



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

WATER

EQUITY ASSOCIATES, LLC,)	ORDER ADOPTING INITIAL DECISION
PETITIONER)	SETTLEMENT
v.)	
)	
NEW JERSEY AMERICAN WATER COMPANY,)	BPU DOCKET NO. WO09030197
RESPONDENT)	OAL DOCKET NO. PUC6537-09

Jeffrey E. Snow, Esq., Riverside, New Jersey, on behalf of Equity Associates,
LLC, Petitioner

Daniel J. Bitonti, Esq., Cozen O'Connor, Cherry Hill, New Jersey, on behalf of
New Jersey American Water Company, Respondent

BY THE BOARD:

Equity Associates, LLC ("Equity" or "Petitioner"), a developer based in Delanco, New Jersey, filed an informal complaint with the New Jersey Board of Public Utilities ("Board") on September 8, 2008. This complaint disputed the refund formula New Jersey American Water Company ("NJAWC", "Company" or "Respondent") applied to Petitioner's property at 1097 Putnum Street in Beverly (Block 7, Lot 802 on the Beverly tax map) ("Subject Property").

On May 28, 2009, Equity filed a formal petition with the Board against the Respondent identifying three issues: 1. Has the New Jersey American Water Company properly calculated the costs of extending the water service to the subject property?; 2. Must the water service to/at the property be extended to the middle of the house to be constructed on the lot as opposed to the edge of the property from which lateral could be run?; and 3. Why didn't the New Jersey American Water company provide the petitioner with a copy of the New Jersey Administrative Code that affects all regulated utilities supplying electric, gas, water, telephone, or cable service in New Jersey prior to the time it accepted a \$250.00 application fee?.¹

¹ The formal complaint did not allege the improper application of the refund formula identified in the informal complaint.

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 ("ALJ") Judge W. Todd Miller.

While this matter was pending at the OAL, Petitioner and Respondent (the "Settling Parties")² engaged in negotiations and entered into and executed a Stipulation of Settlement and Dismissal ("Stipulation") dated December 10, 2009 that was submitted to ALJ Miller.³ While the Initial Decision was issued by ALJ Miller on December 10, 2009, through some unexplained administrative error, the Board did not receive same until February 25, 2010. In his Initial Decision, ALJ Miller found that the Settlement was voluntary, and that its terms fully disposed of all issues in controversy and that it met the requirements of N.J.A.C. 1:1-19.1. The Settling Parties have agreed to the Stipulation and agree to release each other from "any and all claims that either party had, has, or may have against each other with respect to this matter." The Board notes that the resolution of this matter did not result in the Settling Parties entering into a Main Extension Agreement for the Subject Property. The meter pit for the Subject Property is located on Wheatly Avenue and a line identified by the Settling Parties as a service line runs through the public right-of-way on Putnum Street.

Pursuant to the terms of the Stipulation, the parties agreed that, within 30 days of entry of the execution of the Stipulation, the Respondent will pay the Petitioner the sum of \$1,000.00. In return, the Petitioner has agreed that in its deed of conveyance, it will acknowledge that the customer service line running from the meter pit on Wheatly Avenue in the City of Beverly ("Beverly"), through the public right-of-way on Putnum Street in Beverly through and up to the structure located at 1097 Putnum Street in Beverly (Block 7, Lot 802 on the Beverly tax map) shall be owned, operated and maintained by the property owner and any successor owners. The Petitioner further agreed to provide the Respondent with a copy of the recorded deed within 30 days of its recording. In addition, both parties have released each other from any and all claims that either may have had or do have with regard to this matter.

No parties have submitted exceptions or otherwise opposed the Initial Decision or Stipulation.

After a review and consideration of the Initial Decision and the Stipulation of the Settling Parties, the Board HEREBY FINDS that the terms of the Stipulation represent a fair and reasonable resolution of all outstanding contested issues. Accordingly, the Board HEREBY ADOPTS the Initial Decision and Stipulation as its own, incorporating by reference the terms and conditions as if fully set forth herein, subject to the following:

1. This Order shall not be construed as the Board directly or indirectly accepting the Settling Parties characterization of the line running through the public right-of-way;
2. This Order shall not affect nor in any way limit the exercise or authority of this Board, or this State, in any future petition or in any proceeding with respect to rates, franchises, services, financing, accounting, capitalization, depreciation, or any other matters affecting the Respondent;

² Board Staff and the Department of Public Advocate, Division of Rate Counsel ("Rate Counsel") did not participate in the settlement discussions or sign the Stipulation.

³ Copies of the Initial Decision and Stipulation are attached.

3. This Order shall not be construed as directly or indirectly fixing, for any purpose whatsoever, any value of the tangible or intangible assets now owned or hereafter to be owned by Respondent;
4. Approval of the Stipulation does not constitute Board approval of any costs or expenses associated with this Stipulation. In an appropriate separate proceeding, the Company shall have the burden of demonstrating whether, and to what extent, any of the costs associated with this Stipulation shall be allocated to ratepayers.

DATED: 3/24/10

BOARD OF PUBLIC UTILITIES
BY:



LEE A. SOLOMON
PRESIDENT



JEANNE M. FOX
COMMISSIONER



JOSEPH L. FIORDALISO
COMMISSIONER



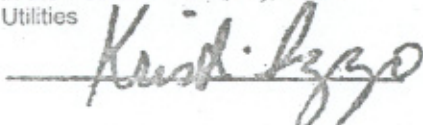
NICHOLAS ASSELTA
COMMISSIONER



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



EQUITY ASSOCIATES, LLC

v.

NEW JERSEY AMERICAN WATER COMPANY

BPU Docket No. WO09030197

OAL Docket No. PUC6537-09

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PETITION FOR FORMAL HEARING

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

Petitioner: Equity Associates, LLC
P.O. Box 5251
Delanco, New Jersey 08075

Respondent: New Jersey American Water Company
167 J.F. Kennedy Parkway
Short Hills, New Jersey 07078

Docket No. W009030197

PLEASE TANK NOTICE that the undersigned, attorney for the petitioner, Equity Associates, LLC, hereby requests a formal hearing to consider the following issues related to its application for the acquisition of public water service to real property that it owns located at 1097 Putnam Street, Beverly City, Burlington County, New Jersey (Block 7, Lot 8.02).

The respondent's reference number for this particular job is 2007286

Issue No. 1:

Has the New Jersey American Water Company properly calculated the costs of extending the water service to the subject property?

Issue No. 2:

Must the water service to/at the property be extended to the middle of the house to be constructed on the lot as opposed to the edge of the property from which a lateral could be run?

Issue No. 3.:

Why didn't the New Jersey American Water Company provide the petitioner with a copy of New Jersey Administrative Code that affects all regulated utilities supplying electric, gas, water, telephone, or cable service in New Jersey prior to the time it accepted a \$250.00 application fee?

It is submitted that as the owner of the subject property, namely 1097 Putnam Street, Beverly, New Jersey (Block 7, Lot 8.02), Equity Associates, LLC is also the applicant for an extension of service provided by the respondent, a regulated utility company.

The property in question is a residential infill lot. It is located in a "Smart Growth" area.

Petitioner intends to construct a single family residential home on the property and eventually sell it to a bona fide purchaser. It has applied for service in its name. Based upon current market conditions, service shall remain in its name for an indeterminate amount of time.

Not only will the petitioner be a "customer of record" it is a "person", a "customer" and a "residential customer" within the definitions set forth in N.J.A.C. 14:3-1.1.

Petitioner does not dispute that the regulated entity, in this case the respondent, New Jersey American Water Company, is entitled to a deposit in conjunction with extending water service to the subject property.

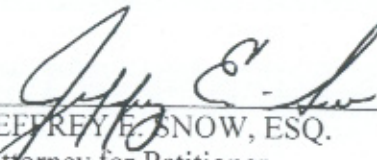
It is the petitioner's position that the regulated entity has misapplied the suggested formula to a water extension that will serve only a single family residential customer (N.J.A.C. 14:3-8.11).

At the same time, the regulated entity is insisting that the newly installed water service extension run to the middle of the structure that is to be erected at the site, as opposed to the curb at the boundary line of an individual lot (N.J.A.C. 14:3-8.9(g)1).

Petitioner, Equity Associates, LLC, requests a formal hearing before the New Jersey Board of Public Utilities to hear and decide these issues and make a proper determination as to how the adopted regulations should be applied to its particular circumstances.

Additionally, petitioner seeks any and all additional relief available to it that the Board of Public Utilities deems appropriate based upon the actions of the respondent, including but not necessarily limited to damages, costs and counsel fees, if allowable in this proceeding.

Dated: May 28, 2009


JEFFREY E. SNOW, ESQ.
Attorney for Petitioner
Equity Associates, LLC



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

SETTLEMENT

OAL DKT. NO. PUC 6537-09

AGENCY DKT. NO. WO09030197

EQUITY ASSOCIATES, LLC,

Petitioner,

v.

NEW JERSEY AMERICAN WATER COMPANY,

Respondent.

Jeffrey E. Snow, Esq., for petitioner

Daniel J. Bitonti, Esq., for respondent (Cozen O'Connor, attorneys)

Kerri A. Kirschbaum, Deputy Attorney General, on behalf of the Staff Public
Utilities (Anne M. Milgram, Attorney General of New Jersey, attorney)

Record Closed: December 10, 2009

Decided: December 10, 2009

BEFORE W. TODD MILLER, ALJ:

This matter was transmitted to the Office of Administrative Law on September 4, 2009, for determination 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.

have reviewed the record and the terms of settlement and I **FIND**:

1. The parties have voluntarily agreed to the settlement as evidenced by their signatures or their representatives' signatures, and as placed on the record on December 10, 2009.
2. The settlement fully disposes of all issues in controversy and is consistent with the law.

I **CONCLUDE** that this agreement meets the requirements of N.J.A.C. 1:1-19.1 and that the settlement should be approved. 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.

December 10, 2009

DATE

W. J. Miller

W. TODD MILLER, ALJ

Date Received at Agency:

Date Mailed to Parties:

/sd

OAL DKT. NO. PUC 6537-09

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.

December 10, 2009

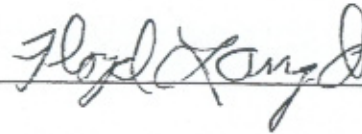
DATE

Date Received at Agency: 2/5/2010

Date Mailed to Parties:

/sd

W. TODD MILLER, ALJ



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Equity Associates, LLC

v.

Stipulation of
Settlement and
Dismissal

New Jersey American Water Co.

BPU Docket No. W0090301

CAR Docket No. PCCC 653709

WHEREAS, Petitioner, Equity Associates, LLC filed a
petition with the Board of Public Utilities seeking
a determination by the BPU regarding issues related to
~~extension~~ extension main deposits.

WHEREAS, the BPU referred this matter to the
Office of Administrative Law as a contested
case.

WHEREAS, the Respondent, New Jersey American
Water Co. disputed the allegations contained in the

2/4 3/12/09
8/11/09

Petition.

WHEREAS, the Petitioner and Respondent desire to resolve this dispute without the necessity of additional ~~hearing~~ conferences and/or hearings.

WHEREAS, the Petitioner and Respondent have agreed to the following stipulated terms in order to resolve this matter.

IT IS THEREFORE STIPULATED AND AGREED AS FOLLOWS:

1. ~~Payment~~ Respondent shall pay the Petitioner

the sum of one thousand dollars (\$1,000.00) within thirty (30) days of ~~entry~~ ^{execution} of this Stipulation.

2. ~~Deed~~ ~~A~~ Petitioner shall, in its deed of conveyance, acknowledge that the customer service

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line running from the water pit on Wheatly Avenue in
the City of Beverly, through the right of way on Putnam
Street in the City of Beverly, ^{through} and up to the residence
and/or structure located at 1097 Putnam Street (Block 7,
Lot 8.02 on the tax map of the City of Beverly),
shall be owned, operated and maintained by the
property owner and any successive owners thereof.

Petitioner shall provide Respondent with a copy of the
recorded deed within thirty (30) days after it is
recorded.

3 Release Petitioner and Respondent^{+ members, partners, agents or persons acting on behalf of} hereby
release any ~~claims~~ and all claims that either
party had, has, or may have ^{agent each other} with respect to
this matter.

4/4

Petitioner

Equity Associates



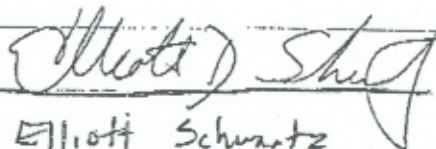
12/10/09

Curtis P. Ogden

Managing Member, Equity Associates

Respondent

New Jersey American Water Co.

 12/10/09

Elliott Schwartz

Engineering Manager