



Town of Milford

Frequently Asked Questions

Milford Water Company Acquisition

Evaluating the System

1. *Why is the Town considering acquiring the water system of Milford Water Company now?*

As a matter of law, the Town has the right to purchase the assets of the Milford Water Company (“Company” or “MWC”) at any time. Under the current private ownership, over the years, the Town has encountered troubling water problems that have resulted in lawsuits, state investigations, boil orders and sharp, unpredictable rate increases. If ownership were to shift to the Town, ratepayers would be afforded more input, control, transparency and accountability through a three-member elected oversight board, the Board of Water Commissioners. The proper due diligence is being completed to fully consider this opportunity and an article will bring the question of a purchase to Town Meeting in August.

2. *What would the Town acquire with a purchase of the MWC assets?*

The Town would acquire all the MWC corporate property, rights and privileges valued in a 2018 valuation determination by the Department of Public Utilities (DPU) and the post-2018 capital asset additions. The acquisition would include all of the real estate located in Milford, and in Hopkinton, all water rights, easement rights or other rights in real estate of the MWC and all of its rights to sell water in accordance with its enabling legislation. In addition, financial matters, such as accounts receivable and accounts payable, would be handled at the date of the closing/transfer, in accordance with generally accepted business sale/acquisition practices. The transaction is an asset purchase and, as such, excludes all Company liabilities.

3. *How does the Town know what it's buying if some of the asset is underground?*

The MWC has gone before the Massachusetts Department of Public Utilities (DPU) on a number of occasions in recent years, including but not limited to, rate case proceedings and investigations initiated by the Town. Most recently, the Town litigated the value of the MWC assets before the DPU which included an exhaustive review of the condition of the MWC assets for valuation purposes with experts testifying for the Town and the Company. The Town also conducted extensive due diligence on the Company in 2017. Over the past several years, Town officials have received significant information about the MWC facilities, including underground assets. For example, the Town now has a detailed list of all underground pipes by diameter size, type of material, length in feet and approximate age.

4. *Has the Town done a thorough review of the condition of the water system and the facilities?*

In addition to information gained at DPU proceedings, the Town has been privy to decisions made by the Massachusetts Department of Environmental Protection (DEP) about the water quality and related systems of the MWC. Throughout the acquisition process, the Town has engaged consulting, engineering and environmental firms that have evaluated the system including, most recently, a capital needs assessment. The Town has also commissioned an additional Phase 1 environmental review of the MWC property to ensure there are no unknown environmental conditions. Financial projections for the Town’s ownership include the

costs associated with a substantial investment in capital improvements over the first ten years of Town ownership.

5. *Would water quality improve?*

One of the most significant goals of the acquisition would be to ensure that the water quality was of the highest standards by virtue of a process that would be handled by Town officials at open meetings with full disclosure of all information to the public. It is not possible, however, to assert that there would be an immediate improvement to quality simply by virtue of the Town taking over the system. It is expected, however, that the Town would make an effort to undertake necessary upgrades to improve the quality of the system and the water produced and delivered. This includes the dedicated capital for investment in system upgrades and maintenance referenced above.

6. *What is PFAS and has the MWC system been tested pursuant to MA DEP Regulations.*

Per- and polyfluoroalkyl substances (PFAS) are a family of chemicals used since the 1950s to manufacture stain-resistant, water-resistant, and non-stick products. PFAS are widely used in common consumer products as coatings, on food packaging, outdoor clothing, carpets, leather goods, ski and snowboard waxes, and more. From manufacturing and other uses, PFAS can leach into groundwater or surface water, and can contaminate drinking water. Studies indicate that exposure to sufficiently elevated levels of certain PFAS may cause a variety of health effects including developmental effects in fetuses and infants, effects on the thyroid, liver, kidneys, certain hormones and the immune system. In 2020, MassDEP published its PFAS public drinking water standard, called a Massachusetts Maximum Contamination Level (MMCL), of 20 nanograms per liter (ng/L) (or parts per trillion (ppt)) – individually or for the sum of the concentrations of six specific PFAS.¹ **According to the MWC, the Company’s active water supply sources have been tested for PFAS and are in compliance with the MA DEP Regulations.**

Paying for the System

7. *How much would the Town have to borrow to acquire the MWC?*

If the acquisition is approved by Town Meeting in August, the Town would borrow \$78 million on a 40 -year bond to acquire the MWC’s assets. The amount will cover the purchase price of \$66,395,908 plus an amount which will reflect all prudent capital expenditures by the Company since December 31, 2018 (estimated to be approximately \$10 million), adjusted for any applicable depreciation, through Closing as well as initial funds for capital improvements.

8. *How was the \$66,395,908.00 value determined?*

Under the MWC Charter, if the Town seeks to exercise its right to purchase the Company’s assets, the DPU has discretion to determine the valuation method. The Town and MWC agreed that the standard is **Fair Market Value**. While the parties agreed that the standard was FMV for determining the price to be paid by the Town, they disagreed on the method to determine FMV. The Town argued that the company’s FMV was \$40,485,326. The Water Company argued that the FMV was \$148,000,000.

Fair Market Value is determined by a combination of methods. In its valuation determination, the DPU evaluated the MWC as follows:

- **Replacement Cost New Less Depreciation** – how much it would cost the Town to recreate the water system from scratch today, minus “observed” depreciation, “functional obsolescence” (a loss of value

¹ <https://www.mass.gov/info-details/per-and-polyfluoroalkyl-substances-pfas>

due to deficiencies in the capital assets), and “economic obsolescence” (a shortfall in earnings due to the difference in required returns and expected free cash flows)

- **Discounted Cash Flow** – the present value of the water system’s expected net earnings
- **Weighting** – 40% RCNLD/60% DCF because DPU found the evidence on RCNLD to be less reliable
- DPU Valuation = **\$66,395,908 as of December 31, 2018**
- DPU did not determine compensation for capital expenditures after this date.

9. Why is the Town paying more than the value determined by the DPU?

The DPU’s valuation is a snapshot of the Company’s value on December 31, 2018. Under common law, when there is a gap between the date a price is set and the conveyance of the goods or property, and something happens that causes the asset to be wasted or impaired in value, the buyer is entitled to an offset of the value not being conveyed. At the same time, the seller has an obligation of “good husbandry” to ensure that the assets are not wasted or impaired in value. The seller is entitled to costs that are clearly required to maintain the assets or prevent interruption of service. The DPU’s asset valuation was set as of December 31, 2018, but MWC will have spent approximately \$10 million in capital improvements to keep the water system viable and increase capacity by the time this transaction closes. Attorneys for the Town will review all such expenditures prior to closing to ensure that they were properly charged.

10. Will the Town be able to repay a \$78 million bond debt without raising rates or taxes?

The Town’s finance team has projected all costs associated with owning the water system, including repayment of the bonds that the Town would issue to pay for the purchase. It is their agreed upon professional opinion (supported by the Town’s Bond Counsel, Town Counsel and Special Counsel, who have all critically reviewed the projections) that the Town is in a position to borrow the necessary funds to make the purchase. Furthermore, it is expected that the Town will be able to pay all costs associated with owning and operating the water system without increasing taxes, and without increasing rates for water service above levels that private ownership would charge. The Town has included a modest annual increase in water rates to cover capital investments in the first 7 years of ownership. It is projected that these increases will taper down after this initial investment.

11. Would adding a new administrative department to the Town increase taxes?

No. The Water Department would be operated as an Enterprise Fund, under General Laws Chapter 44, Section 53E 1/2, the same as the Sewer Department. All of the costs and expenses of the Water Department, including the cost of its acquisition and future capital funding, would be handled within the water rates and would not cause any increase in taxes.

12. Is there a plan for any future capital expenditures that could be required?

Yes. We have budgeted for significant capital improvements in each year of the next 10 years. Those plans call for making capital improvements of about \$12 million over the first three years of ownership and then \$1M per year through 2023. This is on top of the \$10 million invested by the Company over the past three years. While a final plan for capital projects will be completed and approved by the Board of Water Commissioner’s, these investments are consistent with a July 2021 High Level Capital Improvement Evaluation by Tata and Howard commissioned by the Select Board as part of its due diligence of the transaction.

13. How would lost real estate taxes and the payment of fees for the rental of hydrants be handled?

Under Town ownership, all parcels and personal property acquired will be tax-exempt. The total amount in the most recent years has been approximately \$650,000. On the other hand, the Town will no longer pay a Hydrant services fee to the Town owned and operated water department. The latest annual total for hydrant services is approximately \$1,015,000 that is voted each year with the towns operational budget. Therefore the net impact will be a savings of approximately \$365,000 per year to the Towns operational budget within the general fund.

14. *What impact would Town ownership have on the Town's bond rating?*

The Town's current outstanding debt would more than double, but the new debt would be paid for with the revenue of the sale of water. It would significantly increase the debt service budget; however, there would be an offset with the user fee revenues generated within the Enterprise Fund. The addition of new employees would potentially increase the Unfunded Pension and OPEB liabilities, which is included when calculating debt ratios for the rating.

15. *Would the Town take on other debt or liabilities now carried by the MWC?*

No. The sale is an asset transaction and expressly excludes all liabilities unless they are expressly included by the Town (an example might be a lease for a tenant at the MWC headquarters building that generates revenue).

16. *Who has the final say as to whether or not to acquire the MWC?*

Your elected representatives to the Milford Town Meeting must approve the purchase price for the acquisition of the MWC's assets. An approval must be carried by a two-thirds majority vote.

17. *If approved at Town Meeting, what are the next steps to close the sale?*

The Town and the MWC would sign a purchase and sale agreement, and the Town would be required to finalize its financing. The sale would include a financing and due diligence contingency under which the financing terms and overall condition of the Company's assets would have to be acceptable to the Town for the sale to close.

Managing and Operating the System

18. *What is the plan for governing and managing a Town owned system?*

In 2017, Milford Town Meeting unanimously passed an article proposing legislation for a water system that would be under the direction of a three-member elected Board of Water Commissioners. The legislation also would provide for the Select Board to appoint Water Commissioners pending the first available election (April 2022 Election to alternating 3 year terms). This Legislation passed in 2017 as Chapter 127 of the Acts of 2017 and Water Commissioners were appointed by the Select Board and include Jonathan M. Bruce, Phillip Ciaramicoli and Jamie Luchini. The Board of Water Commissioners would set the water rates, just as is done now for sewer rates by the Milford Board of Sewer Commissioners.

19. *What is the plan for operating a Town owned system?*

It is expected that under the Board of Water Commissioners, that the Water Department would have a staff similar in size and quality to the staff now working for the MWC. The hope would be that many; if not all,

current MWC employees would become employees of the Town, bringing experience and continuity to the water system. This would allow for consistent and efficient management if problems should occur in the system. The Town also would likely go out to bid for a contract(s) with a major utility construction company(s) as a backup to Water Department staff in the instance of a major breakdown or failure.

20. *Is the Town able to take on full responsibility for water quality?*

The quality of the potable water provided by all water systems in the Commonwealth (both private and public) is regulated solely by the Department of Environmental Protection (DEP). If the Town were to own the water company, it would be directly responsible for complying with all DEP regulations. While there would be an administrative burden and cost to the Town associated with complying with all of DEP's requirements; those requirements would help to ensure that high quality water is provided to all customers. They are the same costs currently incurred by the MWC and passed on to ratepayers.

21. *Would Milford ratepayers benefit from rates controlled by the Town?*

The Town's professional staff and its expert consultants believe that a purchase would, in the short run, lead to rate stability. In the long run, the rates charged by the Town would likely be less than those that would have been charged by MWC, or another private owner.

22. *What will the impact in rates be under municipal ownership?*

There are several financial advantages to municipal ownership that will help control rates going forward. Private utility owners are liable for federal or state taxes and obligated to make a "profit" through a return to investors. As a municipal corporation, the Town would not be subject to those financial siphons and furthermore the elected board would be accountable to the taxpayer. In addition, as a municipal corporation issuing tax exempt bonds, the Town is able to borrow money at lower interest rates than a private entity. The Town's finance team projects that the Water Department can absorb the debt service for the funds needed to acquire the MWC within existing rates. Future rate increases will be used for additional capital investment.

23. *How would employee transitions be handled?*

A transition would consist mainly of transferring records and ensuring employees were enrolled in the Town's compensation and benefits plans, including health insurance and participation in the retirement system under Massachusetts General Laws. Open positions would be filled through the Town's regular employment process. Depending on the number of open positions, it could be necessary to go out to bid through a Request for Proposals (RFP) for Contract Operations to fill all necessary positions on an interim basis, giving the Town time to conduct a hiring process that would allow for internal control of all systems, operations, and management.