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 NEW  
JERSEY-AMERICAN WATER COMPANY, INC. ) ORDER ON MOTION TO AMEND  
FOR APPROVAL OF PROPOSED COST ) PREHEARING ORDER AND TO  
RECOVERY OF LEAD SERVICE ) MODIFY THE PROCEDURAL  
REPLACEMENT PLAN ) SCHEDULE  
) DOCKET NO. WR22010017  

Parties of Record:  

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel  
Christopher M. Arfaa, Esq., Director, Corporate Counsel, New Jersey-American Water  
Company, Inc.  
Martin C. Rothfelder, Esq., Rothfelder Stern, L.L.C., on behalf of Rutgers University, Philips 66  
Cogen Technologies Linden Venture, L.P., Johanna Foods, Inc., Princeton University, and  
Merck & Co., Inc.  

BY COMMISSIONER MARY-ANNA HOLDEN:  

BACKGROUND AND PROCEDURAL HISTORY  

On January 14, 2022, New Jersey-American Water Company, Inc. ("NJAW" or "Company"), a  
public utility corporation engaged in the production, treatment and distribution of water, and  
collection and treatment of wastewater doing business in portions of the following counties within  
the State of New Jersey: Atlantic, Bergen, Burlington, Camden, Cape May, Essex, Gloucester,  
Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Salem, Somerset, Union and  
Warren; filed a petition with the New Jersey Board of Public Utilities ("BPU" or "Board"), seeking  
approval of its cost recovery plan for the replacement of Company and customer side lead service  
its petition, NJAW requested expedited treatment of this matter.
As part of the Petition, NJAW included a proposal to replace lead service lines in its service territory and for associated cost recovery ("LSL Proposal"). The Company also filed a base rate case at the same time as this matter, in order to comply with the Lead Service Line Replacement Law.¹ The base rate case has been transmitted to the Office of Administrative Law, for consideration as a contested case, pursuant to N.J.A.C. 1:1-3.2(a) and 1:14-8.1.

On February 23, 2022, the Board issued an order retaining the Petition for hearing and among other things, designating myself as the presiding officer. Additionally, the February 2022 Order directed any entities seeking to intervene in the docket to do so on or before March 25, 2022.²

On May 27, 2022, I issued a Pre-Hearing Order granting intervention to the members of the OIW Customer Coalition, set forth the issues to be resolved in this case, and issued the procedural schedule for the docket.³

**Motion to Amend the Procedural Schedule**

On June 1, 2022, I received a letter from the OIW Customer Coalition seeking to modify the procedural schedule found in the Pre-Hearing Order ("OIW Customer Coalition's Motion to Amend"). In its letter, the OIW Customer Coalition requested to move the requirement that the OIW Customer Coalition file its testimony from June 3 to July 15 and shift all other dates accordingly. On June 1, 2022, Rate Counsel and NJAW emailed that they do not oppose the extension provided that the rest of the schedule is moved accordingly.

**Request to Amend Pre-Hearing Order**

On June 7, 2022, I received a letter from the OIW Customer Coalition seeking to amend the issues to be resolved section in the May 2022 Order ("OIW Customer Coalition Letter to Amend"). Specifically, the OIW Customer Coalition sought to add, as a third issue to be resolved, whether "Is it lawful for the Board of Public Utilities to impose rates or assessments, or otherwise raise revenues, to cover expenditures on customer-owned service lines or other customer-owned property?"

On June 7, 2022, I also received a response to the OIW Customer Coalition Letter to Amend from NJAW ("NJAW Response Letter"). In its letter, NJAW stated that the OIW Customer Coalition Letter to Amend should be denied because the issue has already been resolved by the enactment of the lead service line replacement law expressly allows for the recovery of costs associated with

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¹ In re the Petition of New Jersey-American Water Company, Inc. for Approval of Increased Tariff Rates and Charges for Water and Wastewater Service, and Other Tariff Modifications, BPU Docket No. WR22010019.


the replacement of customer-owned lead service lines and adding this resolved issue to the list would only result in the unnecessary expenditure of Board and party resources.4

On June 9, 2022, the New Jersey Division of Rate Counsel ("Rate Counsel") submitted a letter regarding the OIW Customer Coalition Letter to Amend ("Rate Counsel Response Letter"). In its letter, Rate Counsel stated that it agrees with the objections in the NJAW Response letter because it is bound by the lead service line replacement law.

On June 14, 2022, I received a letter from the OIW Customer Collation responding to NJAW and Rate Counsel's opposition to the OIW Customer Collation's request for additional issues to be resolved in this docket. The OIW Customer Collation contended that their request concerns a jurisdictional issue and jurisdiction is an issue that a party may always raise. The OIW Customer Collation further explained that the novelty of the issues in this docket and the authority of the Board under the new statute makes it appropriate to consider the Board's jurisdiction to take action regarding this matter.

DISCUSSION AND FINDINGS

Request to Amend Pre-Hearing Order

The Board is bound by the laws that are enacted by the Legislature and N.J.S.A. 58:12A-45 specifically requires the recovery of costs associated with the replacement of lead service lines. Under N.J.S.A. 48:2-13, the Board has the ability to regulate public utilities in New Jersey to ensure just and reasonable rates and services. The Board's authority does not allow for a review of the legality of a rate mechanism provided through legislation. Moreover, the OIW Coalition has failed to identify any legal authority which would permit this Board to review the rate setting mechanism passed by the Legislature. See N.J.S.A. 48:2-13. Additionally, because the statute is dispositive to the proposed issue the OIW coalition seeks to add to the pre-hearing order, granting the request would only serve to unnecessarily confuse the issues and cause an undue delay in the Board's disposition of this matter. Accordingly, I DENY the request to amend the Pre-Hearing Order.

Motion to Amend the Procedural Schedule

I FIND that the OIW Customer Coalition's Motion to Amend the Procedural Schedule is reasonable and in the interest of developing a complete record, as all parties must be granted sufficient due process and the opportunity to be heard on disputed issues in this proceeding. Having been granted the authority to amend the schedules within this proceeding by the Board, and after consideration of the OIW Customer Coalition’s request to amend the procedural schedule, I find the request to amend warranted and HEREBY AMEND the procedural schedule set forth in the May 27, 2022 Pre-Hearing Order and HEREBY ISSUE the following modified procedural schedule (Exhibit A). I HEREBY DIRECT all parties to comply with its terms

Lastly, in compliance with the Board’s Order in Docket No. EO20030254, all parties are HEREBY DIRECTED to serve all documents electronically.

I HEREBY DIRECT that this Order be posted on the Board’s website.

This provisional ruling is subject to ratification or other alteration by the Board as it deems appropriate during the proceedings in this matter.

DATED: 7-6-22

BY:

[Signature]

MARY ANNA HOLDEN
<table>
<thead>
<tr>
<th>Event</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Petitioner files pre-filed testimony</td>
<td>April 8, 2022</td>
</tr>
<tr>
<td>Discovery on pre-filed testimony</td>
<td>April 22, 2022</td>
</tr>
<tr>
<td>Responses to discovery</td>
<td>May 6, 2022</td>
</tr>
<tr>
<td>Settlement Discussions</td>
<td>Week of May 16</td>
</tr>
<tr>
<td>Rate Counsel/Intervener file direct testimony</td>
<td>July 15, 2022</td>
</tr>
<tr>
<td>Discovery on Rate Counsel/Intervener testimony</td>
<td>July 27, 2022</td>
</tr>
<tr>
<td>Responses to discovery</td>
<td>August 5, 2022</td>
</tr>
<tr>
<td>Rebuttal Testimony filed</td>
<td>August 12, 2022</td>
</tr>
<tr>
<td>Discovery on rebuttal testimony</td>
<td>August 19, 2022</td>
</tr>
<tr>
<td>Responses to discovery</td>
<td>August 26, 2022</td>
</tr>
<tr>
<td>Evidentiary hearings with live surrebuttal</td>
<td>August 2022</td>
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IN THE MATTER OF THE PETITION OF NEW JERSEY-AMERICAN WATER COMPANY, INC.
FOR APPROVAL OF PROPOSED COST RECOVERY OF LEAD SERVICE REPLACEMENT PLAN

DOCKET NO. WR22010017

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