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August 18, 2014

**Via Email and Regular Mail**

Kristi Izzo, Secretary  
Board of Public Utilities  
44 South Clinton Avenue  
9<sup>th</sup> Floor  
P.O. Box 350  
Trenton, New Jersey 08625-0350

**Re: *In the Matter of the Board's Review of the Applicability and Calculation of a Consolidated Tax Adjustment***  
**BPU Docket No. EO12121072**

Dear Secretary Izzo:

New Jersey American Water Company (“NJAWC” or the “Company”) thanks the Board for considering modification to the consolidated tax adjustment methodology, as we believe this is an important policy issue that significantly impacts infrastructure investment the state of New Jersey. As such, the Company respectfully submits this letter in response to the proposed modifications to the consolidated tax adjustment (“CTA”) methodology presented to the Board of Public Utilities (“Board” or “BPU”) by Board Staff (“Staff”) at the June 18, 2014 agenda meeting. An additional ten copies of this letter are enclosed.

On June 18th, the Board requested written comments on Staff’s proposed modification of the Board’s CTA policy. Staff has proposed that the Board continue application of the CTA with the following modifications: Staff proposes that the current CTA policy remain in effect except as amended by the following: 1) The revised time period for the calculation of the savings would look back 5 years from the beginning of the test year; 2) The savings allocation method would allow 75% of the calculated savings to be retained by the company and 25% of the calculated savings to be allocated to the ratepayers; and 3) Transmission assets of the EDCs (electric distribution companies) would not be included in the calculation of the CTA.

NJAWC sincerely appreciates the Board’s willingness to consider substantive changes to the existing methodology as well as Staff’s proposal, which offers a more equitable approach

across utility companies operating in the state and better maintains core cost of service ratemaking principles. Although NJAWC continues to recommend elimination of the CTA in order to bring New Jersey's regulatory policy on this issue in line with the vast majority of other jurisdictions in the United States, NJAWC endorses the comments of the New Jersey Utilities Association ("NJUA") made in this proceeding, including the comments being filed concurrently with this letter, and agrees that Staff's proposal is a step in the right direction. NJAWC provides the following additional comments for the Board's consideration.

NJAWC notes that it provided comprehensive comments to the Board on May 3, 2013, September 4, 2013 and November 15, 2013, proposing the Board discontinue applying a CTA. In those comments, NJAWC explained in detail how the CTA violates fundamental ratemaking principles. NJAWC reiterates that the Board should not use a CTA in the rate setting process. The CTA is a disincentive for American Water to invest discretionary capital in New Jersey - driving utility discretionary capital away from the State of New Jersey at a time when the state is actively seeking to *increase* investment in critical infrastructure. The CTA harms New Jersey's reputation of treating businesses fairly, promoting investment, and supporting reliable utility systems at a time when New Jersey utilities are trying to compete for and attract capital for critical infrastructure improvements. Removing this disincentive for investors in affected utilities will make New Jersey a better place to invest in utility infrastructure. It would provide clarity and greater assurance to investors that utility rates are set based on the cost of utility service – not the structure of the corporate parent, or whether it operates in multiple state jurisdictions.

Fifty regulatory jurisdictions (including the Federal Energy Regulatory Commission (FERC), the District of Columbia, and the New Orleans City Council) do not impose a CTA. Texas enacted legislation last summer eliminating the CTA; the utility commissions in Maryland, D.C., Nebraska, Kentucky, Washington and Oregon have all rejected imposing a CTA in the last five years. NJAWC believes that the Board has ample justification, as well as the discretion, to join the vast majority of jurisdictions in the United States and eliminate the CTA immediately. We believe to do otherwise would leave New Jersey as a clear outlier in imposing a CTA.

Staff's proposed changes, outlined above, provide substantial CTA mitigation to those electric utilities which have substantial "transmission" operations subject to the jurisdiction of the Federal Energy Regulatory Commission ("FERC") by excluding the financial results of the transmission operations from the electric utilities' CTA calculations. That particular adjustment to the Board's current methodology provides no mitigation to other utilities. The Company accepts Staff's proposal to limit the CTA calculation to the previous 5 years, but notes that while this change does help mitigate some of the more onerous impacts of the current adjustment, this time period is no less arbitrary than that used by the current methodology, and could have unintended consequences on utilities due to factors not currently anticipated by Board Staff. On

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balance, however, NJAWC supports this shorter time period in preference to any longer time period. The Company supports the final change proposed, to apportion the impact of the CTA at a ratio of 75/25 between shareholders and ratepayers, as this proposed change provides substantive mitigation to the non-electric companies. If the proposed ratio is not adopted by the Board, the substantive mitigation contemplated by Staff in making this proposal would be largely lost, providing little to no relief for the non-electrics.

We again respectfully request the Board consider eliminating the CTA entirely. In the alternative, NJAWC respectfully requests that the Board adopt Staff's proposal without change.

Respectfully submitted,

New Jersey-American Water Company, Inc.

By: \_\_\_\_\_

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c: (via email only)  
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