



Agenda Date: 4/28/10  
Agenda Item: 5A

**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
LAKE LENAPE WATER COMPANY FOR	)	DECISION/STIPULATION OF
APPROVAL OF AN INCREASE IN RATES	)	SETTLEMENT
AND CHARGES FOR WATER SERVICE	)	
	)	BPU DKT. NO. WR09090766
	)	OAL DKT. NO. PUCRS 13354-2009N

Jeffrey Fuller, Pro Se, on behalf of Lake Lenape Water Company

**BY THE BOARD:**

On September 22, 2009, Lake Lenape Water Company ("Company" or "Petitioner"), a public utility of the State of New Jersey subject to the jurisdiction of the Board of Public Utilities ("Board"), filed a Petition pursuant to N.J.S.A. 48:2-21 and N.J.A.C. 14:1-5.12, seeking to increase and revise its rates and charges for water service amounting to an overall increase of \$44,152 or 35.3% above adjusted annual revenues. Petitioner states that its request for a rate increase is sought in part because of its need to eliminate operating losses, to enable the Petitioner to meet increased operating expenses, to establish its financial integrity and to enable the Petitioner to continue to provide safe, adequate and proper service to its customers.

By this Order, the Board considers the Initial Decision recommending adoption of the Stipulation of Settlement ("Stipulation") executed by the Company, the Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel") and Board Staff ("Staff") (collectively the "Parties").

The Company's initial rate request would have resulted in an increase in total Company revenues in the amount of \$44,152 or 35.3% over adjusted annual revenues. After extensive settlement discussions an increase of \$23,795 representing an overall 18.84% increase over total Company revenues was agreed to by the Parties.

**BACKGROUND/PROCEDURAL HISTORY**

Petitioner is a public utility that provides water service to approximately 356 metered residential customers in a portion of the Township of Andover, Sussex County, New Jersey. There are no Interveners in this proceeding.



The matter was transmitted to the Office of Administrative Law ("OAL") on October 28, 2009, as a contested case, and was assigned to Administrative Law Judge ("ALJ") Diana Sukovich.

The Company proposed to make its rates effective on January 1, 2010. At its November 10, 2009, agenda meeting the Board entered an Order suspending the proposed rates until May 1, 2010, unless the Board prior to that date made a determination disposing of the petition.

On December 21, 2009, a telephonic pre-hearing conference was held with the Parties.

On February 2, 2010, a public hearing was held at the Andover Borough Fire Department, Andover, New Jersey, with ALJ Gail M. Cookson presiding. Eight members of the public appeared and offered testimony on the proposed rate increase. These customers were generally opposed to the proposed rate increase.

Subsequent to the public hearing and prior to the evidentiary hearings in this case, the Parties engaged in settlement negotiations. As a result of those negotiations, the Parties entered into a Stipulation of Settlement ("Stipulation") A copy of the Stipulation of Settlement is attached.

ALJ Sukovich issued her Initial Decision on April 23, 2010, recommending adoption of the Stipulation executed by the Parties, finding that the Parties had voluntarily agreed to the Stipulation and that the Stipulation fully disposes of all issues and was consistent with the law.

#### **DISCUSSION AND FINDINGS**

Among the provisions of the Stipulation, the Parties recommend a rate base of \$106,615 and an authorized rate of return of 8.15% with a 10.3% common equity component. Pursuant to the Stipulation, the bill for a Lake Lenape Water customer with metered service using 80,000 gallons of water annually, will see an increase from the current annual rate of \$487.84 per year to \$580.04 per year, an increase of \$92.20 per year, (\$23.05 per quarter) or 18.89%.

Having reviewed ALJ Sukovich's Initial Decision and the Stipulation among the Parties to this proceeding, the Board HEREBY FINDS that the Parties have voluntarily agreed to the Stipulation, and that the Stipulation fully disposes of all issues in this proceeding and is consistent with the law. The Board HEREBY FINDS the Initial Decision which adopts the Stipulation to be reasonable and in the public interest. No exceptions to the Initial Decision were received by the Board.

Accordingly, the Board HEREBY ADOPTS the ALJ's Initial Decision and the Stipulation attached hereto, including all Schedules, as its own, incorporating by reference the terms and conditions as if fully set forth herein, subject to the following:


- a) The tariff sheets attached to the Stipulation containing rates and charges conforming to the Stipulation and designed to produce the additional annual revenues to which the Parties have stipulated herein are HEREBY ACCEPTED.
- b) The Stipulated increase and the tariff design allocations for each customer classification are HEREBY ACCEPTED.

The Board HEREBY DIRECTS the Company to file a complete revised 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.

DATED: 4/28/10

BOARD OF PUBLIC UTILITIES  
BY:

  
LEE A. SOLOMON  
PRESIDENT

  
JEANNE M. FOX  
COMMISSIONER

  
JOSEPH L. FIORDALISO  
COMMISSIONER

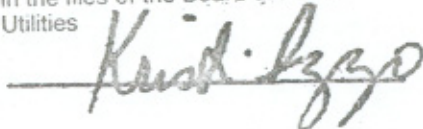
  
NICHOLAS ASSELTA  
COMMISSIONER

  
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





In the Matter of the Petition of Lake Lenape Water Company  
for Approval of an Increase in Rates and Charges for Water Service

BPU Docket No. WR09090770  
OAL Docket No. PUCRS 13354-2009N

SERVICE LIST

Jeffrey Fuller, President  
Lake Lenape Water Company  
83 Eagle Chase  
Woodbury, NY 11797

Geoffrey Gersten, DAG  
NJ Department of Law and Public Safety  
Division of Law - Public Utilities Section  
124 Halsey Street, 5<sup>th</sup> Floor  
P.O. Box 45029  
Newark, New Jersey 07102

Caroline Vachier, DAG  
NJ Department of Law and Public Safety  
Division of Law - Public Utilities Section  
124 Halsey Street, 5<sup>th</sup> Floor  
P.O. Box 45029  
Newark, New Jersey 07102

Kerri Kirschbaum, Deputy Attorney General  
NJ Department of Law and Public Safety  
Division of Law - Public Utilities Section  
124 Halsey Street, 5<sup>th</sup> Floor  
P.O. Box 45029  
Newark, New Jersey 07102

Stefanie A. Brand, Esq. Acting Director  
Division of Rate Counsel  
31 Clinton Street, 11<sup>th</sup> Floor  
P.O. Box 46005  
Newark, New Jersey 07102

Susan E. McClure, Esq.  
Division of Rate Counsel  
31 Clinton Street, 11<sup>th</sup> Floor  
P.O. Box 46005  
Newark, New Jersey 07102



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

**SETTLEMENT**

OAL Dkt. No. PUC 13354-09

AGENCY DKT. NO. WR 09090766

**IN THE MATTER OF THE PETITION  
OF LAKE LENAPE WATER COMPANY  
FOR AN INCREASE IN RATES AND  
CHARGES FOR WATER SERVICE**

---

Jeffrey Fuller, appearing pursuant to N.J.A.C. 1:1-5.4(a)(5), for petitioner Lake  
Lenape Water Company

Susan McClure, Esq., for the Division of Rate Counsel (Stephanie Brand, Acting  
Public Advocate and Director of Rate Counsel, attorney)

Kerri Kirschbaum, Deputy Attorney General, for the Staff of the Board of Public  
Utilities (Paula T. Dow, Attorney General, attorney)

Record Closed: April 16, 2010

Decided: April 23, 2010

BEFORE: DIANA C. SUKOVICH, ALJ *vs*:

On or about September 22, 2009, Lake Lenape Water Company (petitioner) filed a petition with the State Board of Public Utilities (BPU), seeking an increase in its rates and charges for water service. The BPU transmitted the matter to the Office of



Administrative Law for determination as a contested case pursuant to N.J.S.A. 52:14F-1 to -13.

Telephone conferences were conducted throughout the proceedings. A public hearing was conducted on February 2, 2010, during the evening, in Andover, New Jersey. The parties conferred throughout the proceedings and reached a resolution of the matter. An executed Stipulation was filed on April 16, 2010, on which date the record was closed. Attached herewith is a copy of the Stipulation. Petitioner initially requested increased revenues of \$44,152, an increase of approximately 35.2%. The agreement provides for an increase of \$23,795, an increase of approximately 18.8%.

I have reviewed the record and the settlement terms and I **FIND** that the parties have voluntarily agreed to the Stipulation as evidenced by their signatures and the Stipulation fully disposes of all issues in controversy and is consistent with the law.

I **CONCLUDE** that the Stipulation meets the requirements of N.J.A.C. 1:1-19.1 and that it should be approved. It is hereby **ORDERED** that the Stipulation be and is hereby **APPROVED**, the rates reflected therein be effective on the effective date of approval by the BPU of the pertinent tariff sheets, and 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.

OAL DKT. NO. PUC 13354-09

April 23, 2010  
DATE

Date Received at Agency:

Diana C. Sukovich  
DIANA C. SUKOVICH, ALJ v/a

Mailed to Parties:

DATE

OFFICE OF ADMINISTRATIVE LAW

rr

STATE OF NEW JERSEY  
BOARD OF PUBLIC UTILITIES

IN THE MATTER OF THE PETITION  
OF LAKE LENAPE WATER COMPANY.  
FOR AN INCREASE IN RATES AND  
CHARGES FOR WATER SERVICE

BPU Docket No. WR09090766  
OAL Docket No. PUCRS 13354-2009N

STIPULATION

APPEARANCES

Jeffrey Fuller, Pro Se, on behalf of Lake Lenape Water Company

Susan E. McClure, Esq., Assistant Deputy Public Advocate on behalf of the Department  
of the Public Advocate, Division of Rate Counsel;

Kerri Kirschbaum, Deputy Attorney General, for the Staff of the Board of Public Utilities  
(Paula T. Dow, Attorney General of New Jersey).

TO THE HONORABLE BOARD OF PUBLIC UTILITIES:

BACKGROUND / PROCEDURAL HISTORY

Petitioner, Lake Lenape Water Company (hereinafter referred to as "Petitioner" or  
"Company") is a public utility of the State of New Jersey subject to the jurisdiction of the Board  
of Public Utilities ("Board") and franchised to provide water service in a portion of the  
Township of Andover, Sussex County, New Jersey.

On September 22, 2009, Petitioner filed a petition with the 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.  
Petitioner requested increased revenues of \$44,152, representing an increase of approximately  
35.3% over pro forma, present rate revenues.



On October 28, 2009, the Board transmitted the matter to the Office of Administrative Law ("OAL") as a contested case and the matter was assigned to Administrative Law Judge ("ALJ") Diana Sukovich. On November 10, 2009, the Board issued a Suspension Order suspending increases, changes or alterations in rates for service until May 1, 2010.

On December 21, 2009, ALJ Sukovich convened a pre-hearing conference in which the President of the Company, Jeffrey Fuller, and the statutory parties to this case, the Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel") and Board Staff participated (the "Parties"). During the pre-hearing conference, the dates and times for a public hearing in Petitioner's service area and evidentiary hearings were scheduled. After appropriate public notice, a public hearing was held in Petitioner's service territory on February 2, 2010, at 6:00 pm, at the Andover Borough Fire Dept. in Andover, New Jersey. The public hearing was presided over by the Honorable Gail M. Cookson, ALJ and approximately eight members of the public spoke of their concerns with the proposed rate increase.

During the course of this proceeding, Petitioner was served with, and responded to, extensive discovery requests by Rate Counsel and by Board Staff. A discovery and settlement conference was held on March 11, 2010. As a result of an analysis of the petition and exhibits, Petitioner's responses to discovery propounded by the Rate Counsel and Board Staff, as well as their discussions and negotiations in this matter, the Signatory Parties have reached a Stipulation and do hereby stipulate the following:

#### STIPULATED MATTERS

- (1) The year ended December 31, 2009, adjusted for known and measurable changes, is a reasonable and proper test year period.

- (2) It is stipulated and agreed that Petitioner's rate base is \$106,615 and that a fair overall rate of return thereon is 8.15%, which reflects a cost rate for common equity of 10.3%.
- (3) As reflected in Schedule A annexed hereto and made part hereof, Petitioner's required operating income is \$8,689 and its total revenues at stipulated rates are \$150,076. Petitioner's pro forma present rate revenues are \$126,281 which, when subtracted from the total revenue requirement, necessitates a revenue increase of \$23,795, representing an overall percentage increase of 18.8% over pro forma present rate revenues.
- (4) The revenue requirement, to which the Parties have stipulated herein, is necessary to ensure that Petitioner will continue to provide safe, adequate and proper water service to its customers.
- (5) Attached hereto as Schedule B are new tariff sheets containing rates and charges conforming to this Stipulation and designed to produce the additional annual revenues to which the Parties have stipulated herein.
- (6) Attached hereto as Schedule C is a schedule demonstrating that the new rates will produce the revenues to which the Parties have stipulated herein. The stipulated increase in the fixed service and volumetric service charges for the General Metered Service class of customers is shown in Schedule C.
- (7) The stipulated revenue requirement will allow the Company to continue to provide safe adequate and proper service to its customers. The revenue requirement calculation is based on recovering revenue from all of the Company's customers of record based on rates contained in the Company's tariff as approved by the Board. The failure by customers to provide payment for utility service rendered by the Company pursuant to its tariffs has the effect of reducing the Company's revenues, increasing the number of rate



filings, and the potential to impair the Company's ability to provide safe, adequate and proper service. For these reasons, Petitioner agrees that it will review all of the utility services it provides pursuant to its tariffs, including fire protection services, and collect the Board-approved rates from those customers receiving service, or if payment is not received, then to initiate the appropriate actions as allowed by the Company's tariff and the Board's regulations regarding discontinuation of service. More specifically, Petitioner agrees to collect all Board-approved rates for fire protection services for all eleven fire hydrants in its service territory, or to initiate the appropriate action for non-payment pursuant to its tariff and the Board's regulations.

- (8) Petitioner will file a new tariff with the Board, with copies to the Parties, in conformity with this Stipulation, to become effective on the date of a fully executed Board Order.

#### MISCELLANEOUS

- (1) This Stipulation applies only to this proceeding and is thus executed by the Parties without prejudice to the positions asserted by each in this case and without prejudice to the positions which the Parties may choose to assert in future proceedings. The Parties further agree that the purpose of this Stipulation is to reach fair and reasonable rates and to conclude pending litigation. This Stipulation is not in any way intended to restrict or bind any of the Parties hereto with respect to substantive positions they may choose to assert in any pending or future rate proceeding in this or any other forum. Therefore, the Parties acknowledge that the Stipulation herein has been made exclusively for this proceeding before the OAL and Board.
- (2) In the event of any modification, amendment or alteration of this Stipulation by the Board, the Parties individually reserve the right to either deem the Stipulation void in toto

(in which case the Parties would revert to the status quo prior to the execution of this Stipulation, which in this matter would be submission of testimony and proceeding with evidentiary hearings) or to consent to the modification(s) in writing.

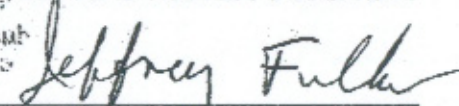
- (3) This Stipulation may be executed in as many counterparts as there are signatories to this Stipulation, each of which counterparts shall be an original, but all of which shall constitute one and the same instrument consisting of several counterparts.

WHEREFORE, the Parties hereto do respectfully submit this Stipulation and request that the Board issue a decision and Order approving it in its entirety, in accordance with the Terms hereof, as soon as reasonably possible.

Dated:

LAKE LENAPE WATER COMPANY

By:


  
Jeffrey Fuller  
President

Dated:

4/8/10

STEFANIE A. BRAND, ESQ.  
ACTING PUBLIC ADVOCATE &  
DIRECTOR, DIVISION OF RATE COUNSEL


By:

  
Susan E. McClure, Esq.  
Assistant Deputy Public Advocate

Dated:

PAULA T. DOW  
ATTORNEY GENERAL OF NEW JERSEY  
ATTORNEY FOR THE STAFF OF THE  
BOARD OF PUBLIC UTILITIES


By:

  
Kerri Kirschbaum  
Deputy Attorney General



Dated:

PAULA T. DOW  
ATTORNEY GENERAL OF NEW JERSEY  
ATTORNEY FOR THE STAFF OF THE  
BOARD OF PUBLIC UTILITIES

By:   
Kern Kirschbaum  
Deputy Attorney General

Rate Schedule No.

General Metered Service

Applicable to use for service for:

-----  
All residential and commercial service through entire territory served by this company.

Character of Service:

-----  
All water service shall be continuous.

Rate:

-----  
Consumption Charges

\*The consumption charges shall be \$5.91  
per 1000 gallons.

-----  
Service Charges

-----  
Type Meter

-----  
Service Charge

-----  
5/8"

-----  
\$26.81 per quarter

Whenever service to a customer is established or discontinued during a billing period, the fixed service charge will be prorated on a daily basis to the date when service is established or discontinued.

-----  
Terms and Payment:

Net payment within fifteen (15) days of receipt of the bill for general metered service. Bills are rendered in arrears once in each calendar quarter.

\*The State of New Jersey enacted ch. 443 of the Laws of New Jersey in 1983 concerning this periodic testing of public water supplies which establishes a water tax of \$0.01 per 1,000 gallons of water. This tax is reflected and included in the above rates.

-----  
Issued:

-----  
Effective:

By: Jeffrey Fuller, President  
83 Eagle Chase  
Woodbury, NY 11797

Filed pursuant to an order of the Board of Public Utilities, State of New Jersey, Docket No.  
WR09090766 dated



LAKE LENAPE WATER COMPANY  
B.P.U. No. - Water

ORIGINAL SHEET NO. 6

Rate Schedule No.

Fire Protection Services

Applicable to use of service for:  
-----

All municipal fire hydrants in the Company's service area in the Township of Andover

Character of Service:  
-----

Continuous from effective date for service rendered as determined by the Board of Public Utilities.

Rate:  
-----

Hydrant charge (per hydrant) : \$65.96 per quarter.

Terms and payment:  
-----

Payable in advance.

Issued:

Effective:

By: Jeffrey Fuller, President  
83 Eagle Chase  
Woodbury, NY 11797

Filed pursuant to an order of the Board of Public Utilities, State of New Jersey, Docket No.  
WR09090766 dated