



Agenda Date: 10/23/12
Agenda Item: 5E

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

WATER

IN THE MATTER OF THE PETITION OF)
NEW JERSEY-AMERICAN WATER COMPANY,) ORDER ADOPTING STIPULATION
COMPANY INC. FOR APPROVAL OF ITS) OF SETTLEMENT
FOUNDATIONAL FILING SUPPORTING THE)
IMPLEMENTATION OF A DISTRIBUTION)
SYSTEM IMPROVEMENT CHARGE) BPU DOCKET NO. WR12070669

PARTIES OF RECORD:

Robert Brabston, Esq., on behalf of New Jersey-American Water Company, Inc., Petitioner;
Stefanie A. Brand, Director, on behalf of the Division of Rate Counsel ("Rate Counsel")

BY THE BOARD¹:

On July 20, 2012, New Jersey-American Water Company, Inc. ("Petitioner" or "Company"), a public utility of the State of New Jersey, filed a Petition with the Board of Public Utilities ("Board") pursuant to N.J.S.A. 48:2-21 and N.J.A.C. 14:9-10.1 et seq. and such statutes and regulations and Board orders that may be deemed by the Board to be applicable, for approval of its Foundational Filing to enable the implementation of a Distribution System Improvement Charge ("DSIC" or "Surcharge") for the renewal of water distribution system assets for the period of 2012 through 2015.

BACKGROUND/PROCEDURAL HISTORY

On August 20, 2012, the Company, Board Staff, and Rate Counsel (collectively, the "Signatory Parties") convened a telephone conference and agreed to a procedural schedule which would permit this matter to be acted upon by the Board within the ninety (90) day period specified in N.J.A.C. 14:9-10.4(c).

On September 27, 2012, public hearings were conducted at 2 p.m. in Ocean City, New Jersey and at 6 p.m. in Westampton, New Jersey. On October 3, 2012, public hearings were conducted

¹ Commissioner Mary-Anna Holden did not participate. Commissioner Nicholas Asselta recused himself due to a potential conflict of interest.

at 2 p.m. in Howell Township, New Jersey and at 6 p.m. in Maplewood², New Jersey. Three members of the public appeared in Ocean City and approximately 20 members of the public appeared in Westampton. One member of the public appeared in Howell. There were no members of the public in attendance in Maplewood. At the Ocean City, NJ public hearing, only one member provided a statement for the record inquiring about NJAWC's conservation efforts.

At the Westampton, NJ public hearing, five members of the public provided statements on the record that generally addressed rate increases and their adverse effects upon the senior community on a fixed income. The public hearings were transcribed and made part of the record in this proceeding.

A discovery conference was held on October 10, 2012, with representatives from all Parties in attendance. At that conference, representatives of the Company responded to questions from Board Staff and Rate Counsel.

DISCUSSIONS AND FINDINGS³

As a result of an analysis of the Petitioner's Foundational Filing, a discovery conference, and four (4) public hearings held throughout Petitioner's service territory, the Signatory Parties have come to an agreement on this matter. On October 16, 2012, the Signatory Parties executed a Stipulation of Settlement ("Stipulation"). Specifically, the Stipulation stated:

1. The Signatory Parties agreed that the Company concluded a base rate proceeding and implemented new base rates pursuant to an Order by the Board dated May 1, 2012 (in Docket No. WR 1070460). Therefore the Company has met the requirement specified in N.J.A.C. 14:9-10.4(c) regarding the setting of new base rates.
2. The Signatory Parties recommend that the Board find that the Company's Foundational Filing, including a revised Appendix C—Project List, a summary of which is attached to the Stipulation as Exhibit A, satisfies all of the requirements of N.J.A.C. 14:9-10.4(b).
3. The Signatory Parties recommend that the Board find that the projects listed in the revised Appendix C—Project List, summary of which is attached to the Stipulation as Exhibit A, are "DSIC-eligible projects" within the scope and meaning of the definition set forth in N.J.A.C. 14:9-10.2 and N.J.A.C. 14:9-10.3(a) and that the Board approve the Project List. The Company represents that the projects listed in the revised Appendix C—Project List only include projects that are scheduled to begin construction after the effective date of this Foundational Filing.
4. The Signatory Parties agree that the revenue requirement associated with the actual costs of the approved projects, attached to the Stipulation as Exhibit A, be recovered through future "DSIC filings" made during the "DSIC period" as those terms are defined in N.J.A.C. 14:9-10.2. at intervals and in a manner consistent with the requirements of N.J.A.C. 14:9-10.5.

²In the Stipulation of Settlement, the Signatory Parties inadvertently listed one of the public hearings as being held in Westfield, New Jersey. After reviewing the record it is clear that the duly noticed public hearing was instead held in Maplewood, New Jersey.

³ Although described in this Order at some length, should there be any conflict between this summary and the Stipulation, the terms of the Stipulation control, subject to the findings and conclusions in this Order.

5. The Signatory Parties agree that the annual "base spending" requirement as defined in N.J.A.C. 14:9-10.2 is \$19,200,000.
6. The Signatory Parties agree that the maximum amount of annual DSIC revenue that may be collected by the Petitioner is \$30,902,688.
7. The Signatory Parties agree and recommend to the Board that the Company's Foundational Filing, including its revised project list be considered by the Board at the next agenda meeting, scheduled for October 23, 2012, which date is ninety-five (95) days after the date of the filing of the Company's petition and Foundational Filing.

Based upon the information presented in the petition and agreed to by the Parties in the Stipulation, the Board HEREBY FINDS that the Company's 2011 overall revenue for DSIC purposes is \$618,053,760. The Board FURTHER FINDS that the Petitioner's maximum amount of annual DSIC revenues that may be collected is \$30,902,688. The Board FURTHER FINDS that the stipulated maximum monthly DSIC surcharge noticed by the Company and included in its Foundational Filing satisfy the requirements of N.J.A.C. 14:9-10.4(b)(3). As an example, an average residential customer with a 5/8 inch meter will be subjected to a maximum monthly DSIC surcharge of \$2.97.

The Board HEREBY ORDERS that in accordance with N.J.A.C. 14:9-10.5(b) Petitioner shall make DSIC filings on a semi-annual basis, commencing approximately six months after the effective date of the foundational filing. Petitioner must submit its semi-annual DSIC filing within 15 days of the end of the DSIC recovery period. DSIC filings shall be reviewed by Board staff and the Division of Rate Counsel. Petitioner may recover the interim surcharge associated with the DSIC-eligible projects closed during the DSIC recovery period not objected to by Board staff or the Division of Rate Counsel beginning 60 days after the end of the DSIC recovery period, subject to refund at the Board's discretion. It is FURTHER ORDERED that Petitioner must comply with the base spending requirements set forth in this Order. Failure to comply with the base spending requirements will result in a reduction and refund, where appropriate, of the DSIC surcharge. Thus Petitioner's DSIC surcharge is interim, subject to refund, and shall not exceed the maximum DSIC rate set forth in this order.

The Board Further ORDERS, that in accordance with N.J.A.C. 14:9-10.4(e). If within three years after the effective date of this order, Petitioner has not filed a petition in accordance with the Board's rules for the setting of its base rates, all interim charges collected under the DSIC shall be deemed an over-recovery, and shall be credited to customers in accordance with the Board's rules.

Having reviewed the Foundational Filing and the Stipulation, the Board FINDS that the Signatory Parties have voluntarily agreed to the Stipulation, and that the Stipulation fully disposes of all issues in this proceeding and is consistent with the law. The Board FINDS the Foundational Filing and Stipulation to be reasonable, in the public interest, and in accordance with the law. Therefore, the Board HEREBY ADOPTS the Stipulation, attached hereto, including all attachments and schedules, as its own, incorporating by reference the terms and conditions of the Stipulation, as if they were fully set forth at length herein, subject to the requirements set forth in N.J.A.C. 14:9-10.1 et seq. and the conditions set forth in this Order.

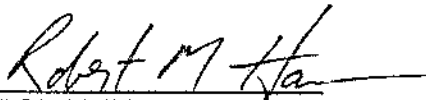
CONCLUSION

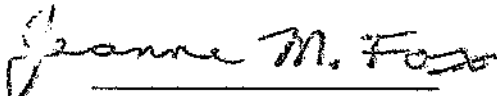
Based upon the foregoing, the Board HEREBY APPROVES the Company's Foundational Filing and ORDERS that the Company may implement a Distribution System Improvement Charge subject to this Order, Petitioner's ongoing compliance with the DSIC regulations, as well as conformity to the base spending requirements and semi-annual true-up submissions.

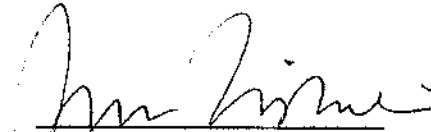
The effective date of this Order is October 23, 2012.

DATED: 10/23/12

BOARD OF PUBLIC UTILITIES
BY:


ROBERT M. HANNA
PRESIDENT

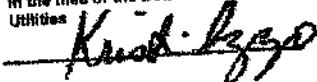

JEANNE M. FOX
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

ATTEST:

KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



In the Matter of the Petition of
New Jersey-American Water Company, Inc. for
Approval of its Foundational Filing Supporting the
Implementation of a Distribution System Improvement Charge (DSIC)
DOCKET NO. WR12070669

SERVICE LIST

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**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

IN THE MATTER OF THE PETITION OF : BPU DOCKET NO. WR12070669
NEW JERSEY-AMERICAN WATER :
COMPANY, INC. FOR APPROVAL OF ITS :
FOUNDATIONAL FILING SUPPORTING :
THE IMPLEMENTATION OF A :
DISTRIBUTION SYSTEM IMPROVEMENT :
CHARGE (DSIC) : **STIPULATION OF SETTLEMENT**

APPEARANCES:

Robert J. Brabston, Esq., on behalf of New Jersey-American Water Company, Inc.,
Petitioner;

Alex Moreau and Jennifer Hsia, Deputy Attorneys General, on behalf of the Staff of the
Board of Public Utilities (Jeffrey S. Chiesa, Attorney General of New Jersey);

Debra F. Robinson, Deputy Rate Counsel, Christine M. Juarez, Assistant Deputy Rate
Counsel, and Susan E. McClure, Assistant Deputy Rate Counsel, on behalf of the
Division of Rate Counsel; and

TO THE HONORABLE BOARD OF PUBLIC UTILITIES:

On July 20, 2012, New Jersey-American Water Company, Inc. ("Petitioner"), a public utility of the State of New Jersey, filed a Petition with the Board of Public Utilities ("Board") pursuant to N.J.S.A. 48:2-21 and N.J.A.C. 14:9-10.1 et seq. and such statutes and regulations and Board orders that may be deemed by the Board to be applicable, for approval of its Foundational Filing to enable the implementation of a Distribution System Improvement Charge ("DSIC" or "Surcharge") for the renewal of water distribution system assets for the period of 2012 through 2015.

NJAWC is a regulated public utility corporation engaged in the production, treatment and distribution of water, and collection and treatment¹ of wastewater within its defined service territory within the State of New Jersey. Said service territory includes portions of the following counties: Atlantic; Burlington; Camden; Cape May; Essex; Gloucester; Hunterdon; Middlesex; Mercer; Monmouth; Morris; Ocean; Passaic; Salem; Somerset; Union; and Warren. As of December 31, 2011, NJAWC serves approximately 620,000 water and 35,000 sewer service customers in 189 municipalities and 18 counties throughout the state.

In support of its Petition, NJAWC submitted a Foundational Filing, consisting of the following information required by N.J.A.C. 14:9-10.4:

- a) An engineering evaluation report (“Engineering Report”) of the water utility’s distribution system that:
 - i. Identifies the rationale for the work needed to be accelerated for the water utility to properly sustain its water distribution network; and
 - ii. Demonstrates that the plan proposed to accelerate the renewal of the distribution network is the most cost effective plan; and
 - iii. To the extent that elements of the distribution network are failing, identifies what mechanisms are causing the failures; and
 - iv. Identifies what is being done to extend the life of the water utility’s assets.
- b) Information about proposed “DSIC-eligible projects” as defined in N.J.A.C. 14:9-10.2 and 14:9-10.3 for the upcoming “DSIC period” as defined in N.J.A.C. 14:10.2 that includes the following:
 - i. Aggregate information capturing blanket type DSIC-eligible infrastructure to be rehabilitated or replaced (e.g., number of valves, number of hydrants, or number of service lines

¹ Currently, NJAWC treats wastewater at its Pottersville, Deep Run, and former AWWM facilities.

replaced) and the estimated annual cost of such blanket type replacement programs (see Section 2 of the Engineering Report);

ii. Vintage, condition, and other similar relevant, reasonably available information about the eligible infrastructure that is being rehabilitated or replaced (see Sections 3 through 7 of the Engineering Report);

iii. The nature, location, estimated duration of project work (including estimated in-service dates) and a description and reason for project necessity (see Sections 3 through 7 of the Engineering Report and Appendix C);

iv. A list of projects with project identification numbers, DSIC-eligible asset class or category, and estimated project costs (see Appendix C);

v. Other such relevant and appropriate information to assist in making an informed decision regarding any given project.

e) The expected amount of NJAWC's base spending; a proposed DSIC assessment, calculated in accordance with subsection N.J.A.C. 14:9-10.8, including a proposal to meet the requirements of N.J.A.C. 14:10-8.(a)3 by using meter equivalents weighted by the meter capacity ratios published by the American Water Works Association to arrive at the proposed DSIC rates by meter size; and work papers showing the detailed calculations supporting the proposed assessment schedule. (See Foundational Filing Appendix D)

In BPU Docket No. WO10090655, the Board approved a Distribution System Improvement Charge (DSIC), which was published in the New Jersey Register on June 4, 2012 and effective on that date. The DSIC rules were adopted as an amendment and addition to the New Jersey Administrative Code (N.J.A.C.) as Section 14:9-10.1 et seq. The rule sets forth the conditions and procedures pursuant to which regulated water utilities may seek recovery of eligible capital investments through monthly surcharges, set semi-annually, on customer bills.

In that same docket, the Board ordered that regulated water utilities may make a Foundational Filing, which is the subject of this petition. The present Petition is filed in accordance with N.J.A.C. 14:9-10.1 et seq. and 14:1-5.1 et seq.

NJAWC recently completed a full base rate case, Docket No. 11070460 which was approved by the Board on May 1, 2012.

On September 27, 2012, public hearings were conducted at 2 p.m. in Ocean City, New Jersey and at 6 p.m. in Westampton, New Jersey. On October 3, 2012, public hearings were conducted at 2 p.m. in Howell Township, New Jersey and at 6 p.m. in Westfield, New Jersey. Three members of the public appeared in Ocean City and approximately 20 members of the public appeared in Westampton. One member of the public appeared in Howell. There were no members of the public in attendance in Westfield.

Following a settlement conference on October 10, 2012, the Parties agree to the following settlement terms:

SETTLEMENT AGREEMENT

1. In accordance with N.J.A.C. 14:9-10.4(c), NJAWC had its base rates set on May 1, 2012 in Docket No. WR11070460.
2. The Parties recommend that the Board find that the Company's Foundational Filing, including a revised Appendix C—Project List, summary of which is attached to this Stipulation as Exhibit A, satisfies all of the requirements of N.J.A.C. 14:9-10.4(b) and that the Board approve the Foundational Filing as modified by revised Appendix C. The revised Appendix C omits those projects originally identified by the Company as “DSIC-eligible

projects” which the parties agreed to remove from the project list due to construction having begun before the Board effective date of this Foundational Filing.

3. The Parties recommend that the Board find that the projects listed in the revised Appendix C—Project List, summary of which is attached hereto as Exhibit A, are “DSIC-eligible projects” within the scope and meaning of the definition set forth in N.J.A.C. 14:9-10.2 and N.J.A.C. 14:9-10.3(a) and that the Board approve the Project List. The Company represents that the projects listed in the revised Appendix C-Project List only include projects that are scheduled to begin construction after the effective date of this Foundational Filing.

4 The Parties to this Stipulation agree that the revenue requirement associated with the actual costs of the approved projects listed in Exhibit A be recovered through future “DSIC filings” made during the “DSIC period” as those terms are defined in N.J.A.C. 14:9-10.2. at intervals and in a manner consistent with the requirements of N.J.A.C. 14:9-10.5.

5. The Parties to this Stipulation agree that the annual “base spending” as defined in N.J.A.C. 14:9-10.2. is \$19,200,000.

6. The Parties agree that the maximum amount of annual DSIC revenue that may be collected by the Petitioner is \$30,902,688.

7. Adequate public notice of this filing, and the effect thereof, was made by serving the public notice by mail upon the clerks of municipalities within the Petitioner’s service area, upon the Clerks of the Boards of Chosen Freeholders within Petitioner’s service area, and upon the County Executives within Petitioner’s service area, at least twenty (20) days prior to the dates set for the public hearings, which notice included and specified the times and places of said hearings.

8. Customers were notified of this filing and the effect thereof as well as the times and places of the public hearing by publication of the public notice at least twenty (20) days prior to the dates set for the public hearing, in newspapers of general circulation within Petitioner's service territory. In addition, customers were also made aware of this filing and the effect thereof by bill message included on customers' bills and by posting the entire Foundational Filing on the NJAWC company website.

9. Proof of Service of the Notice as previously referred to herein was filed with the Board on September 27, 2012.

10. The parties agree and recommend to the Board that the Company's Foundational Filing, including its revised project list be considered by the Board at the next agenda meeting, scheduled for October 23, 2012, which date is ninety-five (95) days after the date of the filing of the Company's petition and Foundational Filing.

11. This Stipulation shall be binding on the Parties to this proceeding upon approval hereof by the Board. This Stipulation shall bind the Parties in this matter only and shall not be considered precedent in any other proceeding involving the Parties hereto.

12. This Stipulation contains terms, each of which is interdependent with the others and essential in its own right to the signing of this Stipulation. Each term is vital to the agreement as a whole, since the signatory Parties individually and jointly state that they would not have signed the Stipulation had any term been modified in any way. In the event that any modifications whatsoever are made to this Stipulation, each of the Parties hereto is entitled to certain procedures in the event of such occurrence.

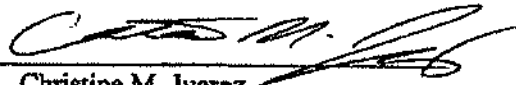
13. If any modification is made to the terms of this Stipulation, the signatory Parties must be given the right to be placed in the position in which each Party was before this

Stipulation was executed. It is essential that each party be given the option either to modify its own position, to accept the proposed change(s) or to resume the proceeding as if no agreement had been reached.

14. The Parties believe that these procedures are fair to all concerned and, therefore, they are made an integral and essential element of this Stipulation.


15. This Stipulation may be executed in as many counterparts as there are signatories to this Stipulation, each of which counterpart shall be an original, but all of which shall constitute one and the same instrument.

STEFANIE A. BRAND, DIRECTOR
DIVISION OF RATE COUNSEL

By: 
Christine M. Juarez
Assistant Deputy Rate Counsel

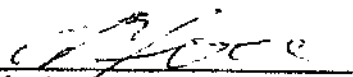
Dated: 10/16/12

NEW JERSEY-AMERICAN WATER
COMPANY, INC.

By: 
Robert J. Brabston
Corporate Counsel

Dated: 10/12/2012

JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY
Attorney for the Staff of the Board of Public Utilities

By: 
Alex Mofcau
Deputy Attorney General

Dated: 10/12/2012