



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
**[www.nj.gov/bpu/](http://www.nj.gov/bpu/)**

WATER

IN THE MATTER OF THE PETITION OF	)	ORDER ADOPTING INITIAL
UNITED WATER TOMS RIVER, INC. FOR	)	DECISION ON REMAND
APPROVAL OF AN INCREASE IN RATES FOR	)	
WATER SERVICE AND OTHER TARIFF	)	BPU Docket No. WR08030139
CHANGES	)	OAL Docket No. PUC03509-2008N

(SERVICE LIST ATTACHED)

**BY THE BOARD:**

On March 6, 2008, United Water Toms River, 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. 14:1-5.12, seeking to increase its rates and charges for water service. The Company requested an overall increase in revenues in the amount of \$14,919,238 or 91.92% over pro forma present rate revenues.

After transmittal of the petition to the Office of Administrative Law ("OAL") as a contested case, and after an opportunity for discovery and the holding of public hearings, the Company, the Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel") and Board Staff ("Staff") (collectively, the "Signatory Parties"), entered into a stipulation of settlement ("Stipulation" or "Settlement"), by which they agreed to an increase of \$10,127,077, representing a 62.38% increase over total Company present rate revenues of \$16,232,570, and resulting in total Company revenues of \$26,359,647. The Settlement proposes that the resulting revenue increase be phased in over a two year period, with the first phase increase of \$6,582,584 effective on the date of the Board's Order, and the second phase increase effective on November 11, 2009. The two municipal intervenors, the Township of Berkeley and the Township of Toms River (collectively, the "Intervenors"), objected to the proposed Settlement, both as to the amount of the requested increase and the proposed phase-in period.

In an Initial Decision dated September 19, 2008, the Administrative Law Judge ("ALJ") assigned to this matter, ALJ Walter M. Braswell, approved the Settlement as fully disposing of all issues in controversy and as consistent with the law, but noted that the Intervenors objected to the Settlement. The Intervenors filed exceptions with the Board contending that the ALJ did not properly consider the substance of their objections before approving the Settlement.

By an Order dated October 23, 2008, the Board remanded the matter to the OAL for further findings and determinations. Now before the Board for decision is the Initial Decision of ALJ

Braswell on remand dated December 9, 2008. A copy of the Initial Decision is appended to this Order.

### BACKGROUND/PROCEDURAL HISTORY

Petitioner is a public water utility engaged in the business of collecting, treating and distributing water for retail service to approximately 50,000 customers in the central portion of Ocean County in the municipalities of Toms River Township, the Borough of South Toms River and in portions of Berkeley and Brick Townships.

The Board transmitted the matter to the OAL on March 11, 2008, as a contested case where the matter was assigned to the Honorable Walter M. Braswell, ALJ.

On March 28, 2008, a telephone pre-hearing conference was held in which counsel for the Company and the statutory parties to the case, Rate Counsel and Staff participated. ALJ Braswell scheduled the dates for public hearings, and dates for evidentiary hearings.

On April 9, 2008, the Board issued an Initial Suspension Order suspending the proposed rates until August 14, 2008, unless the Board prior to that date made a determination disposing of the petition.

After due notice published in newspapers of general circulation in the service territory and service on the relevant municipalities and Clerks of the Boards of Chosen Freeholders, on June 23, 2008, two public hearings were held at the Toms River High School North Ritacco Center. The first public hearing was held at 3:00 pm, and the second public hearing was held at 7:00 pm. ALJ Braswell presided over both hearings. Numerous members of the public appeared at both hearings and commented on the proposed rate increase, water quality concerns and water reliability issues.

On July 31, 2008, the Board issued a further suspension Order suspending the proposed rates until December 14, 2008.

Subsequent to the exchange of discovery and the holding of public hearings and prior to the scheduled evidentiary hearings, the Signatory Parties held settlement conferences. As a result of these settlement conferences, the Signatory Parties reached a settlement on all issues and entered into the Settlement which was signed on September 18, 2008.

On August 12, 2008, the Township of Berkeley ("Berkeley") filed a Notice of Motion for Intervention in this matter. On August 14, 2008, ALJ Braswell granted Berkeley intervenor status. On August 20, 2008, the Township of Toms River ("Toms River") filed a Notice of Motion for Intervention in this matter. On August 21, 2008, ALJ Braswell granted Toms River Intervenor status. On August 12, 2008, Robert K. Haelig, Jr., filed a Motion to Request Permission to Intervene in this matter. On August 18, 2008, ALJ Braswell denied Mr. Haelig intervenor status, but granted Mr. Haelig participant status.

On September 4, 2008, Toms River submitted a letter to ALJ Braswell objecting to the level of revenue increase and the phase-in periods as proposed by the Settlement. A copy of the Settlement had been provided to Toms River prior to its execution. Toms River requested that the ALJ order additional public hearings on the Settlement so that representatives of Rate Counsel and the Company could fully explain and justify the proposed increase to the rate paying public.

On September 23, 2008, ALJ Braswell issued his Initial Decision recommending adoption of the Stipulation executed by the Signatory Parties, finding that the Signatory Parties had voluntarily agreed to the Settlement and that the Settlement fully disposes of all issues and was consistent with the law. ALJ Braswell also found that the Intervenors had not signed the Settlement and had submitted letters opposing it.

By letter dated October 1, 2008, Berkeley requested that the Board defer any decision on the Settlement until Berkeley received information concerning calculation of the test year operating income and a more detailed schedule of legal expenses and litigation costs than that which had already been provided. By letter dated October 3, 2008, Toms River submitted its exceptions to the Initial Decision arguing that the Initial Decision failed to address the arguments that were raised by the Intervenors, and requested the matter be remanded to the OAL for specific findings as to whether the requested rate increase and the phase-in period are reasonable. By letter dated October 8, 2008, Berkeley joined in Toms River's exceptions.

By letter dated October 16, 2008, Petitioner filed its reply to the exceptions of the Intervenors. Petitioner stated that the Intervenors came into the case six months after it was filed, after the other parties had reached an agreement in principle, and just as hearings were cancelled. According to the Company, the Signatory Parties had litigated the case for months and conducted extensive discovery and settlement meetings, and it was therefore "offensive to the due process rights of the Signatory Parties" to allow the Intervenors to raise issues which the Company characterized as irrelevant at this point. According to the Company, the Board could not delay "appropriate rate increases" based upon generalized comments that the rate increase is too high since those complaints "are not based on facts," and the Board may not extend the phase-in period that was negotiated as the only alternative is no phase-in period. Petitioner stated that the Signatory Parties examined the Petitioner's financial and operational activities and were satisfied that the rates under the Settlement were just and reasonable, and the ALJ agreed. Petitioner argued that, therefore, the Board could address the Intervenors' concerns through the exceptions, including objections and allegations which had also been raised in other pending proceedings, without remanding the matter.

By Order dated October 23, 2008, the Board remanded this matter to the OAL for further findings and determinations with regard to whether the rate increase proposed by the Settlement is just and reasonable, including whether the proposed phase-in period was appropriate.

On October 28, 2008, the Company filed a letter Motion to implement the stipulated rates on an interim basis in accordance with N.J.S.A. 48:2-21.1. On November 5, 2008, Toms River filed a letter with the Board opposing the motion, arguing that the ALJ appeared ready to complete his review, and since the increase was so large, the burden on customers outweighed any detriment to the Company caused by any delay to await the ALJ's decision. On November 6, Berkeley joined in Toms River's opposition. On that same date, the Company responded to the opposition maintaining that it was appropriate for the Board to authorize rates on an interim basis, subject to refund.

On November 3, 2008, ALJ Braswell conducted an evidentiary hearing for further findings and determinations. All Signatory Parties and Intervenors received notice of the hearing and appeared at that time. While the Intervenors objected that they were not prepared and needed additional time to retain expert witnesses, the ALJ overruled those objections and proceeded to hear the testimony of Mark Gennari, Vice President of the Company's Regulatory Business

Department, and to enter into evidence the testimony and exhibits offered by the Company. All parties were given an opportunity to cross-examine Mr. Gennari.

On November 7, 2008, the Board issued an Order approving the stipulated Phase I rates on a provisional basis, subject to refund with interest, pending final Board action in this matter. The Board further ordered that these provisional rates were approved for a period of no greater than ninety (90) days on condition that the Company does not seek to implement any alternative rate prior to the end of that period.

Following the evidentiary hearing on November 3, 2008, ALJ Braswell directed the parties to the proceeding to submit by November 10, 2008, a letter brief addressing the Board's concerns as to whether the Settlement was just and reasonable and whether the proposed phase-in period was appropriate. On November 10, 2008, the Company, Rate Counsel and Staff submitted letter briefs in support of the terms and conditions of the Settlement, and requested that ALJ Braswell approve the Stipulation of Settlement.

The Intervenor, Toms River, submitted a memorandum dated November 10, 2008, opposing the proposed Stipulation of Settlement. Toms River argued that the Petitioner failed to justify the reasonableness of the proposed rate increase and urged the ALJ to reject the Stipulation and direct the Signatory Parties to further review the proposed phasing- in of the settlement.

On December 9, 2008, ALJ Braswell issued his Initial Decision on Remand.<sup>1</sup> Based on the testimony provided at the November 3, 2008 hearing and the documentation entered in to the record at that time, ALJ Braswell concluded that the Company's request to increase revenues in the amount of \$10,127,077 over pro forma present rate revenues was appropriate and approved the phase-in of the rate increase, over two years, and recommended that the Board approve the agreed upon Stipulation of the Signatory Parties. ALJ Braswell found that the Settlement fairly reflected the investment made by the Company and a reasonable return on that investment, and that the phase-in of rates fairly balanced the interests of the Company and of customers. Therefore, ALJ Braswell found that the Stipulation of Settlement was fair and reasonable and in accordance with law, and ordered that it be approved as submitted.

By letter dated December 23, 2008, the Intervenor, Toms River filed a letter of exception to the Initial Decision with the Board stating that the November 3, 2008 remand hearing that was scheduled by ALJ Braswell did not provide sufficient time for Toms River to proceed.<sup>2</sup> The attorney for Toms River, Kenneth B. Fitzsimmons, Esq., stated that after the November 3, 2008 hearing, Toms River retained the services of Robert Hutchins, CPA to evaluate the proposed Stipulation among the Signatory Parties. Toms River maintained that this matter should be again remanded to ALJ Braswell for a plenary hearing so that the issues raised by Mr. Hutchins in the letter attached to the exceptions can be evaluated by the ALJ. In that letter, Mr. Hutchins made the following comments:

- The Company's witness relied on Valueline Water Industry Information for determining the return on capital for calculating the revenue deficiency, and the 10% return on equity chosen for the Stipulation exceeds Valueline industry averages by 33%;

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<sup>1</sup> At its December 17, 2008, Board Agenda Meeting, the Board issued an Order of Extension, extending the time for the Board to act upon the ALJ's Initial Decision until March 9, 2009.

<sup>2</sup> While the letter is dated December 23, 2008 and was e-mailed to the Board's Secretary on that date, a hard copy was not filed with the Board until December 31, 2008.

- Valueline financial ratios inconsistent with the Company's witness's recommendations were ignored, and the return on assets adopted in the Settlement, 5.4%, is higher than the industry average.
- The Company's expert relied on internally prepared financial statements, and there appear to be significant inter-company transactions which require additional review to determine whether these transactions were at "arm's length."
- A large amount of capital expenditures are projected over the next ten years, and there is no statement by the Company's expert on whether these will expand capacity for current users or will increase the number of customers, and may provide an opportunity for the Company to "double dip."

On January 6, 2009, the Company filed a letter with the Board in reply to the exceptions of Toms River. The Company asserted that the exceptions were late and should be disregarded, and then reiterated that Toms River was instructed by ALJ Braswell that Toms River had to accept the case as it found it when it intervened after the case had been in progress for many months. The Company stated that Toms River was afforded the opportunity to present its concerns to the ALJ on November 3, 2008, the day of the remand hearing. The Company stated that any additional hearings on this matter to address Toms River's "expert report" are unnecessary.

The Company then addressed the issues raised in Mr. Hutchins' comments as follows:

- 1 With respect to Mr. Hutchins' positions on the return on capital and the financial ratios, the Company stated that the information Mr. Hutchins relied upon was based upon the Company's as filed position in March 2008. As more information became available and as the Company updated its position, the return on capital and the financial ratios changed. The Company stated that "[t]his 'report' fails to recognize that rate of return decisions for all utilities are required to be market based (using information such as Valueline) and industry averages, and compares those data to that developed by parties during a case's progression." In varying degrees, this rate setting process is used in every state in the United States including New Jersey. The Company noted that the 10.00% rate of return on equity agreed to by the Signatory Parties is the very same rate of return that was authorized by the Board in very nearly every utility rate case in the preceding year.
2. With respect to Mr. Hutchins' position on the internally prepared financial statements, the Company stated that all financial statements were subject to discovery, and the opportunity for full cross- examination for accuracy and relevance. The Company stated that if Toms River had reviewed the discovery it would have known that the Signatory Parties spent several months and numerous discovery requests examining the financial transactions and accounts. The Company stated that Mr. Hutchins merely mentions these inter-company and management fee transactions while alleging nothing. He merely stated that if these expenses were being charged, they could prove detrimental to customers.
- 3 With respect to Mr. Hutchins' comment on the capital expenditures, the Company stated that nothing in the testimony of the Company rate of return witness involves the particulars of the Company's rate base. The Stipulation of Settlement provides for no return on rate base for plant or investment which is not already in service to customers. There are neither rate base projections nor rate base estimates included in the Settlement.

## DISCUSSION AND FINDINGS

The Board has carefully reviewed the entire record to this proceeding including ALJ Braswell's Initial Decision, and the Stipulation of Settlement among the Signatory Parties to this proceeding, as well as ALJ's Braswell's Initial Decision on Remand, the letter briefs and the exceptions and replies. Based on that review, as discussed more fully below, the Board HEREBY APPROVES the Initial Decision on Remand.

The Intervenors, Toms River and Berkeley, received notice of the rate case filing by the Company on or about March 6 2008, the date of the filing with the Secretary to the Board. Copies of the testimony and exhibits were available to Toms River and Berkeley on the March 6, 2008, date of filing. Several council members from Toms River did appear at the two well attended public hearings held in the Company's service territory on June 23, 2008. Berkeley filed its Motion to Intervene on August 12, 2008 and Toms River filed its Motion to Intervene on August 20, 2008. Intervention was granted to Berkeley on August 14, 2008 and to Toms River on August 21, 2008. According to the information provided in the Stipulation, up to that point, Rate Counsel and Board Staff propounded hundreds of discovery requests with Rate Counsel having retained the services of four expert witnesses who reviewed all aspects of the Company's filing, and the Signatory Parties having engaged in settlement discussions and reaching compromises on many of the issues. In granting their motions to intervene, the ALJ informed Toms River and Berkeley that they were required to accept the case in the procedural posture that existed at the time of their intervention, including the timetable set out in the procedural schedule in the ALJ's Pre-hearing Order of March 28, 2008.

In its Order of Remand, the Board determined that because no hearings were held and no evidence entered in to the record, the Board did not have a complete record on which to base its decision in light of the objections to the Settlement. In particular the Board was concerned with the absence of any finding by the ALJ regarding whether the rates as proposed in the Settlement were just and reasonable, and whether the proposed phase-in produced just and reasonable rates. On November 3, 2008, the ALJ conducted a hearing on remand. All parties received notice of the hearing on October 30, 2008, and appeared, although Toms River and Berkeley objected at the hearing that they did not have sufficient time to prepare. The ALJ over-ruled these objections. At the remand hearing, the Company offered its complete pre-filed testimony for inclusion into the record, the notices of the two public hearings previously received into evidence at the public hearings, and the Stipulation, all without any objection. The Company also produced a witness, Mark A. Gennari, who testified as an expert and whose testimony was entered into the record without objection. Mr. Gennari was available for cross-examination by the parties, and provided additional testimony in support of the terms of the Settlement.

In the Initial Decision on remand, the ALJ stated that he had an opportunity to observe the witness and asses his credibility. He then discussed the testimony provided by the Company's witness, especially noting that the Company's current rate base is much higher than that used in the Settlement, that all rate base upon which the Company earned a return is used and useful in the provision of service to its customers, that no projected projects or expenses or revenues unrecovered since the Company's last base rate proceeding are included as part of the current Settlement. The ALJ found that the Settlement properly reflected the investment made by the Company for the provision of utility service to its customers, that the allowed rate of return proposed by the Settlement will produce rates which are just and reasonable, and that the phase-in was voluntary and constituted a fair balancing of interests. The ALJ noted that the

Company's delay of the receipt of revenues pursuant to the Settlement was voluntary, and that no basis existed in the record to support a further delay of receipt of revenues other than that agreed to by the Signatory Parties.

Nothing in the exceptions filed by Toms River persuades the Board that additional hearings are needed before the Board can render its decision in this matter. Exceptions filed under N.J.A.C. 1:1-18.4, are required to specify the findings of fact, conclusions of law or dispositions to which exceptions are taken, and also set out specific alternative findings of fact, conclusion of law or dispositions, supported by evidence and authorities. The exceptions filed by Toms River fail to do so and additionally, rely on a submission that was not presented at the evidentiary hearing in violation of N.J.A.C. 1:1-18.4 (c), which bars evidence not presented at the hearing from being submitted as part of an exception or referred to in an exception. Therefore, even if the exceptions are deemed to be timely filed, they otherwise fail to comply with the standards for exceptions.<sup>3</sup> Even if the Board were to consider this submission, Mr. Hutchins' comments fail to raise issues that require additional hearings. For example, in his comments on the proposed rate of return and return on equity, Mr. Hutchins relies on the composite nationwide statistics used in the attached Valueline report. In evaluating a rate of return and return on equity proposed as part of a settlement, the Board must review the record, balance the interests of the ratepayers and the shareholders, and determine whether the settlement represents a reasonable disposition of the issues that will enable the company to provide its customers in New Jersey with safe, adequate and proper service at just and reasonable rates. In re Petition of Pub. Ser. Elec. & Gas, 304 N.J. Super. 247 (App. Div.), cert. denied, 152 N.J. 12 (1997). See also, In re New Jersey Power & Light Co., 9 N.J. 498, 353 (1952) (rate of return must be within range of reasonableness under the circumstances). The Board FINDS that it has sufficient information to evaluate the reasonableness of the Stipulation based upon the evidence entered into the record without objection.

Therefore, based on the review of the record, the Board HEREBY FINDS that the Signatory Parties have voluntarily agreed to the Stipulation that the Stipulation fully disposes of all issues in this proceeding and that it is consistent with the law. The Board HEREBY FINDS the Initial Decision on Remand which adopted the Stipulation of Settlement to be reasonable and in the public interest. The Board FURTHER FINDS that the Initial Decision on Remand which concluded that the Company's request to increase revenues in the amount of \$10,127,077 over present rate revenues, as well as, the phase-in of the increased rates over a two year period to be reasonable and in the public interest.

As to the terms embodied in the Stipulation, the Board HEREBY ADOPTS the Initial Decision on Remand and the Stipulation, attached thereto, as its own incorporating by reference the terms and conditions as if fully set forth at length herein subject to the conditions set out below.

- a) The Board HEREBY APPROVES AS FINAL the provisional rates which were approved by Order dated November 7, 2008, effective for service on and after November 7, 2008.
- b) The tariff sheets attached to the Stipulation containing rates and charges conforming to the Settlement and designed to produce the additional annual revenues to which the Signatory Parties have stipulated herein are HEREBY ACCEPTED.

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<sup>3</sup> If the Intervenor's exceptions were not received by the Company until December 31, 2008, then the Company's reply, filed on January 6, 2009, was not filed outside the five day period provided by N.J.A.C. 1:1-18.4 (d).

- c) The Stipulated increase and the tariff design allocations for each customer classification are HEREBY ACCEPTED.
- d) The Board HEREBY ORDERS that Petitioner shall file a new tariff with the Board, with copies to the parties, conforming to the terms and conditions of the Stipulation and this Order within ten (10) days from the date of this Order.

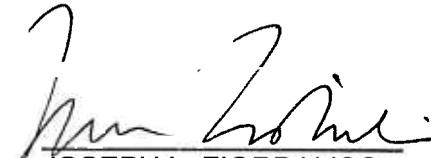
As a result of the approval of the rates as proposed by the Stipulation, the average bill for a single family residential customer with a 5/8" meter using 60,000 gallons of water per year shall increase from the rate in effect prior to November 7, 2008, of \$228.72 per year to \$324.35 per year, Phase I increase, an increase of \$95.63 per year, \$23.91 per quarter, or approximately 41.81%. For the Phase II increase, the average bill for a single family residential customer will increase from the Phase I rate of \$324.35 per year to \$376.04 per year, an increase of \$51.69 per year, \$12.92 per quarter, or approximately 15.93%.

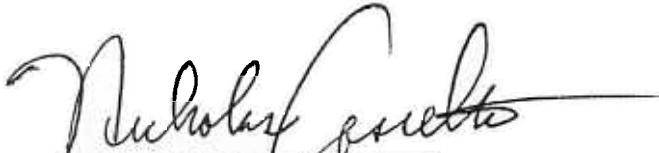
DATED: 1/28/09

BOARD OF PUBLIC UTILITIES  
BY:

  
JEANNE M. FOX  
PRESIDENT

  
FREDERICK F. BUTLER  
COMMISSIONER

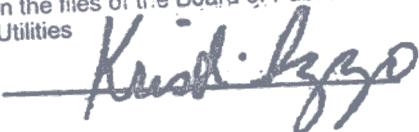
  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
NICHOLAS ASSELTA  
COMMISSIONER

  
ELIZABETH RANDALL  
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 UNITED WATER TOMS RIVER, INC.,  
FOR APPROVAL OF AN INCREASE IN RATES FOR WATER SERVICE  
AND OTHER TARIFF CHANGES  
BPU Docket No. WR08030139  
OAL Docket No. PUC03509-2008N

SERVICE LIST

Stephen B. Genzer, Esq.  
Saul Ewing, LLP  
One Riverfront Plaza, 5<sup>th</sup> Floor  
Newark, New Jersey 07102

Mark A. Gennari, VP  
200 Old Hook Road  
Harrington, New Jersey 07640

James Cagle, Director  
200 Old Hook Road  
Harrington, New Jersey 07640

Colleen Foley, Esq.  
Saul Ewing, LLP  
One Riverfront Plaza, 5<sup>th</sup> Floor  
Newark, New Jersey 07102

Nadine Leslie, VP &  
General Manager  
15 Adafre Avenue  
Toms River, New Jersey 08754

Patrick Sheehan, Esq.  
Glasner & Sheehan  
6 Hooper Avenue  
Toms River, New Jersey 08753

Kenneth B. Fitzsimmons, Esq.  
Township Attorney  
Township of Dover  
Department of Law  
33 Washington Street  
PO Box 728  
Toms River, New Jersey 08754

Paul Flanagan, Esq.  
Department of the Public Advocate  
Division of Rate Counsel  
31 Clinton Street, 11<sup>th</sup> Floor  
PO Box 46005  
Newark, New Jersey 07101

Debra Robinson, Esq.  
Department of the Public Advocate  
Division of Rate Counsel  
31 Clinton Street, 11<sup>th</sup> Floor  
PO Box 46005  
Newark, New Jersey 07101

Babette Tenzer, DAG  
Department of Law & Public Safety  
Division of Law  
124 Halsey Street, 5<sup>th</sup> Floor  
PO Box 45029  
Newark, New Jersey 07101

Alex Moreau, DAG  
Department of Law & Public Safety  
Division of Law  
124 Halsey Street, 5<sup>th</sup> Floor  
PO Box 45029  
Newark, New Jersey 07101

Cynthia L. Holland, DAG  
Department of Law & Public Safety  
Division of Law  
124 Halsey Street, 5<sup>th</sup> Floor  
PO Box 45029  
Newark, New Jersey 07101

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Beston  
Dkt Moreau  
Dkt Cypus  
Dkt Miller  
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**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

OAL DKT. NO. PUC 13119-08  
AGENCY DKT. NO. WR08030139  
(ON REMAND PUC 3509-08)

IN THE MATTER OF THE PETITION OF  
UNITED WATER TOMS RIVER, INC., FOR  
APPROVAL OF AN INCREASE IN RATES FOR  
WATER SERVICE AND OTHER TARIFF  
CHANGES.

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**Stephen B. Genzer, Esq., and Collen Foley, Esq.,** for petitioner (Saul Ewing,  
attorneys)

**Alex Moreau and Cynthia Miller,** Deputy Attorney Generals, for respondent  
(Anne Milgram, Attorney General of New Jersey)

**Deborah Robinson and Kimberly Holmes,** Rate Counsel, on behalf of the  
Division of Rate Counsel

**Patrick Sheehan, Esq.,** Intervenor, on behalf of Berkeley Township

**Mark A. Troncone, Esq.,** Intervenor, on behalf of Toms River Township

Record Closed: November 20, 2008

Decided: December 9, 2008

BEFORE **WALTER M. BRASWELL, ALJ:**

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

On March 6, 2008, United Water Toms River, Inc., (petitioner or the Company) a public utility corporation of the State of New Jersey, pursuant to N.J.S.A. 48:2-21 and N.J.A.C. 14:1-5.12 et seq. filed a petition with the Board of Public Utilities (Board) to increase rates for water service. The Company requested an overall increase in revenues in the amount of \$14,919,238 or 91.92% over pro forma present rate revenues. In addition, the concept of a two-phased proceeding was proposed in the petition.

The Board transmitted this matter to the Office of Administrative Law (OAL) as a contested case and the undersigned was assigned to hear the case. A procedural schedule was established by the undersigned on March 28, 2008, which included the scheduling of two public hearings, an opportunity for discovery, the pre-filing of testimony and evidentiary hearings. The testimony and exhibits supporting the Company's request for a rate increase were pre-filed at the Board and were available to all municipalities on March 6, 2008.

Rate Counsel retained four expert witnesses at the inception of this matter, who reviewed various aspects of the Company's filed case, including revenue requirement, rate design, and capital structure/return on equity and engineering issues. Extensive discovery was propounded by these experts with the Company providing hundreds of responses. Over a six-month period the responses were carefully reviewed by Rate Counsel and by its consultants. Additionally, the responses were reviewed by the Attorney General's Office and the Board's staff assigned to this case.

A public hearing was held in this matter during the day and another during the evening of June 23, 2008. Exhibit P-9 was marked at the public hearing to certify that the towns served by the Company had received notice of the filing, which gave the date, time and location of the public hearing. Several members of the Toms River City Council appeared at the public hearings and commented on the proposed rate increase. Despite having notice of the rate filing and appearing at the public hearings, it was not until August 20, 2008, that the Township of Toms River filed a Motion to Intervene in

this proceeding. Toms River was granted intervenor status on August 21, 2008. Similarly, it was not until August 12, 2008, that the Township of Berkeley filed a Motion to Intervene in this proceeding. On August 14, 2008, Berkeley Township was granted intervenor status. At that time both Toms River and Township of Berkeley (Intervenors) were instructed that they were required to take the record as they found it. That is, by the time that the municipal intervenors entered the case, numerous settlement discussions had already been held and an agreement in principle had been reached on most substantive issues by the Company, Rate Counsel and Board staff (Signatory Parties). Accordingly, at the late stage that the municipal Intevenors entered the case the date for filing testimony had already expired.

On September 4, 2008, Toms River submitted a letter to the undersigned objecting to the amount of the revenue increase and the phase-in period as proposed in the Stipulation of Settlement circulating among the Signatory Parties. On September 19, 2008, I approved the Stipulation of Settlement entered by the Signatory Parties as having been fully dispositive of all issues in controversy and consistent with the relevant law. At that time, I noted the objections of the Intervenors. Nevertheless, the Board issued an Order of Remand on October 23, 2008. In the Order, the Board reasoned that the Court did not properly consider the "substance of the objections" of the Intervenors prior to approving the Stipulation of Settlement. (Order of Remand dated October 23, 2008). As a result, the Board remanded this matter for "further findings and determinations." Based upon that directive, a hearing on remand was held on Monday, November 3, 2008. All Signatory Parties and the Intervenors received adequate notice of this hearing and appeared at that time. Maintaining that they did not have sufficient time to retain an expert witness, during the course of the hearing on remand, neither municipal Intervenor presented a witness.

As indicated earlier, at the late date that Toms River and Berkeley intervened in this proceeding, they were informed that they must take the record as they found it. The record that they found at the time of their intervention was one where testimony had been filed, discovery completed and a settlement in the principle had been agreed upon. To have allowed any further testimony at the time of granting intervention would have been contrary to my directive to the Intervenors to take the record as they found it.

Although they did not have an opportunity to file testimony prior to the Board's consideration of the Stipulation, as a result of the Board's Remand Order the municipal Intervenor had an opportunity to offer evidence why the proposed rate increase was not just and reasonable and why the phase-in period was not appropriate. Instead of offering any testimony the Intervenor came to the hearing and requested an adjournment for "two or three months" so that they could hire a consultant to advise them whether the Stipulation is reasonable. This request for more time was made despite the fact that the Intervenor had entered an appearance as early as June 23, 2008, at the public hearing. - Regardless whether the Intervenor had enough time to prepare a witness to testify at the remand hearing, the Intervenor clearly had enough time (from at least the date of intervention) to hire a consultant to advise the Intervenor whether the settlement is reasonable.

The Company did come to the remand hearing prepared to address the reasonableness of the Stipulation. The Company presented Mark Gennari, the vice president of the Regulatory Business Department, as its expert witness. There was no objection made by any of the parties as to Mr. Gennari's qualifications as an expert. In addition, legal counsel for the Company, Stephen B. Genzer, Esq., introduced into evidence the following exhibits - PT-1: Testimony of Nadine Leslie; PT-2: Testimony of Kevin H. Doherty; PT-3: Testimony of Thomas G. Lippai; PT-4: Testimony of David Njuguna; PT-5: Testimony of Caryl D. Jersey; PT-6: Testimony of Alan Weland; PT-7: Testimony of James C. Cagle; PT-8: Testimony of Pauline M. Ahern; PT-9: Public Hearing Notices; and PT-10: Stipulation of Settlement and attached documents. There were no objections to the above mentioned exhibits being entered into evidence by any of the parties present at the remand hearing. All parties were given the opportunity to cross-examine Mr. Gennari. At the conclusion of the hearing, all parties were directed to submit letter briefs 1) addressing issues raised in the Board of Public Utilities Order of Remand dated October 28, 2008, and 2) addressing evidence put into the record on November 3, 2008, during the course of the evidentiary hearing held in this matter.<sup>1</sup>

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<sup>1</sup> On November 7, 2008, the Board issued an Order Approving Provisional Rates that authorized an interim rate increase of \$10,127,077 (62.38%) for a period of no greater than ninety days.

LEGAL ANALYSIS

The Board in its Remand Order asserted that:

Here, because no hearings were held and no evidence admitted into the record, the Board does not have a complete record on which to base its fact-findings. Having reviewed the Initial Decision and the Settlement among the Signatory Parties to this proceeding, and the exceptions and reply, the Board notes the ALJ did not directly address the issue of whether the rates proposed by the Settlement are just and reasonable, including whether the proposed time period for implementation of those increases is reasonable, and did not address the reasons for rejecting the Intervenors' opposition.

Therefore, the Board pursuant to N.J.A.C. 1:1-18.7(a), HEREBY REMANDS this matter to the OAL for further findings and determinations with regard to whether the rate increase proposed by the Settlement is just and reasonable, including whether the proposed phase-in period is appropriate.

It is clear from the law as applied to the facts placed on the record November 3, 2008, that the utility is entitled to a return on its actual investment in plant and property used to serve its customers. Further, Mr. Gennari testified that UWTR's current rate base, constituting the utility's net utility plant in service was in fact much higher than that reflected in the settlement. Generally, Tr. 25-32, Tr. 30-13 to 31-1, Tr. 34-1 to -4. He testified that the entire rate base included in the settlement was already used and useful in the provision of utility service to UWTR's customers (Tr. 34-1 to -17), and that this was true for both phases of the rate increase. Tr. 34-13 to 35-1 Mr. Gennari testified that the rate of return agreed to was significantly lower than that which was contained in the original testimony, and that nothing in this settlement contains projected projects or revenues foregone since the last rate increase. Tr. 35-2 to -23. Similarly, the various operating expense and income statements agreed upon reflect the current income and expenses of the Company used to serve its customers now; no projections have been included in the settlement. Tr. 35-24 to 38-10.

Mr. Gennari further testified that the revenue requirement included in the settlement did not include any dollars which should have been paid by customers due to the fact that the last rate case was more than twelve years ago. Tr. 37-21 to 38-9. Mr. Gennari clearly disproved the Townships' theory that "projected debt service costs from proposed capital improvements" were included in rates resulting from the settlement. Tr. 41-7 to -18. In fact, Mr. Gennari testified that customers, not the Company, benefited from the fact that the last rate case was filed more than a dozen years ago, and that the settlement in this case does not reflect regular costs which should have been paid for by customers since the last case.

Thus, the settlement filed between Staff, Rate Counsel and the Company will result in just and reasonable rates covering investment and costs being incurred by the Company to serve current customers. The matching principle directs that a utility's costs and return on its investment should form the basis of rates which customers (who receive that service) should pay. Additionally the voluntary phase-in of rates agreed upon in the settlement represents a fair balancing of the interest of the Company and those of its customers. No reason was put forth by the Intervenors why it would be unfair for the Company to delay receipt of revenues that it is entitled to by law.

#### FINDINGS OF FACT

Based on the testimony presented, the documentary evidence submitted, and having had an opportunity to observe the witnesses and to assess their credibility, I make the following **FINDINGS of FACT**:

- 1 The settlement fairly reflects the investment made by the Company and a return on it. Based on Exhibits P-1 to P-10 and related Exhibits (the petition and original testimonies in this matter), all placed into evidence at the November 3, 2008, hearing and the more than 600 discovery questions and responses, the rates resulting from the settlement are just and reasonable.

2. The rates agreed upon in the Stipulation of Settlement will result in just and reasonable rates, appropriately matching the costs of providing service to the customers during the time they will be receiving such service.

3. The calculation of the additional revenue requirement is as follows:

Rate Base	\$67,700,000
Rate of Return	8.35%
Required Operating Income	5,652,950
Test Year Operating Income	(55,662)
Deficiency	5,708,612
Revenue Conversation Factor	<u>1.774</u>
Revenue Requirement	\$10,127,077

4. The phase-in of rates agreed upon in the settlement represents a fair balancing of interest and fairly reflects the Company's investment, a return on that investment and the utility's costs used in providing service to its customers during the time the rates will be in effect. In fact, the Company has voluntarily agreed to postpone a significant portion of revenues to which it would otherwise be entitled by law in an effort to minimize the impact on its customers. That is, 35% of the increase is being delayed until November 11, 2009, pursuant to a voluntary agreement of United Water Toms River.

5. The tariff pages attached to the Stipulation are just, reasonable, reflective of the above findings, and should be implemented.

**CONCLUSION AND ORDER**

Accordingly, based upon the foregoing I **CONCLUDE** that the Company's request to increase revenues in the amount of \$10,127,077 over pro forma present rate revenues is hereby **GRANTED**, and the phase-in of the rate increase is hereby approved in the manner agreed upon in the Stipulation.

Accordingly, hereby **FIND** that the Stipulation of Settlement agreed upon by the Signatory Parties is fair and reasonable and I **ORDER** that it be **APPROVED** as submitted.

hereby **FILE** my initial decision with the **BOARD OF PUBLIC UTILITIES** for consideration.

This recommended decision may be adopted, modified or rejected by the **BOARD OF PUBLIC UTILITIES**, which by law is authorized to make a final decision in this matter. If the Board of Public Utilities does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **SECRETARY OF THE BOARD OF PUBLIC UTILITIES, 2 Gateway Center, Newark, New Jersey 07102**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.



December 9, 2008

\_\_\_\_\_  
DATE

\_\_\_\_\_  
WALTER M. BRASWELL, ALJ

Date Received at Agency:

\_\_\_\_\_  
Mailed to Parties: 

\_\_\_\_\_  
DATE  
ljb

\_\_\_\_\_  
OFFICE OF ADMINISTRATIVE LAW

CMS  
BESCOY  
RPA

MOREAU, A

MILLER, C

COMES, M

~~WATER TOMS RIVER~~ (2)



State of New Jersey  
OFFICE OF ADMINISTRATIVE LAW

RECEIVED  
CASE MANAGEMENT  
2008 SEP 23 AM 11:36  
UTILITIES  
BOARD

INITIAL DECISION

SETTLEMENT

OAL DKT. NO. PUC 03509-08

AGENCY DKT. NO. WR0803013

IN THE MATTER OF THE PETITION OF  
UNITED WATER TOMS RIVER INC. FOR  
APPROVAL OF AN INCREASE IN RATES FOR  
WATER SERVICE AND OTHER TARIFF  
CHANGES,

---

Stephen B. Genzer, Esq., and Collen Foley, Esq. for petitioner (Saul Ewing,  
LLP)

Alex Moreau and Cynthia Miller, Deputy Attorney Generals, for respondent  
(Anne Milgram, Attorney General of New Jersey)

Deborah Robinson and Kimberly Holmes, Rate Counsel, on behalf of the  
Division of Rate Counsel

Patrick Sheehan, Esq. Intervenor on behalf of Berkeley Township

Mark A. Troncone, Esq. Intervenor, on behalf of Toms River Township

Record Closed: September 19, 2008

Decided: September 19, 2008

BEFORE WALTER M. BRASWELL, ALJ:

This matter was transmitted to the Office of Administrative Law (OAL) on March 14, 2008, for resolution as a contested case pursuant to N.J.S.A. 16:41C-8.7(b) 3.

A telephone pre-hearing conference was conducted on March 28, 2008 and two public hearings were held on June 23, 2008. Evidentiary hearings were scheduled for August 21, 22, and September 26, 2008. Prior to the hearings a conference call was conducted at which time the parties informed the undersigned that they have reached a settlement. On August , 2008 a copy of the fully executed Settlement Agreement was received by the OAL indicating the terms of the agreement, which are incorporated herein by reference.

Having reviewed the contents of the attached Settlement Agreement, I **FIND**:

1. The parties have voluntarily agreed to the settlement as evidenced by their signatures and/or the signatures of their representatives.
2. The settlement fully disposes of all issues in controversy and is consistent with the law.
3. The two municipal intervenors, which are the townships of Berkeley and Toms River, have not signed the Stipulation and have submitted letters which indicate that they oppose the stipulation.

I approve the settlement and, therefore **ORDER** that the parties comply with the settlement terms and that these proceedings be concluded.

I hereby **FILE** my initial decision with the **BOARD OF PUBLIC UTILITIES** for consideration.

This recommended decision may be adopted, modified or rejected by the **BOARD OF PUBLIC UTILITIES**, which by law is authorized to make a final decision in this matter. If the Board of Public Utilities does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

September 19, 2008  
DATE

Walter M. Braswell  
WALTER M. BRASWELL, ALJ

Date Received at Agency: 9/23/08

Floyd [Signature]  
Mailed to Parties:

\_\_\_\_\_  
DATE  
ljb

\_\_\_\_\_  
OFFICE OF ADMINISTRATIVE LAW

September 18, 2008

Honorable Walter M. Braswell, ALJ  
Office of Administrative Law  
33 Washington Street  
Newark, NJ 07102

Re: In the Matter of the Petition of United Water Toms River Inc. for  
Approval of an Increase in Rates for Water Service and Other Tariff Changes  
BPU Docket No. WR0803139  
OAL Docket No. PUC 3509-08

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Dear Judge Braswell

Enclosed please find a signed copy of the Stipulation of Settlement (the "Settlement") in the above captioned matter signed by Rate Counsel, the Staff of the Board of Public Utilities, and United Water Toms River (the "Company"). We apologize for the delay in getting this document to you, but the internal approval processes have not been as rapid as hoped.

As you may recall, the Township of Berkeley and the Township of Toms River both sought, and obtained, Intervenor status, as this case was nearing completion. Consequently, during the August 20 teleconference of the parties you advised counsel for Berkeley and counsel for Toms River, and they fully agreed, that they accepted the case as they found it. Indeed, as discussed on that call, relevance must be the starting point for any comments made at this stage of the proceeding. Based on that discussion, the Company agreed during that conference to provide both Mr. Sheehan and Mr. Troncone with reasonable responses to their additional inquiries - which were provided by the Company within two days.

As you know, the Township of Berkeley and the Township of Toms River individually filed objections to the draft Settlement. While both filings raised concerns of limited relevance to this proceeding, the matters expressed by Toms River in particular are far beyond the boundaries of this matter. Needless to say, the continuous repetition of irrelevant and fully probed allegations, shown to be either irrelevant, incorrect or both will not assist this process or a

Honorable Walter M. Braswell, ALJ  
September 18, 2008  
Page 2

fair resolution of this matter. Toms River is certainly well aware that it initiated two separate matters to examine these concerns, both of which Berkeley joined, and that such concerns are properly dealt with in the dockets Toms River itself initiated—not here.

As amply evidenced by the entirety of the signed Settlement, in particular the changes from the earlier draft in paragraphs 11 and 12, all the relevant areas of concern in this rate case have been examined by the signatory parties over the course of more than 6 months of painstaking discovery, analysis, meetings, site visits, and properly noticed and conducted public hearings. Additional public comment hearings, as requested by Toms River will add neither heat nor light to the relevant facts of this case. The facts have been examined extensively, objectively, and a fully executed and thoughtful stipulation has been provided to Your Honor. We respectfully urge Your Honor to approve the stipulation and process it without delay to the BPU. Pursuant to your instructions a few weeks ago, copies of this document and letter are being emailed and/or Federal Expressed to the intervenors and participant in this matter so that they can make any additional comments directly to the BPU.

Respectfully submitted,



Stephen B. Genzer

cc: Service List



## SERVICE LIST

In the Matter of the Petition of United Water Toms River Inc.  
for Approval of an Increase in Rates for Water Service and Other Tariff Changes  
BPU Docket No. WR0803139  
OAL Docket No. PUC 3509-08

Hon. Kristi Izzo, Secretary  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102  
[kristi.izzo@bpu.state.nj.us](mailto:kristi.izzo@bpu.state.nj.us)

Dante Mugrace, Chief  
Bureau of Rates  
Division of Water & Wastewater  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102  
[dante.mugrace@bpu.state.nj.us](mailto:dante.mugrace@bpu.state.nj.us)

Maria Moran, Director  
Division of Water & Wastewater  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102  
[maria.moran@bpu.state.nj.us](mailto:maria.moran@bpu.state.nj.us)

Mark Beyer, Chief Economist  
Office of the Economist  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102  
[mark.beyer@bpu.state.nj.us](mailto:mark.beyer@bpu.state.nj.us)

Marco Valdivia, Bureau Chief  
Division of Water & Wastewater  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102  
[marco.valdivia@bpu.state.nj.us](mailto:marco.valdivia@bpu.state.nj.us)

Michael Kammer  
Division of Water & Wastewater  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102  
[mike.kammer@bpu.state.nj.us](mailto:mike.kammer@bpu.state.nj.us)

Dr. Son Lin Lai  
Office of the Economist  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102  
[Son-lin.lai@bpu.state.nj.us](mailto:Son-lin.lai@bpu.state.nj.us)

Stefanie A. Brand, Director  
Div. of Rate Counsel  
31 Clinton Street, 11<sup>th</sup> Fl.  
P.O. Box 46005  
Newark, NJ 07101

Debra F. Robinson, Esq.  
Div. of Rate Counsel  
31 Clinton Street, 11<sup>th</sup> Fl.  
P.O. Box 46005  
Newark, NJ 07101  
[drobinso@rpa.state.nj.us](mailto:drobinso@rpa.state.nj.us)

Kimberly Holmes, Esq.  
Div. of Rate Counsel  
31 Clinton Street, 11<sup>th</sup> Fl.  
P.O. Box 46005  
Newark, NJ 07101  
[kholmes@rpa.state.nj.us](mailto:kholmes@rpa.state.nj.us)

Bernard Smalls, Legal Associate  
Div. of Rate Counsel  
31 Clinton Street, 11<sup>th</sup> Fl.  
P.O. Box 46005  
Newark, NJ 07101  
[bsmalls@rpa.state.nj.us](mailto:bsmalls@rpa.state.nj.us)

Alex Moreau, DAG  
Division of Law  
124 Halsey Street  
P.O. Box 45029  
Newark, NJ 07101  
[alex.moreau@dol.lps.state.nj.us](mailto:alex.moreau@dol.lps.state.nj.us)

Cynthia L. Miller, DAG  
Division of Law  
124 Halsey Street  
P.O. Box 45029  
Newark, NJ 07101  
[Cynthia.l.miller@dol.lps.state.nj.us](mailto:Cynthia.l.miller@dol.lps.state.nj.us)

Kerri Kirschbaum, DAG  
Division of Law  
124 Halsey Street  
P.O. Box 45029  
Newark, NJ 07101  
[Kerri.kirschbaum@dol.lps.state.nj.us](mailto:Kerri.kirschbaum@dol.lps.state.nj.us)

Nadine Leslie  
Vice President & Gen. Manager  
United Water Toms River  
15 Adafre Avenue  
P.O. Box 668  
Toms River, NJ 08754  
[nadine.leslie@unitedwater.com](mailto:nadine.leslie@unitedwater.com)

Mark A. Gennari  
Director - Regulatory Business  
United Water New Jersey  
200 Old Hook Road  
Harrington Park, NJ 07640  
[mark.gennari@unitedwater.com](mailto:mark.gennari@unitedwater.com)

James C. Cagle  
Director - Regulatory Business  
United Water Management & Services  
200 Old Hook Road  
Harrington Park, NJ 07640  
[jim.cagle@unitedwater.com](mailto:jim.cagle@unitedwater.com)

Robert J. Henkes  
Henkes Consulting  
7 Sunset Road  
Old Greenwich, CT 06870  
[rhenkes@optonline.net](mailto:rhenkes@optonline.net)

David C. Parcell, Vice President  
Technical Associates, Inc.  
James Center III  
1051 W. Cary Street, Suite 601  
Richmond, VA 23219  
[d.parcell@worldnet.att.net](mailto:d.parcell@worldnet.att.net)

Howard J. Woods, Jr., P.E.  
Howard J. Woods, Jr. & Assoc. LLC  
138 Liberty Avenue  
Newton, PA 18940-1111  
[howard@howardwoods.com](mailto:howard@howardwoods.com)

Patrick J. Sheehan, Esq.  
Glasner & Sheehan  
6 Hooper Avenue  
Toms River, NJ 08753

Mark A. Tronccone, Esq.  
Township Attorney  
Township of Dover/Toms River  
Department of Law  
33 Washington Street  
P.O. Box 728  
Toms River, NJ 08754

Robert K. Haelig, Jr.  
P.O. Box 155  
Lavallette, NJ 08735

Stephen B. Genzer, Esq.  
Colleen Foley, Esq.  
Saul Ewing LLP  
One Riverfront Plaza, 5<sup>th</sup> Fl.  
Newark, NJ 07102  
[sgenzer@saul.com](mailto:sgenzer@saul.com)  
[cfoley@saul.com](mailto:cfoley@saul.com)

STATE OF NEW JERSEY  
BOARD OF PUBLIC UTILITIES

2008 SEP 19 A 11:58

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IN THE MATTER OF THE PETITION  
OF UNITED WATER TOMS RIVER, INC.  
FOR APPROVAL OF AN INCREASE IN  
RATES FOR WATER SERVICE  
AND OTHER TARIFF CHANGES

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BPU DOCKET NO. WR08030139  
OAL DKT. NO. PUCRA 03509 2008-N

STIPULATION OF  
SETTLEMENT

APPEARANCES:

Stephen B. Genzer, Esq., and Colleen A. Foley, Esq., Saul Ewing LLP, on behalf of United Water Toms River Inc., Petitioner

Alex Moreau, Esq., Cynthia L. Miller, Esq., and Kerri Kirschbaum, Esq., Deputy Attorneys General (Anne Milgram, Attorney General of New Jersey), on behalf of the Staff of the New Jersey Board of Public Utilities

Debra F. Robinson, Esq., and Kimberly K. Holmes, Esq. Deputy Public Advocate (Stefanie A. Brand, Rate Counsel), on behalf of the Department of the Public Advocate, Division of Rate Counsel

TO THE HONORABLE BOARD OF PUBLIC UTILITIES:

The Parties in this proceeding are as follows: United Water Toms River Inc., ("Petitioner" or "Company"), the Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel"), and the Staff of the Board of Public Utilities ("Staff"). As a result of an analysis of Petitioner's pre-filed testimony and exhibits, extensive discovery, and two public comment hearings held on June 23, 2008, in Toms River, New Jersey, the Petitioner, Staff and Rate Counsel (collectively, the "Signatory Parties") have come to an agreement on the issues in dispute in this matter. The Signatory Parties hereto agree and stipulate as follows.

## PROCEDURAL HISTORY

1. On March 6, 2008, Petitioner, a public utility corporation of the State of New Jersey, pursuant to N.J.S.A. 48:2-21 and 14:1-5.12 et. seq., filed a petition with the Board of Public Utilities (“Board” or “BPU”) to increase rates for water service and to make other tariff changes. Specifically, the Petitioner requested a rate increase of approximately \$14.9 million. The test year in this proceeding was proposed to be the twelve-month period ending May 31, 2008, adjusted for known and measurable changes, with a rate year ending November 30, 2008. The concept of a two-phased proceeding was proposed in the petition. The Signatory Parties have agreed upon a phased implementation of the rate increase agreed upon hereto, and agreement is incorporated in this stipulation, as noted below.

2. The Board transmitted this matter to the Office of Administrative Law (“OAL”), and Administrative Law Judge (“ALJ”) Walter Braswell was assigned to hear the case. On April 9, 2008, the Board entered an Order suspending until August 14, 2008, the implementation of changes the Petitioner sought to make to its tariffs. A Pre-Hearing Conference was convened by ALJ Braswell on March 28, 2008, and a Pre-Hearing Order was issued on April 25, 2008. On July 30, 2008, the Board issued a second order further suspending the implementation of proposed rates.

3. Extensive discovery was conducted by the Signatory Parties with the Petitioner providing responses to hundreds of data requests. After proper notice, two public hearings were held in the service territory of the Petitioner on June 23, 2008: one in the afternoon and one in the evening at the Ritacco Center in Toms River, New Jersey. Numerous members of the public appeared and commented on the proposal. Most stated their opposition to the magnitude of the request.

4. Numerous settlement discussions were held, and the agreements reached during those discussions have resulted in the following stipulation by the Signatory Parties.

#### RATE INCREASE

5. The Signatory Parties agree that for purposes of this settlement rate base is established at \$67,700,000. The Signatory Parties agree that, for the purposes of this settlement only, an overall rate of return of 8.35% will be used. For the purposes of this proceeding only, this overall rate of return is calculated using the Petitioner's filed capital structure with long term debt calculated at a rate of 6.64% and equity calculated at a rate of 10.0%. The calculation of the additional revenue requirement amount is as follows:

Rate Base	\$67,700,000
Rate of Return	8.35%
Required Operating Income	<u>5,652,950</u>
Test Year Operating income	<u>(55,662)</u>
Deficiency	5,708,612
Revenue Conversion Factor	1.774
Revenue Requirement	<u>\$10,127,077</u>

6. The Signatory Parties stipulate to a total revenue increase for the Petitioner of \$10,127,077 (the "Stipulated Rate Increase"), and that this increase is an appropriate result of this matter. The Signatory Parties further acknowledge that the terms of this Stipulation, and a issue contained in this Stipulation, and approved by the Board, will become effective on the date of a fully executed written Board Order unless otherwise directed by the Board. The Signatory Parties agree that level of revenues resulting from the Stipulated Rate Increase is necessary to ensure that the Petitioner will continue to provide safe, adequate, and proper water service to their customers.

7. Included in the Stipulated Rate Increase is an amortized recovery of the litigation costs which had been deferred in BPU Docket No. WF04070603, and dated December 22, 2004.

The total of those deferred litigation costs that have been recorded in accordance with the BPU's Order in the above referenced Docket has been agreed by the Signatory Parties to be amortized at an annual rate of \$629,992 per year for a period of 25 years.

8. The Stipulated Rate Increase includes the amortization of other expenses recorded on the books of the Company and will be amortized as follows: existing current amortization for tank painting will continue on their current schedule; remaining tank painting deferrals will be amortized over a ten year period, legal costs associated with the franchise revocation over a five year period and rate case expense over a two year period. Other deferrals recorded on the books of the Company will be amortized over a five year period for accounting purposes.

9. The Signatory Parties agree that sixty-five percent (65%) of the total Stipulated Rate Increase shall go into effect on the date of a fully executed written Board Order unless otherwise directed by the Board, as noted above. The Signatory Parties further agree that thirty-five percent (35%) of the total Stipulated Rate Increase shall go into effect as a Phase 2 increase from this proceeding on November 11, 2009.

10. The Signatory Parties agree that the attached tariff pages (included as Exhibit A), implementing the terms of this Stipulation, should be adopted by the Administrative Law Judge and the Board in their entirety. Attached as Exhibit B is a Proof of Revenues for Petitioner supporting these tariffs based upon the agreements among the Signatory Parties as implemented.

#### TREATMENT FACILITIES

11. The Signatory Parties acknowledge that the Petitioner has commenced two major projects, namely, the Holly Station Iron Treatment Upgrade (the "Holly Upgrade") and Berkeley Station Radionuclide Treatment Facility (the "Berkeley Facility"). The Signatory Parties agree that the Holly Upgrade and the Berkeley Facility are prudent and necessary,

and they agree that the Company must comply with an Administrative Consent Order from the New Jersey Department of Environmental Protection, dated November, 2007. Treatment is necessary for Petitioner to continue to provide safe, adequate and proper utility service to its customers. Therefore, the Signatory Parties agree that the need for the Holly Upgrade and the Berkeley Facility has been established in this proceeding; the prudence of any dollars spent on these projects will be determined in a future proceeding.

#### FUTURE ACTIVITIES

12. The Company has recently discovered that its treatment costs/media replacement at its radium treatment facilities could need to be replaced more quickly and at higher cost than originally anticipated. To deal with this uncertain possible increase in cost and/or timing, the Company has indicated that it may need to file a request to the BPU for deferred accounting treatment to reflect that possible increase. Due to the unique nature of this item, Rate Counsel and Staff have agreed not to oppose the Board's granting of deferred accounting treatment for this item, which in no way will bind them to a position when the charges are reviewed in the next rate case.

The Company has agreed that it will not file its next full base rate case before July 1, 2009.

13. The Petitioner commits to undertake a systematic study of the potential opportunities for conservation and water reuse throughout its service territory ("Conservation Study"). The Petitioner agrees (a) to commence the study as soon as feasible, but no more than six months, after the effective date of the Board's Order in this rate case; (b) to provide a copy of a draft of the study to Board Staff and Rate Counsel, subject to confidentiality protections if applicable, by October 1, 2009; and (c) to complete the study no later than February 1, 2010,

stipulated herein. The Signatory Parties agree that the within Stipulation reflects mutual balancing of various issues and positions and is intended to be accepted and approved in its entirety. Each term is vital to this Stipulation as a whole, since the Signatory Parties hereto expressly and jointly state that they would not have signed this Stipulation had any terms been modified in any way. In the event any particular aspect of this Stipulation is not accepted and approved by the Board, then any Signatory Party hereto materially affected thereby shall not be bound to proceed under this Stipulation. The Signatory Parties further agree that the purpose of this Stipulation is to reach fair and reasonable rates, with any compromises being made in the spirit of reaching an agreement. None of the Signatory Parties shall be prohibited from or prejudiced in arguing a different policy or position before the Board in any other proceeding, as such agreements pertain only to this matter and to no other matter.

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

UNITED WATER TOMS RIVER, INC.

Sept. 18, 2008  
Date

By:   
Saul Ewing LLP  
Stephen B. Genzer, Esq.  
Attorney for Petitioners

ANNE MILGRAM  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for the Staff of the New Jersey  
Board of Public Utilities

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Alex Moreau, DAG  
Cynthia L. Miller, DAG  
Kerri Kirschbaum, DAG

stipulated herein. The Signatory Parties agree that the within Stipulation reflects mutual balancing of various issues and positions and is intended to be accepted and approved in its entirety. Each term is vital to this Stipulation as a whole, since the Signatory Parties hereto expressly and jointly state that they would not have signed this Stipulation had any terms been modified in any way. In the event any particular aspect of this Stipulation is not accepted and approved by the Board, then any Signatory Party hereto materially affected thereby shall not be bound to proceed under this Stipulation. The Signatory Parties further agree that the purpose of this Stipulation is to reach fair and reasonable rates, with any compromises being made in the spirit of reaching an agreement. None of the Signatory Parties shall be prohibited from or prejudiced in arguing a different policy or position before the Board in any other proceeding as such agreements pertain only to this matter and to no other matter.

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

UNITED WATER TOMS RIVER, INC.

\_\_\_\_\_  
Date

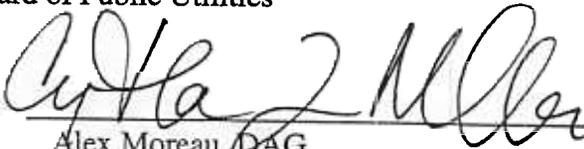
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Saul Ewing LLP  
Stephen B. Genzer, Esq.  
Attorney for Petitioners

ANNE MILGRAM  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for the Staff of the New Jersey  
Board of Public Utilities

\_\_\_\_\_  
Date

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

  
Alex Moreau, DAG  
Cynthia L. Miller, DAG  
Kerri Kirschbaum, DAG

COPY



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State of New Jersey  
OFFICE OF ADMINISTRATIVE LAW  
33 Washington Street  
Newark, New Jersey 07102  
(973) 648-6008  
(973-648-6058)

Robert J. Giordano, ALJ &  
Manager of Organizational Development

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Re: Initial Decisions for Receipt

We are hereby forwarding to you the following decisions from the office of Administrative Law. **Receipt is acknowledged as of the next business day of the date indicated below.** Should a listed decision not be included in this batch, please call 973-648-6008.

OAL Docket No. PUC

Case Name

3509-08

United WATER  
TOM RIVER INC.

Board of Public Utilities  
Two Gateway Center  
Newark, New Jersey 07102

Date: 9/23/08

Floyd Taylor  
Board of Public Utilities