



Agenda Date: 2/11/09

Agenda Item: VIID

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu/

CUSTOMER ASSISTANCE

AMERICAN CLOTHING CORPORATION / FASHION REPUBLIC, INC., Petitioner, v.)	ORDER ADOPTING INITIAL DECISION SETTLEMENT
NEW JERSEY AMERICAN WATER COMPANY, Respondent.)	BPU DOCKET NO. WC08070488U OAL DOCKET NO. PUC09910-08

(SERVICE LIST ATTACHED)

BY THE BOARD:

On July 9, 2008, American Clothing Corporation, a subsidiary of Fashion Republic, Inc. (collectively "Petitioner"), filed a petition with the Board of Public Utilities ("Board") requesting a formal hearing related to a billing dispute with New Jersey American Water Company ("Respondent").

After the filing of Respondent's answer, the Board transmitted this matter to the Office of Administrative Law ("OAL") for hearing and initial disposition as a contested case pursuant to N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq. This matter was assigned to Administrative Law Judge ("ALJ") Gail M. Cookson.

While this matter was pending at the OAL, the parties engaged in negotiations and entered into and signed a Settlement Agreement and Release ("Agreement") that was submitted to the ALJ. By Initial Decision issued on January 6, 2009, and submitted to the Board on January 13, 2009, to which the Agreement was attached and made a part thereof, ALJ Cookson found that the Agreement was voluntary, that its terms fully disposed of all issues in controversy, and that it satisfied the requirements of N.J.A.C. 1:1-19.1. Pursuant to the terms of the Agreement, the parties agreed that the Petitioner will pay \$1,569.42 to the Respondent within thirty days of the entry of the Agreement, after which the Respondent will apply a credit to the Petitioner's account in the amount of \$1,577.97. Respondent acknowledges that the increase in usage of 1,018 units for the time period of May 22, 2007 through August 14, 2007 does not reflect the

actual usage; rather, the actual usage was 497 units, which represents 371,756 gallons of water.¹ Upon Petitioner's payment, the Respondent, at Petitioner's request, will send a letter to Petitioner indicating that Petitioner's actual water usage from May 22, 2007, through August 14, 2007, was 371,756 gallons rather than 761,464 gallons so that Petitioner can submit it to the appropriate municipal sewerage authority. The Agreement also provides that if the Petitioner does not make the stipulated payment, the Respondent may seek collection of \$3,147.39, the total amount stated on the August, 2007 bill. The parties have further agreed that the Petitioner will dismiss its petition with prejudice and that, upon the stipulated payment, the Respondent will release all claims for unpaid amounts with respect to the August 2007 bill.

After review of the Initial Decision and the Agreement of the parties, the Board HEREBY FINDS that, by the terms of the Agreement, the parties have resolved all outstanding contested issues in this matter. Accordingly, the Board HEREBY ADOPTS the Initial Decision and the Settlement Agreement and Release executed by the parties in their entirety as if fully set forth herein.

DATED: 2/11/09

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

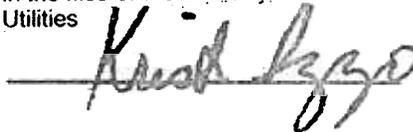

NICHOLAS ASSELTA
COMMISSIONER


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



¹ The Board understands that Petitioner has paid the agreed upon amount of \$1, 569.42; therefore, the Board does not need to pass upon the provision of the Agreement indicating that if the payment was not made the Respondent would proceed with collection of total amount originally stated to be due on Petitioner's August 2007 bill.

AMERICAN CLOTHING CORP. / FASHION REPUBLIC, INC.

v.

NEW JERSEY AMERICAN WATER COMPANY

BPU DOCKET NO. WC08070488U

OAL DOCKET NO. PUC09910-08

SERVICE LIST

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Julie Ford-Williams
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Newark, New Jersey 07102

gc

CMS
TBSSOW
RPA
KIRSCHBAUM, K
KORD-WILLIAMS



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

SETTLEMENT

OAL DKT. NO. PUC 09910-08

AGENCY DKT. NO. WC08070488U

**AMERICAN CLOTHING CORP./ FASHION
REPUBLIC, INC.,**

Petitioner,

v.

NEW JERSEY AMERICAN WATER COMPANY, INC.,

Respondent.

Ferdinando M. Pugliese, Esq., for petitioner American Clothing Corp./Fashion Republic, Inc. (Ferdinando M. Pugliese, attorney)

Daniel J. Bitonti, Esq., for respondent New Jersey American Water Company, Inc. (Cozen O'Connor, attorneys)

Record Closed: December 26, 2008

Decided: January 6, 2009

BEFORE **GAIL M. COOKSON, ALJ**

On August 29, 2008, this matter was transmitted to the Office of Administrative Law (OAL) for hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to-15 and N.J.S.A. 52:14F-1 to- 13. A settlement conference was scheduled for October 17, 2008, at which time significant progress toward an amicable resolution was reached. The parties subsequently submitted a fully executed settlement document which is attached hereto

and made part hereof. have reviewed the record and terms of the Settlement Agreement and Release and **FIND**:

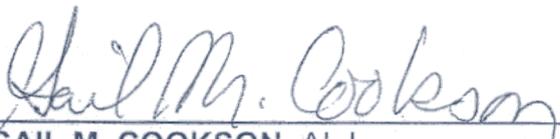
- 1 The parties have voluntarily agreed to the settlement as evidenced by the signatures of the parties or their representatives.
2. The settlement fully disposes of all issues in controversy and is consistent with law.

I **CONCLUDE** that the agreement meets the requirements of N.J.A.C. 1:1-19.1 and therefore, it is **ORDERED** that the matter be deemed dismissed with prejudice and that these proceedings be and are hereby concluded.

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 (45) 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.

January 6, 2009
DATE


GAIL M. COOKSON, ALJ

Date Received at Agency: 1-13-09


Mailed to Parties:

DATE
pb

OFFICE OF ADMINISTRATIVE LAW

STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

AMERICAN CLOTHING CORP./FASHION
REPUBLIC, INC.,

BPU Docket No. WC(8070488U
OAL Docket No. PUC CC09910-2008N

Petitioner,

vs.

**SETTLEMENT AGREEMENT
AND RELEASE**

NEW JERSEY-AMERICAN WATER
COMPANY, INC.

Respondent.

WHEREAS, American Clothing Corp./Fashion Republic, Inc. ("Petitioner"), has filed a Petition with the Board of Public Utilities wherein it disputed a bill from New Jersey-American Water Company, Inc. ("NJAWC" or "Company"), for the billing period from May 22, 2007, to August 14, 2007, for water usage at the property located at 42 Jackson Drive Cranford, New Jersey 07016; and

WHEREAS, the Company answered Petitioner's Complaint and requested the Board of Public Utilities require Petitioner to pay the full amount in dispute, which is Three Thousand One Hundred Forty-Seven Dollars and Thirty-Nine Cents (\$3,147.39); and

WHEREAS, the Board of Public Utilities assigned Docket No. WC03070488U to this matter and transferred it to the Office of Administrative Law, which assigned it Docket No. PUCCC09910-2008N; and

WHEREAS, the Petitioner and Company wish to resolve this matter without the necessity for further litigation;

IT IS THEREFORE AGREED AS FOLLOWS:

Petitioner will pay the Company One Thousand Five Hundred Sixty-Nine Dollars and Forty-Two Cents (\$1,569.42) within thirty (30) days of entry of this Settlement Agreement.

2. After payment by Petitioner, the Company will apply a credit to Petitioner's account in the amount of One Thousand Five Hundred Seventy-Seven Dollars and Ninety-Seven Cents (\$1,577.97)

3. Petitioner will dismiss its Petition with prejudice

4. If Petitioner fails to pay the agreed amount in satisfaction of the August 2007 bill within thirty (30) days specified above, the Company reserves the right to proceed with collection process for the total amount stated on the August 2007 bill, \$3,147.39

5. Petitioner releases any and all claims it may have with respect to past bills against the Company. However, in the event that a subsequent meter test demonstrates that Petitioner's current meter is not functioning properly, the Company will make the appropriate adjustment to Petitioner's account.

6. The Company acknowledges that the usage increase represented on the August 2007 bill of 1,018 units does not reflect the actual usage for the billing period of May 14, 2007, through August 14, 2007; rather, the actual usage for that time period was 497 units, which represents 371,756 gallons of water during that time period.

7. Upon Petitioner's request, after payment of the amount specified in this Settlement Agreement, the Company will send the attached letter to the Petitioner so that it can submit it to the appropriate municipal sewerage authority indicating that Petitioner's actual water usage for the time period May 14, 2007, through August 14, 2007, was not 1,018 units or 761,464 gallons; rather, it was 497 units or 371,756 gallons

8. Upon payment of the amount specified in this Settlement Agreement within the specified time period of thirty (30) days, the Company will release any and all claims for unpaid amounts with respect to the August 2007 bill

RECEIVED
CASE MANAGEMENT
2009 JAN 13 AM 8:55
BOARD OF PUBLIC UTILITIES
NEWARK, N.J.

OP



OP

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

NORTH

Date JAN 7 2009

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
<u>9910-08</u>	<u>AMERICAN CLOTHING CORP. / Fashion Republic Inc.</u>

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

Date: 1/13/09

Board of Public Utilities