



Agenda Date: 7/11/07
Agenda Item: 5B

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

WATER

IN THE MATTER OF THE PETITION OF	)	DECISION AND ORDER
ELIZABETHTOWN WATER COMPANY	)	
FOR APPROVAL OF AN INCREASE IN	)	DOCKET NO. WR03070510
RATES FOR WATER SERVICE	)	

(SERVICE LIST ATTACHED)

BY THE BOARD:

On February 19, 2004, the Board of Public Utilities (Board) issued an Order (2004 Order) approving an increase in rates for the Elizabethtown Water Company (Company or E'town)¹ in the overall amount of \$5,026,551 representing a 3.14% increase over the then current revenues. In the 2004 Order, the Board recognized and stressed the high importance placed on the proper economic and environmental use of the State's water resources in light of the more frequent and severe droughts experienced in the State and the public benefit implicit in the proper economic and environmental use of the State's finite water resources.

The Board ordered that the Optional Industrial Wholesale (OIW) tariff rate² would expire on July 31, 2006, or the effective date of rates in the Company's next rate case proceeding,³ whichever was earlier. Before July 31, 2006, the Board allowed any of the parties⁴ in the 2004 E'town rate proceeding to petition the Board pursuant to a process specified in the 2004 Order (2004 Order, Par. aa).

¹ On March 29, 2006, Elizabethtown Water Company, Mount Holly Water Company and New Jersey American Water Company, Inc. filed a joint petition (See I/M/O the Joint Petition of New Jersey American Water Company, Inc., Elizabethtown Water Company and the Mount Holly Water Company for Approval of the Merger of Elizabethtown Water Company and the Mount Holly Water Company into New Jersey American Water Company and Related Authorization Docket No. WM06030253). The merger was approved by Order of the Board of Public Utilities by Order dated November 15, 2006.

² The OIW tariff customers are: Rutgers University; Princeton University; Cogen Technologies Linden Ventures, L.P.; Schering-Plough; Merck; Johanna Foods; and Conoco Philips Company/Bayway Refinery. They will be hereinafter collectively referred to as the "OIW Customers." There are no other customers covered by this tariff and no other customers are affected by the action in this proceeding.

³ The next rate case processing rates for the E'town system customers became effective pursuant to Board Order dated April 2, 2007, I/M/O the Joint Petition of New Jersey American Water Company, Inc., Elizabethtown Water Company, and the Mount Holly Water Company for Approval of Increased Tariff Rates and Charges for Water and Sewer Service and Other Tariff Revisions Docket No. WR06030257.

⁴ The parties in the proceeding that resulted in the 2004 Order were the Company; the Division of Ratepayer Advocate (now the Division of Rate Counsel); the Board Staff; Cogen Technologies; Linden Ventures, L.P.; Bayway Refinery Company and Middlesex Water Company.

Briefly, the OIW tariff process referenced above detailed in the 2004 Order directed the Company to file by January 31, 2005⁵ a revised OIW tariff for review as follows:

"The Company will submit for the Parties review new tariff(s) designed to promote environmentally beneficial water resource management, water conservation, and implement water reuse. The new tariffs shall include the environmental impact of the use of water and load factor considerations." (2004 Order, Par. aa ii).

The Board also directed the Company, as part of its new OIW tariff proposals, to

"provide incentives to customers to increase water reuse over current 2004 levels, such that water reuse is increased 20% above 2004 levels by 2006, and 40% above 2004 levels by 2010. If the Parties are able to reach agreement on the Company's tariff proposal by November 1, 2005, then the Company or Parties shall petition the Board for approval by January 31, 2006. If an agreement on the Company's tariff proposal is not reached by November 1, 2005, then a hearing will be conducted where any party to that proceeding will have the opportunity to present its position regarding the Company's tariff proposal or alternate proposals prior to a determination of the appropriate tariff structure for the Company. This proceeding will be part of a Phase II of the Company's rate petition that is the subject of the Order. The intent of the tariff proposals is to encourage environmentally beneficial use of the State's water reserves and not to substantially alter the revenues available to the Company, accordingly, any party may argue for the Board to consider rate relief as part of the Phase II proceeding." (2004 Order, Par. aa ii).

On February 2, 2006, the Board issued an Order of Amendment (2006 Order⁶) in this matter approving a Settlement entered into by the OIW Parties⁷ to the Phase II proceeding. The settlement was the result of discussions among the OIW Parties held from April 2005 through December 2005.

The 2006 Order adopted the settlement among the OIW Parties subject to the following:

1. The OIW Customers shall schedule a meeting with the Board Staff to take place in February 2006. The purpose of the meeting is to discuss the scope of water audits that will be conducted by each OIW customer. Each OIW customer shall contract with a third party with expertise in water conservation and reuse to conduct a water audit of its facilities taking service under the OIW tariff. The water audits shall include assessments and recommendations, of additional opportunities for water conservation and reuse taking into account economic costs, benefits, and paybacks on a reasonable and commercially acceptable basis.

⁵ By letter dated January 28, 2005, the Company filed a letter with the Secretary of the Board requesting an extension of time to file the draft Conservation Study by May 1, 2005, and a final Conservation Study by October 1, 2005.

⁶ I/M/O the Petition of Elizabethtown Water Company for Approval of an Increase in Rates for Water Service Docket No. WR03070510.

⁷ The Parties to this Settlement are as follows: the OIW Customers, the Company, Ratepayer Advocate (now Rate Counsel) and Board Staff. Middlesex Water Company submitted a letter advising that it did not oppose the settlement and requested that it be advised of future proceedings.

2. The purpose of the audit shall be to make recommendations as to water conservation and reuse and, for the OIW Customer that is the subject of the audit, to make changes or modify behavior to implement water conservation and reuse recommendations.
3. The results of the audit and implementation of the recommendations stemming from the audit shall have the goal of increasing water conservation and/or water reuse options, such as, but not limited to, purchasing of treated wastewater and the development of a wastewater distribution system with the objective of increasing water reuse by 20% over 2004 levels by 2008 and/or increasing water conservation by 40% above 2004 levels by 2010.
4. Each OIW Customer shall submit its completed water audit to the Board Staff by July 15, 2006.⁸ The Board Staff shall review the audits and meet with the OIW Customers, as necessary: (1) for the purpose of furthering their understanding of the audits; (2) to engage in discussions with respect to the time frame for implementation of the recommendations of each water audit; and (3) to determine whether the Board Staff can cooperatively assist in implementation of recommended measures.⁹
5. In the event the Board Staff finds that an OIW Customer is not reasonably planning to implement water conservation and/or water reuse, the Board Staff may recommend changes to the rates, terms and conditions of the OIW tariff or recommend its termination, to be effective after August 1, 2007, or the issuance of a Board Order that changes rates related to Elizabethtown Water Company.
6. The OIW Customers shall have an opportunity to contest any Board Staff recommendations or the recommendations of any party to change rates, terms and conditions of the OIW tariff, including an evidentiary hearing process, before the Board makes a determination with respect to such recommendations.
7. Any rate change pursuant to this proceeding shall not substantially alter the revenues available to the Company.

DISCUSSION AND FINDINGS

The OIW Parties met several times in 2006 to discuss the scope of water audits that would be conducted by each OIW Customer. The Water Audit Reports were submitted by the OIW customers in July and August of 2006. Board Staff met with each of the OIW Customers during March, April and May of 2007 (1) to further their understanding of the information contained in the audits; (2) to discuss the time frame for implementation of the recommendations of the water audit; and (3) to determine whether Board Staff could cooperatively assist in implementation of recommended measures.

Pursuant to the request of Board Staff, the New Jersey Department of Environmental Protection (DEP) reviewed the water audit reports and provided its comments to both the OIW Customers and Board Staff. The DEP comments addressed areas it thought were not adequately covered in the water audit or areas where it thought the recommendations of the water audit consultant

⁸ Two OIW Customers, Rutgers University and Cogen Technologies Linden Venture, L.P., requested an extension of the July 15, 2006 report submission date.

⁹ The 2006 Order at page 4, paragraph c, stated: "The Board is not, at this time, approving confidentiality of the audits. Once the audits are complete, the OIW customers may request confidential treatment for its audit by providing support as to why the audit is or should be considered confidential."

did not go far enough. The DEP did not address the cost benefit analysis related to its comments.

In meetings with the OIW Customers in March, April, and May of this year, Board Staff directed each OIW to submit a timetable of future conservation and reuse projects that it intended to implement based upon its water audit consultant's recommendations and the related cost benefit analysis.

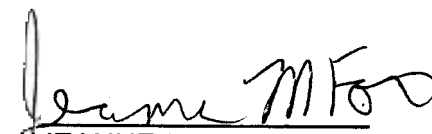
Based upon the review of the OIW Water Audit Reports and meetings with the OIW Customers, Board Staff has determined that the OIW Customers have made or are reasonably planning to implement water conservation and/or water reuse measures, taking into account economic costs benefits, and paybacks on a reasonable and commercially acceptable basis.

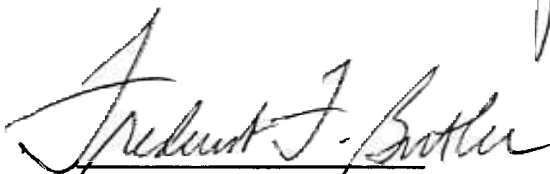
Based upon the foregoing, the Board HEREBY ORDERS that no changes to the rates, terms and conditions of the OIW tariff be made at this time and that such tariff shall not terminate on August 1, 2007. This Order is issued subject to the following provisions:

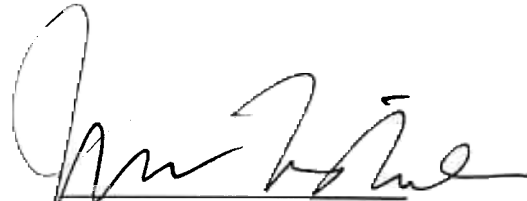
- 1 The Board reserves the right to revisit this issue in a future base rate case of New Jersey American Water Company to determine whether the OIW tariff should be continued in its present form, revised, or terminated.
2. For each OIW Customer, the New Jersey American Water Company, Inc. shall, on February 1st of each year until 2011, submit to the Board a report that provides the gallons of water sold to each of the OIW Customers during the previous calendar year and each calendar year since 2003.

DATED: 7/12/07

BOARD OF PUBLIC UTILITIES
BY:

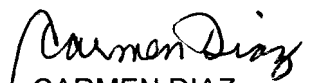

JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER

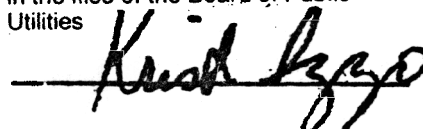

JOSEPH L. FIORDALISO
COMMISSIONER


CHRISTINE V. BATOR
COMMISSIONER

ATTEST:


CARMEN DIAZ
ACTING SECRETARY

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



SERVICE LIST

IN THE MATTER OF THE PETITION OF
ELIZABETHTOWN WATER COMPANY
FOR APPROVAL OF AN INCREASE IN
RATES FOR WATER SERVICE

DOCKET NO. WR03070510

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