; Union; and Warren Counties.<sup>3</sup> In total, the Company serves approximately 590,250 water customers and 27,000 wastewater customers within these 16 counties.<sup>4</sup>

The Company represents that approval of the municipal consent Ordinance will serve the public interest by permitting NJAWC to extend its service in order to make water service available to an area within the Township where there is currently no water service and further allow NJAWC to extend its regional transmission main further into Gloucester County.<sup>5</sup> The extension of the NJAWC franchise territory is necessary and proper for the public convenience and properly serves the public interest by permitting

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<sup>1</sup> Petition, para 2 and Exh. A.

<sup>2</sup> Petition, para 3.

<sup>3</sup> Petition para 1.

<sup>4</sup> Petition para 1

<sup>5</sup> Petition para 4

the provision of water utility service to an area that will be developed into the South Jersey Technology Park located in Planning Area 2.

### **Analysis**

NJAWC is proposing to provide service to an area that will be developed into the South Jersey Technology Park (the “SJTP”). The SJTP was created when Rowan University (“Rowan”) was awarded a grant of \$5.8 million by the New Jersey Economic Development Authority. The goal of the SJTP is to lead the economic revitalization of southern New Jersey through an integrated strategy of science and technology initiatives. The master plan for the SJTP is a 200-acre mixed research and academic campus, which will be an integral part of the proposed 580-acre Rowan University West Campus located at the corners of Routes 322 and 55.<sup>6</sup>

The initial plan for the SJTP is to construct three (3) buildings. Presently, one (1) building is under construction and is due to be completed and ready for occupancy on or before December 10, 2007. The other two (2) buildings are not presently designed and their future development is dependent upon the demand for high tech office space in the regional area. Overall, the ultimate build out calls for the possibility of twenty (20) buildings at the SJTP over the next 25 years.<sup>7</sup>

Capital improvements necessary to provide service to the SJTP will be constructed with a two-phased approach. In order to serve the first building, NJAWC has undertaken the construction of off-site and on-site water mains connected to NJAWC’s regional pipeline along with an interconnection with the Pitman Water Department in the

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<sup>6</sup> Petition para 4

<sup>7</sup> Response to RCR-1

event of either the regional pipeline being out-of-service and/or a fire event at the SJTP.<sup>8</sup> For phase two, a 0.5 million gallons elevated water storage tank will be built and located on property owned and controlled by SJTP or Rowan in the Township.<sup>9</sup>

The Company has received all approvals and required permits, except for the franchise approval and a New Jersey Department of Environmental Protection permit to construct the 0.5 MG tank.<sup>10</sup>

The water supply to be provided to the proposed franchise area will predominantly be surface water from the Delaware River that is treated at NJAWC's Delaware River Regional Water Treatment Plant in Delran, NJ. The potable water supply will be conveyed to NJAWC's extensive Tri-County (Burlington-Camden-Gloucester) Regional Transmission System. NJAWC's Western System has surplus regulatory and facility capacity to provide the SJTP's projected build-out Average Day Demand (187,500 gallons per day (gpd)) and Maximum Day Demands of approximately 375,000 gpd.<sup>11</sup> NJAWC has a substantial allocation surplus and adequate firm capacity to supply the SJTP current phase I and all other anticipated demands.<sup>12</sup>

The estimated capital cost of the water facilities, pump station, main and service lines to be constructed to service the proposed franchise area is Three Million One Hundred Thousand Dollars (\$3,100,000.00)<sup>13</sup>

NJAWC will treat all deposits from Rowan as an Advance for Construction. Upon completion of the project, NJAWC will "true-up" the deposits received against the

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<sup>8</sup> Response to RCR-3

<sup>9</sup> Response to S-BCE-12

<sup>10</sup> Response to RCR-4, S-BCE-13, S-BCE-14

<sup>11</sup> Response to S-BCE-7

<sup>12</sup> Response to RCR-6

<sup>13</sup> Response to RCR-7

project's cost. Any excess funds will be returned and any additional funds will be sought. According to the Company, provided that advances are "in-sync", revenue refunds will be provided in accordance with the terms of the agreement. At the conclusion of the agreement, any remaining amounts will be reclassified to Contributions In Aid of Construction.<sup>14</sup>

NJAWC anticipates that the project will not be fully refunded and therefore will need to book a portion to contributions in Aid of Construction at the conclusion of the contract. The Company anticipates that ultimately \$2,978,296.80 will ultimately be treated as Contributions in Aid and Constructions and that the final amount will be more or less depending upon actual construction costs and the actual revenue generated.<sup>15</sup>

### **Recommendation**

The Division of the Rate Counsel ("Rate Counsel") has reviewed the Petition and is not opposed to its approval. The Company supplies water to over 590,250 customers in 16 New Jersey counties and can bring the necessary resources to bear in properly and adequately serving its customers. Also, as a subsidiary of American Water, the Company has access to additional managerial, technical, and financial resources furthering its ability to serve its customers in a safe and proper manner. Therefore the Company has the necessary expertise to provide water service in the expanded franchise area. Because the service area is located in Planning Area 2, the cost of capital for expansion of the utility infrastructure will be funded by the developers, subject to refunds. A public hearing was held at the Board of Public Utilities on October 17, 2007 and no customers or members of the public attended.

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<sup>14</sup> Response to S-BCE-20

<sup>15</sup> *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 customers, therefore, should be addressed in a future base rate proceeding. Accordingly, Rate Counsel recommends that any Board Order approving the Company's 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.

With these caveats, Rate Counsel is not opposed to approval of the Petition.

Respectfully submitted,

RONALD K. CHEN  
PUBLIC ADVOCATE OF NEW JERSEY

Stefanie A. Brand  
Director, Rate Counsel

By:

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Debra F. Robinson, Esq.  
Deputy Public Advocate

cc: Jeanne M. Fox, President (via hand delivery)  
Frederick F. Butler, Commissioner (via hand delivery)  
Joseph L. Fiordaliso, Commissioner (via hand delivery)  
Christine V. Bator, Commissioner (via hand delivery)  
Service List *via hand delivery or regular mail*