



Agenda Date: 11/17/21
Agenda Item: VA

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

WATER

IN THE MATTER OF THE PETITION OF SUEZ WATER)
NEW JERSEY, INC. FOR THE APPROVAL TO) ORDER
EXPAND ITS FRANCHISE AREA IN THE TOWNSHIP)
OF PLAINSBORO, IN THE COUNTY OF MIDDLESEX,)
STATE OF NEW JERSEY) DOCKET NO. WO21050857

Parties of Record:

Bryant Gonzalez, Esq., Corporate Attorney, SUEZ Water New Jersey, Inc.
Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

On May 26, 2021, Suez Water New Jersey, Inc. ("Company" or "Petitioner"), a public utility corporation of the State of New Jersey, filed a petition with the New Jersey Board of Public Utilities ("Board") seeking approval of Ordinance No. 21-04 ("Ordinance") adopted by the Township of Plainsboro ("Township") on April 14, 2021, which grants the Company the consent to provide wastewater collection service in an expanded area to customers in the Township.

BACKGROUND

The Company is engaged in the business of collecting, treating and distributing water for retail service and wastewater collection and treatment services to approximately 258,000 customers located in portions of Bergen, Hudson, Hunterdon, Middlesex, Monmouth, Morris, Ocean, Passaic, Sussex, and Warren counties. The Company also currently provides wastewater services to approximately 3,200 wastewater customers within the Township. The Petitioner refers to this service area as Princeton Meadows.

According to the petition, the Company's current franchise area does not include the contiguous area of the Township where the Company serves. As such, when an extension is requested by a customer within these contiguous areas of the Township, the Company is required to file a request with the Board pursuant to N.J.A.C. 14:1-5.5 to expand its franchise area. The Company indicates that it presently has a request from Public Service Electric and Gas Company to provide wastewater service in an area of the Township where the Petitioner currently does not have a franchise, specifically at 68 Dey Road (Block 1304, Lot 6).

Additionally, the Company states that it received an emergency request to provide wastewater service to 83 Dey Road (Block 1205, Lot 17) where it does not have a franchise. Accordingly, the Company is requesting Board approval of the Ordinance in order to expand its existing franchise area to provide wastewater service to the customers in the Township of Plainsboro within all of the Blocks and Lots East of the Amtrak Railroad (Right of Way), as more fully described in the Ordinance ("Proposed Franchise Area").

The Ordinance grants municipal consent to construct and maintain sewer facilities and provide wastewater service as defined in N.J.S.A. 48:2-14, N.J.S.A. 48:3-11 and N.J.S.A. 48:3-15, allowing access to public streets and places for these purposes. The Ordinance is silent as to the term of the grant of the franchise for the provision of service and the grant of access to public streets.

The Company further represents that the franchise complies with all statutory and administrative requirements necessary per N.J.A.C. 14:1-5.5 for its approval, and that Board approval of the franchise extension is necessary and proper for the public convenience and properly conserves the public interest.

After proper notice to the general public in newspapers of general circulation, Suzanne Patnaude, Esq., a Legal Specialist at the Board, presided over a virtual public hearing on October 4, 2021 at 2:00 p.m. at which representatives of the Company, the New Jersey Division of Rate Counsel ("Rate Counsel") and Board Staff appeared. No other members of the public appeared at the hearings to provide comments, and no written comments were received.

On October 12, 2021, Rate Counsel filed comments concerning the Company's petition. In its comments, Rate Counsel noted that the right to provide sewer utility service within the Township by the Ordinance has no specified time limitation and is silent with respect to the fifty-year limit on the duration of the consent to lay pipes in public places set forth in N.J.S.A. 48:3-15. However, Rate Counsel indicated that it does not object to the Company's request for approval of the municipal consent, subject to the recommendation that the Board modifies the term of the consent and limits the Petitioner's right to the use the streets to 50 years from the date of the grant. Rate Counsel also recommends that the Board require the Company to request a renewal of the consent to use the streets, subject to Township and Board approval, and adds that it would be both reasonable and practical for the Township to re-examine consent for the provision of utility service at the same time it re-examines the consent to use streets.

DISCUSSION AND FINDINGS

Pursuant to N.J.S.A. 48:2-14, the Board is statutorily required to approve a utility's franchise before it can be considered valid. The Board shall grant approval when, after hearing, it determines that the privilege or franchise is necessary and proper for the public convenience and properly conserves the public interests. In granting its approval, the Board is entitled to impose conditions as to construction, equipment, maintenance, service or operation that the public convenience and interests may reasonably require.

Here, while the Ordinance is silent as to terms concerning the franchise for the use of the streets and the provision of service, the Board agrees with Rate Counsel that a municipality may only consent to the use of the streets for a period not exceeding 50 years pursuant to N.J.S.A. 48:3-15. However, neither N.J.S.A. 48:2-14 nor N.J.S.A. 48:19-20 set forth any limit for the duration of a municipal consent or franchise for the provision of service. Accordingly, after a review of the record, the Board **HEREBY FINDS** that the municipal consent, which is the subject of this matter,

is necessary and proper for the public convenience and properly conserves the public interests, and that the Company will continue to have the ability to provide safe, adequate and proper service to its customers located in its designated service territories.

Based on the foregoing and a thorough review of the record to this proceeding, the Board **HEREBY APPROVES** Ordinance No. 21-04 adopted on April 14, 2021, for the provision of wastewater service in the Proposed Franchise Area within the Township at the Company's existing and approved tariff rates.

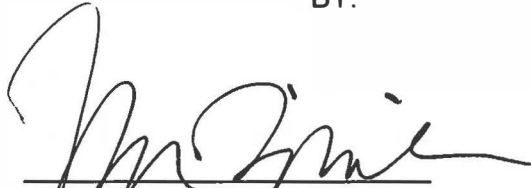
The approvals granted, hereinabove, shall be subject to the following provisions:

1. This Order shall not be construed as directly or indirectly fixing for any purposes whatsoever the value of any tangible or intangible assets now owned or hereafter to be owned by the Company.
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, services, financing, accounting, capitalization, depreciation, or in any other matters affecting the Company.
3. In an appropriate subsequent proceeding, the Company shall have the burden of demonstrating whether, and to what extent, any of the costs associated with this Petition shall be allocated to ratepayers. Approval of this municipal consent does not include authorization to include in rate base the specific assets that are or will be completed as a result of the new service territory.
4. Approval of this municipal consent does not constitute approval by the Board of any costs or expenses associated with this petition. Any determination as to the appropriateness or reasonableness of the costs and expenses related to the franchise, including, but not limited to, cost of construction, contributions in aid of construction, depreciation on contributed plant, the cost of connection or any related capital improvements, and the allocation of such costs and expenses, shall be made in an appropriate subsequent proceeding.
5. Approval of this municipal consent does not constitute approval of any specific main extension or plan for service. In extending service, the Company must comply with all applicable laws.
6. As required by N.J.S.A. 48:3-15, the municipal consent for the use of public streets and the right to lay pipes under N.J.S.A. 48:19-17 is limited to a term of 50 years from the effective date of this Order.

The effective date of this Order is November 24, 2021.

DATED: November 17, 2021

BOARD OF PUBLIC UTILITIES
BY:




JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER



UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST: 

AIDA CAMACHO-WELCH
SECRETARY

IN THE MATTER OF THE PETITION OF SUEZ WATER NEW JERSEY INC. FOR APPROVAL
TO EXPAND ITS FRANCHISE AREA IN THE TOWNSHIP OF PLAINSBORO, IN THE
COUNTY OF MIDDLESEX, STATE OF NEW JERSEY

BPU DOCKET NO. WO21050857

SERVICE LIST

<p>SUEZ Bryant Gonzalez, Esq. Corporate Attorney Operations SUEZ Water New Jersey, Inc. 461 From Road Paramus, NJ 07652 bryant.gonzalez@suez.com</p> <p>Gary Prettyman, Senior Director SUEZ Water New Jersey, Inc. 461 From Road Paramus, NJ 07652 gary.prettyman@suez.com</p> <p>Division of Rate Counsel 140 East Front Street, 4th Floor Post Office Box 003 Trenton, NJ 08625-0003</p> <p>Brian Lipman, Esq., Director blipman@rpa.nj.gov</p> <p>Susan McClure, Esq. smclure@rpa.nj.gov</p> <p>Christine Juarez, Esq. cjuarez@rpa.nj.gov</p> <p>Howard Woods, Jr. P.E. Howard J. Woods, Jr. & Associates, LLC 49 Overhill Road East Brunswick, NJ 08816 howard@howardwoods.com</p>	<p>Board of Public Utilities 44 South Clinton Avenue, 1st Floor Post Office Box 350 Trenton, NJ 08625-0350</p> <p>Mike Kammer, Director of Water mike.kammer@bpu.nj.gov</p> <p>Megan Lupo, Esq., Chief megan.lupo@bpu.nj.gov</p> <p>Magdy Mekhaeil magdy.mekhaeil@bpu.nj.gov</p> <p>Division of Law NJ Department of Law and Public Safety Richard J. Hughes Justice Complex Public Utilities Section 25 Market Street, P.O. Box 112 Trenton, NJ 08625</p> <p>Meliha Arnautovic, DAG meliha.arnautovic@law.njoag.gov</p> <p>Brandon Simmons, DAG brandon.simmons@law.njoag.gov</p> <p>Steven Chaplar, DAG steven.chaplar@law.njoag.gov</p>
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