



Agenda Date: 2/10/11

Agenda Item: VIIF

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center - Suite 801
Newark, NJ 07102
www.nj.gov/bpu/

CUSTOMER ASSISTANCE

FRANKLIN COMMONS,
Petitioner

)
)

ORDER ADOPTING INITIAL
DECISION SETTLEMENT

V.

)
)

NEW JERSEY AMERICAN WATER COMPANY,
Respondent

BPU Docket No. WC10030179U
OAL Docket No. PUC6645-10

Alexander M. Iler, Esq., Red Bank, New Jersey, on behalf of Petitioner,
Franklin Commons Assoc., LLC

Suzana Duby, Esq., Short Hills, New Jersey, on behalf of Respondent,
New Jersey American Water Company

BY THE BOARD:

On March 5, 2010, Franklin Commons Assoc., LLC ("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") 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") John Schuster, III.

While this matter was pending at the OAL, the parties engaged in negotiations and entered into and signed a Settlement Agreement and Mutual Release ("Settlement") that was submitted to the ALJ. By Initial Decision issued on January 19, 2011, and submitted to the Board on January 25, 2011, to which the Settlement was attached and made part thereof, ALJ Schuster found that the Settlement 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 Settlement, which are binding on the parties as well as to any successors, both parties release the other from any claims or rights they may have against each other in connection with this matter. In return for the Settlement, Respondent will accept \$3,000.00 in full payment to be paid over a period of twelve (12) consecutive months, with the first payment to be made on February 1, 2011. Said payments are to be in the amount of \$250.00. In return, Petitioner has

agreed to dismiss its petition and has executed a Stipulation of Dismissal with Prejudice which was submitted as part of the Settlement.

After review of the record and the Settlement Agreement and Stipulation of Dismissal of the parties, the Board HEREBY FINDS that the parties have voluntarily agreed to the Settlement as evidenced by their signatures and that by the terms of the Settlement Agreement, have fully resolved all outstanding contested issues in this matter.

Accordingly, the Board HEREBY ADOPTS the Initial Decision and the Settlement Agreement executed by the parties in their entirety as if fully set forth herein. Therefore, the petition in this matter is HEREBY DISMISSED with prejudice.


DATED: 2/16/11

BOARD OF PUBLIC UTILITIES
BY:


LEE A. SOLOMON
PRESIDENT

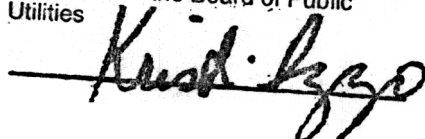

JEANNE M. FOX
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER


NICHOLAS ASSELTA
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



FRANKLIN COMMONS

V.

NEW JERSEY AMERICAN WATER COMPANY

BPU DOCKET NO. WC10030179U

OAL DOCKET NO. PUC6645-10

SERVICE LIST

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BETA
DAG
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C.A.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

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INITIAL DECISION

SETTLEMENT

OAL DKT. NO. PUC 6645-10

AGENCY DKT. NO. WC10030179U

FRANKLIN COMMONS,

Petitioner,

v.

NEW JERSEY AMERICAN

WATER COMPANY,

Respondent.

Alexander M. Iler, Esq., for petitioner

Suzana Duby, Esq., for respondent

Record Closed: January 18, 2011

Decided: January 19, 2011

BEFORE JOHN SCHUSTER III, ALJ:

This matter was transmitted to the Office of Administrative Law (OAL) on June 23, 2010, 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.

The parties have agreed to a settlement and have prepared a settlement agreement indicating the terms thereof, which is attached and fully incorporated herein.

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

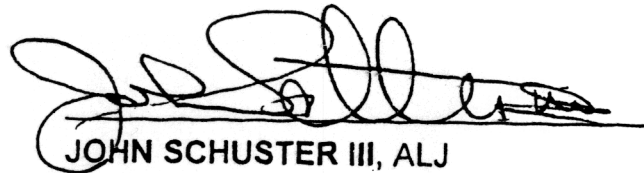
- 1 The parties have voluntarily agreed to the settlement as evidenced by their signatures or their representatives' signatures.
2. The settlement fully disposes of all issues in controversy and is consistent with the law.

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

hereby **FILE** my initial decision with the **BOARD OF PUBLIC UTILITIES** for consideration.

This recommended decision may be adopted, modified or rejected by **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, recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

January 19, 2011
DATE


JOHN SCHUSTER III, ALJ

Date Received at Agency:

JAN 20 20

Date Mailed to Parties:

JAN 20 11

/cad

STATE OF NEW JERSEY
OFFICE OF ADMINISTRATIVE LAW
JAN 18 12 44 PM '11

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release, dated January 18, 2011, is given between Franklin Commons, its parents, subsidiaries, affiliated and predecessor entities, successors in interest, representatives, the present and former owners, present and former directors, officers, attorneys, employees or agents of all of them, in their official and individual capacities, referred to as "Franklin Commons", and New Jersey American Water Company, Inc., its parents, subsidiaries, affiliated and predecessor entities, successors in interest, representatives, the present and former owners, present and former directors, officers, attorneys, employees or agents of all of them, in their official and individual capacities, referred to as the "New Jersey American Water". New Jersey American Water and Franklin Commons are hereinafter collectively referred to as the "Parties".

1. **Mutual Release.** The Parties release and give up any and all claims and rights that they may have against each other in connection with New Jersey American Water Account Number 18-08 [REDACTED], and the disputed charges in the amount of \$5,179.17 (hereinafter "Disputed Bill"). This releases all claims, related to the Disputed Bill, including those of which the Parties are not aware and those not mentioned in this Release. This Release applies to claims resulting from anything that has happened up to now. The Parties specifically release the following claims:

Any and all claims arising out of the Petition for a Formal Hearing filed by Franklin Commons and docketed as WC 10030179U with the State of New Jersey, Board of Public Utilities on March 5, 2010, and as OAL Docket No. PUC 6645-10 in the Office of Administrative Law.

2. **Payment.** New Jersey American Water accepts Three Thousand Dollars (\$3000.00), paid over a period of twelve (12) consecutive months, in full payment for making this Settlement Agreement and Mutual Release, with the first payment to be made on February 1, 2011. This payment schedule results in payments by Franklin Commons to New Jersey American Water of Two Hundred Fifty Dollars (\$250.00) per month. New Jersey American Water agrees that it will not seek anything further including any other payment from Franklin Commons in connection with the Disputed Bill.

3. **Dismissal of OAL Dkt. No. PUC 6645-10, BPU Docket No. WC10030179U with Prejudice.** Additionally, Franklin Commons agrees to withdraw its complaint against New Jersey American Water, filed under OAL Dkt. No. PUC 6645-10, BPU Docket No. WC10030179U, by filing a Stipulation of Dismissal with Prejudice.

4. Who is Bound. The Parties are bound by this Settlement Agreement and Mutual Release. Anyone who succeeds to their rights and responsibilities, are also bound. This Mutual Release is made for the mutual benefit of the Parties and all who succeed the Parties' rights and responsibilities, such as the Parties' agents, representatives, or heirs.

4. Confidentiality. The terms of this release shall be kept strictly confidential and may only be discussed with the Parties' tax advisors, attorneys, or as required by law.

5. This Settlement Agreement shall be governed by, construed and enforced in accordance with the laws of the State of New Jersey. In the event that any provision of this Settlement Agreement is deemed unenforceable, those portions not deemed unenforceable shall remain in full force and effect.

6. Signatures. The Parties understand and agree to the terms of this Settlement Agreement and Mutual Release and have duly executed same on this 18th day of January, 2011.

FRANKLIN COMMONS

NEW JERSEY AMERICAN WATER
COMPANY, INC.



By: Alexander M. Iler, Esq.
Attorney for Petitioner



By: Suzana Duby, Esq.
Attorney for Respondent

FRANKLIN COMMONS,

Petitioner,

vs.

NEW JERSEY AMERICAN WATER
COMPANY, INC.,

Respondent.

STATE OF NEW JERSEY
OFFICE OF ADMINISTRATIVE LAW

OAL DOCKET NO.: PUCCC 6645-10
AGENCY REF. NO.: WCI0030179U

Civil Action

STIPULATION OF DISMISSAL
With Prejudice

This matter having been amicably resolved between the parties, the matter is hereby dismissed,
with prejudice and without costs as against either party.

ALEXANDER M. ILER, ESQ.
Attorneys for Petitioners,
Raymond and Angela Deberjcois

New Jersey American Water Company,
Inc.

By: Alexander M. Ilcr, Esq.

By: Suzana Duby, Esq.

Dated:

Dated: 1/18/10