



Agenda Date: 2/28/18  
Agenda Item: VIIA

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 3<sup>rd</sup> Floor, Suite 314  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

CUSTOMER ASSISTANCE

|  |   |                              |
|--|---|------------------------------|
| <b>39 UNION CONDO ASSOCIATION, INC.,</b> | ) | ORDER REJECTING              |
| Petitioner,                              | ) | INITIAL DECISION             |
|  | ) |                              |
| v.                                       | ) |                              |
|  | ) |                              |
| <b>SUEZ WATER NEW JERSEY, INC.,</b>      | ) | BPU Dkt. No. WC17070764U     |
| Respondent.                              | ) | OAL Dkt. No. PUC 15550-2017N |

**Parties of Record:**

**R.N. Tendai Richards, Esq.,** 39 Union Condo Association, Inc.  
**John P. Wallace, Esq.,** Suez Water New Jersey, Inc.

**BY THE BOARD:**

On July 18, 2017, 39 Union Condo Association, Inc. ("Petitioner") filed a petition with the Board of Public Utilities ("Board") requesting a formal hearing related to a billing dispute with Suez Water New Jersey, Inc. ("Respondent") for utility services rendered by 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") Kimberly A. Moss.

While this matter was pending at the OAL, the parties engaged in negotiations and executed a Stipulation of Dismissal ("Stipulation") that was attached to and made part of the Initial Decision, dated January 19, 2018. The Stipulation provides, "that any and all claims in the above-referenced action asserted against Suez by Plaintiff or against Plaintiff by Suez are hereby dismissed with prejudice, and without costs to any party."

ALJ Moss submitted the Initial Decision to the Board on January 19, 2018.

N.J.A.C. 1:1-19.1 provides, in pertinent part, that:

- (a) Where the parties to a case wish to settle the matter, and the transmitting agency is not a party, the judge shall require the parties to disclose the full settlement terms:

1. In writing, by consent order or stipulation signed by all parties or their attorneys; or
2. Orally, by the parties or their representatives.

N.J.A.C. 1:1-19.1(a) requires full disclosure of the settlement terms. The Stipulation attached to the Initial Decision does not specify the precise settlement terms but rather notes that the parties have agreed to dismiss all claims. Accordingly, the Board **FINDS** that there is no settlement document before the Board which contains specific terms and conditions, as contemplated by N.J.A.C. 1:1-19.1(a). The Board further **FINDS** that there is no evidence in the record under which the Board can accept ALJ Moss's conclusion that the provisions of N.J.A.C. 1:1-19.1 have been met. As a result, the Board **HEREBY REJECTS** the conclusion of ALJ Moss as set out in the Initial Decision and **HEREBY REJECTS** the Initial Decision.

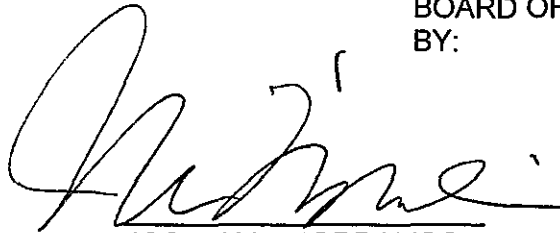
Notwithstanding, the Board will consider this matter to be closed. As stated previously, the Stipulation attached to the Initial Decision clearly indicates the intention of both parties to dismiss all claims. Thus, the Board **HEREBY FINDS** that the petition is **HEREBY WITHDRAWN** with prejudice.

The Board **HEREBY ORDERS** that the Initial Decision is **HEREBY REJECTED** and that the petition is **HEREBY WITHDRAWN** with prejudice.

This order shall be effective March 10, 2018.

DATED: 2/28/18

BOARD OF PUBLIC UTILITIES  
BY:



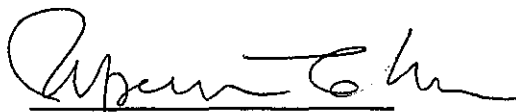
JOSEPH L. FIORDALISO  
PRESIDENT



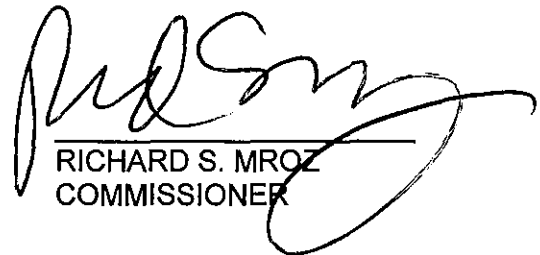
MARY-ANNA HOLDEN  
COMMISSIONER



DIANNE SOLOMON  
COMMISSIONER

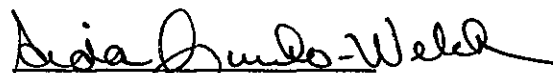


UPENDRA J. CHIVUKULA  
COMMISSIONER



RICHARD S. MROZ  
COMMISSIONER

ATTEST:



AIDA CAMACHO-WELCH  
SECRETARY

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

**39 UNION CONDO ASSOCIATION, INC.**

**V.**

**SUEZ WATER NEW JERSEY, INC.**

**BPU Dkt. No. WC17070764U  
OAL Dkt. No. PUC 15550-2017N**

**SERVICE LIST**

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JAN 19 2018

BOARD OF PUBLIC UTILITIES  
SECRETARY'S OFFICE

*CMS*



State of New Jersey  
OFFICE OF ADMINISTRATIVE LAW

BOARD OF PUBLIC UTILITIES

JAN 19 2018

MAIL RECEIVED

INITIAL DECISION

DISMISSAL

OAL DKT. NO. PUC 15550-17

AGENCY DKT. NO. WC17070764U

**39 UNION CONDO ASSOCIATION,**

Petitioner,

v.

**SUEZ WATER NEW JERSEY,**

Respondent.

R.N. Tendai Richards, Esq. on behalf of petitioner

John P. Wallace, Esq., on behalf of respondent (Suez Water New Jersey)

Record Closed: January 18, 2018

Decided: January 19, 2018

BEFORE KIMBERLY A. MOSS, ALJ:

On October 19, 2017, 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 telephone prehearing was scheduled wherein petitioner was advised that it is an entity that must be represented by an attorney. On December 13, 2017 petitioner's counsel submitted a notice of appearance on this matter and another conference was scheduled for January 5, 2018. During the pendency of the conference the parties engaged in extensive settlement discussions. On January 18, 2018 OAL received a Stipulation of Dismissal resolving all issues in dispute. Said dismissal is attached hereto for reference.

*CMS*  
D. Thomas  
E. Hartsfield  
J. Ford  
R. Lambert  
R. Matos  
D. Brantley  
K. Flynn  
B. Asce  
C. Vachnie

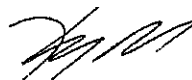
I have reviewed the record and terms of the Stipulation of Dismissal and **CONCLUDE** that this matter is no longer a contested case before OAL and should be returned to the agency.

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.

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, 44 South Clinton Avenue, P.O. Box 350, Trenton, NJ 08625-0350**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

January 19, 2018



\_\_\_\_\_  
DATE

\_\_\_\_\_  
**KIMBERLY A. MOSS, ALJ**

Date Received at Agency:

\_\_\_\_\_  
January 19, 2018

Date Mailed to Parties:

ljb

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STATE OF NEW JERSEY  
OFFICE OF ADMINISTRATIVE LAW

R.N. Tendai Richards (07794-1995)  
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& KAHN, P.C.  
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*Attorneys for Plaintiff,*  
*39 Union Condo Association, Inc.*

39 UNION CONDO ASSOCIATION, INC., OFFICE OF ADMINISTRATIVE LAW  
Plaintiff, OAL DOCKET NO.: PUC 15550-2017 N  
BPU DOCKET NO.: WC 17070764U

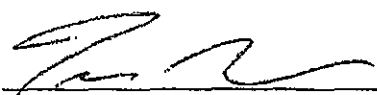
v.


SUEZ WATER NEW JERSEY, INC.,  
Defendant.  
STIPULATION OF DISMISSAL  
WITH PREJUDICE

IT IS HEREBY STIPULATED AND AGREED, by and between Plaintiff, 39 Union Condo Association, Inc., and Defendant, Suez Water New Jersey, Inc. ("Suez"), by and through their attorneys, that any and all claims in the above-referenced action asserted against Suez by Plaintiff or against Plaintiff by Suez are hereby dismissed with prejudice, and without costs to any party.

39 Condo Association, Inc.  
By Its Attorneys  
Winne, Banta, Basralian & Kahn, P.C.

Suez Water New Jersey, Inc.  
By Its Attorney  
John P. Wallace, Esq.

By:   
R. N. Tendai Richards, Esq.

By:   
John P. Wallace, Esq.

Dated: January 15, 2018

Dated: January 15, 2018