



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

WATER

IN THE MATTER OF THE APPLICATION OF FAYSON)	ORDER ADOPTING INITIAL
LAKE WATER COMPANY FOR THE APPROVAL OF)	DECISION/STIPULATION
AN INCREASE IN RATES AND OTHER APPROPRIATE)	
RELIEF)	DOCKET NO. WR14050405
)	OAL DKT NO. 06071-2014

Parties of Record:

Thomas C. Kelly, Esq., Russo Tumulty Nester Thompson & Kelly, LLP on behalf of Petitioner
Stefanie A. Brand, Esq., Director, on behalf of the Division of Rate Counsel

BY THE BOARD¹:

On May 5, 2014, pursuant to N.J.S.A. 48:2-21, N.J.A.C. 14:1-5.12, and N.J.A.C. 14:9-7.1, Fayson Lake Water Company ("Fayson Lake", "Company" or "Petitioner"), a public utility in the State of New Jersey, subject to the jurisdiction of the Board of Public Utilities ("Board") filed a petition for a revision of its rates for water service, amounting to an overall increase of approximately \$181,922 or 30.56% over present revenues. Petitioner subsequently submitted updated schedules, based on actual results for the twelve months ended December 31, 2013, revising its request to \$127,824, an increase of approximately 22.19% over present revenues.

By this Order, the Board considers the Initial Decision which recommended adoption of the Stipulation of Settlement ("Stipulation") executed by Petitioner, the Staff of the Board of Public Utilities and the Division of Rate Counsel (collectively, the "Parties"), agreeing to an overall increase over present revenues totaling \$71,908 representing a 12.49% increase over Petitioner's present revenues from sales totaling \$575,948 as shown on Exhibit C to the Stipulation.²

BACKGROUND/PROCEDURAL HISTORY

Fayson Lake serves approximately 880 residential customers in a portion of the Borough of Kinnelon, Morris County, New Jersey.

¹ Commissioner Dianne Solomon was not present at the 11/21/14 agenda meeting.

² Schedule A to the Stipulation reflects revenues under current rates of \$702,007 which includes cell tower revenues and miscellaneous revenues. This income was considered when establishing revenues and rates.

The Petitioner, in its filing, requested that the proposed increase in rates become effective on August 1, 2014. On June 18, 2014 the Board issued an Initial Suspension Order suspending the proposed increases, changes or alterations in rates for service until December 1, 2014.

The matter was transmitted to the Office of Administrative Law ("OAL") on May 16, 2014 and Administrative Law Judge ("ALJ") Gail M. Cookson was assigned to hear the matter. ALJ Cookson convened a telephone pre-hearing conference on June 18, 2014 and a procedural schedule was agreed to by the Parties.

After proper notice, a public hearing was held on August 4, 2014, at the Kinnelon High School in Kinnelon, New Jersey. Two members of the public appeared to provide comments which were transcribed and made a part of the public record.

Subsequent to the public hearing and prior to evidentiary hearings in this matter, the Parties engaged in settlement negotiations on September 18, 2014. The Parties reached a settlement on all issues and entered into a Stipulation. There were no interveners in this proceeding.

On October 27, 2014, ALJ Cookson issued her Initial Decision recommending adoption of the Stipulation executed by the Parties, finding that the Parties had voluntarily agreed to the Settlement and that the Settlement fully disposes of all issues and was consistent with the law. No exceptions to the Initial Decision have been filed. A copy of the Initial Decision is attached hereto.

DISCUSSIONS AND FINDINGS

Among the provisions of the Stipulation³, the Parties recommended that Petitioner's base rates be increased by \$71,908, as set forth on Exhibit C of the attached Stipulation, representing a 12.49% increase over present rate revenues of \$575,948. The Parties further recommend a rate base of \$1,502,072 with a test year ending December 31, 2013, adjusted for known and measurable changes and that the Petitioner be authorized a return on common equity of 9.75%. The Parties further agree that this return on common equity will result in an overall rate of return of 6.71%.

The Parties further agree to the following:

- The Tariff pages (is attached as Exhibit B to the Stipulation) will become effective on any such date as the Board may direct.
- As a result of this Stipulation the average quarterly bill for a typical customer with a 5/8" meter using 5,000 gallons of water per month (15,000 gallons per quarter) will go from \$146.42 to \$164.66 an increase of \$18.24 per quarter or 12.46%.

The Board is mindful of the impact any rate increase has on customers. However, having reviewed the record in this matter, including the Initial Decision and the Stipulation, the Board **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. In reaching this decision, the Board must balance the needs of the ratepayer to receive safe, adequate and proper service at reasonable rates, while allowing the utility the opportunity to earn a fair rate of return. See: FPC v. Hope Natural Gas, 320 U.S. 591 (1944); N.J.S.A. 48:2-21 and N.J.S.A. 48:3-1.

³Although described in this Order at some length, should there be any conflict between this summary and the Stipulation, the terms of the Stipulation control, subject to the findings and conclusions in this Order.

Therefore, the Board **FINDS** that the Initial Decision, which adopts the Stipulation, to be reasonable, in the public interest, and in accordance with the law. Therefore, the Board **HEREBY ADOPTS** the Initial Decision and the Stipulation, attached hereto, including all attachments and schedules, as its own, incorporating by reference the terms and conditions of the Stipulation, as if they were fully set forth at length herein, subject to the following:

- a. The Tariff sheets attached as Exhibit B to the Stipulation containing the rates and charges conforming to the Stipulation and designed to produce the additional revenues to which the Parties have stipulated herein are **HEREBY ACCEPTED**; and
- b. The stipulated increase and the tariff design allocations for each customer classification are **HEREBY ACCEPTED**.

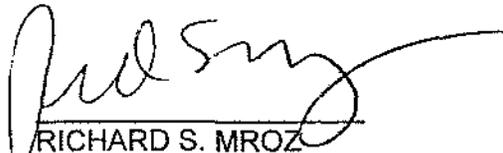
Based upon the foregoing, the Board **HEREBY APPROVES** an overall increase in revenues in the amount of \$71,908, as shown on Exhibit C to the Stipulation, representing 12.49% increase over present rate revenue from sales of \$575,948.

The Board **HEREBY ORDERS** Petitioner to submit revised tariffs within ten (10) days from the effective date of this Order.

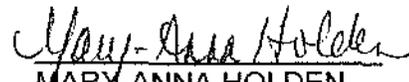
The Order shall be effective on December 1, 2014.

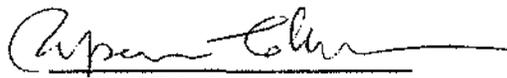
DATED: 11/21/14

BOARD OF PUBLIC UTILITIES
BY:

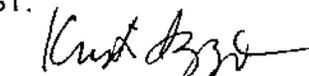

RICHARD S. MROZ
PRESIDENT


JOSEPH L. FIORDALISO
COMMISSIONER

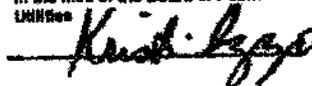

MARY-ANNA HOLDEN
COMMISSIONER


UPENDRA J. CHIVUKULA
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 APPLICATION OF FAYSON LAKE WATER COMPANY FOR
APPROVAL OF AN INCREASE IN RATES AND OTHER APPROPRIATE RELIEF**

**DOCKET NO. WR1405045
OAL DOCKET NO. PUC 06071-14**

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State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION SETTLEMENT

OAL DKT. NO. PUC 06071-14

AGENCY DKT. NO. WR14050405

**I/M/O APPLICATION OF FAYSON LAKE WATER
COMPANY FOR THE APPROVAL OF AN
INCREASE IN RATES AND OTHER
APPROPRIATE RELIEF.**

Thomas C. Kelly, Esq., for petitioner Fayson Lake Water Company (Russo
Tumulty Nester Thompson & Kelly, attorneys)

Jennifer Hsia, Deputy Attorney General, for Staff of the Board of Public Utilities
(John J. Hoffman, Acting Attorney General, attorneys)

Susan E. McClure, Assistant Deputy Rate Counsel for Division of Rate Counsel
(Stefanie A. Brand, Director, attorneys)

Record Closed: October 27, 2014

Decided: October 27, 2014

BEFORE GAIL M. COOKSON, ALJ:

On or about May 19, 2014, 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, relating to the petition of Fayson Lake Water Company for approval to increase its rates and other related relief. On or about May 28, 2014, the case was assigned to the undersigned. On June 18, 2014, I convened a telephonic case management conference and hearing dates were scheduled for the end of October 2014.

Several case management conferences were convened in the intervening period of discovery. Prior to the scheduled hearing dates, the parties advised that they had reached a tentative resolution of the issues in dispute. In fulfillment of the agreement, the parties submitted under cover of October 23, 2014, a fully-executed Stipulation of Settlement, which is attached hereto and made part hereof. It resolves this utility consumer dispute to the full satisfaction of the parties. Accordingly, and on that basis, I have reviewed the record and terms of the Consent Order and **FIND**:

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

I **CONCLUDE** that the agreement meets the requirements of N.J.A.C. 1:1-19.1 and therefore, it is **ORDERED** that the matter be deemed dismissed with prejudice and that these proceedings be and are hereby 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 (45) 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.

Gail M. Cookson

October 27, 2014
DATE

GAIL M. COOKSON, ALJ

Date Received at Agency: 10/27/14

Date Mailed to Parties: _____

id

STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

IN THE MATTER OF THE APPLICATION OF) STIPULATION
FAYSON LAKE WATER COMPANY FOR THE)
APPROVAL OF AN INCREASE IN RATES)
AND OTHER APPROPRIATE RELIEF) BPU Docket No. WR14050405
OAL Docket NO. PUC 006071-2014

APPEARANCES:

Thomas C. Kelly, Russo Tumulty Nester Thompson & Kelly, LLP,
Attorneys for Petitioner, Fayson Lake Water Company.

Susan E. McClure, Esq. Assistant Deputy Rate Counsel for
Division of Rate Counsel (Stefanie A. Brand, Esq., Director,
Division of Rate Counsel);

Jennifer Hsia, Deputy Attorney General, for the Staff of the
Board of Public Utilities (John J. Hoffman, Acting Attorney
General of New Jersey).

I. PROCEDURAL HISTORY

(1) Petitioner, Fayson Lake 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 the Borough of Kinneton, Morris County, New Jersey.

(2) On May 5, 2014, Petitioner filed a petition with the Board, pursuant to N.J.S.A. 48:2-21, N.J.A.C. 14:1-5.12 and N.J.A.C. 14:9-7.1 to increase its rates and charges for water service. Petitioner originally requested increased revenues of \$181,922.00 representing an increase of approximately 30.56% over present revenues. Petitioner subsequently submitted updated schedules, based on actual results for the twelve months ended December 31, 2013, revising its request to \$127,824, an increase of approximately 22.19% over present revenues.

(3) On June 18, 2014, the Board issued a Suspension Order suspending increases, changes or alterations in rates for service until December 1, 2014. On May 16, 2014, the Board transmitted the matter to the Office of Administrative Law as a contested case where it was assigned to the Honorable Gail M. Cookson, Administrative Law Judge ("ALJ").

(4) A telephonic pre-hearing conference was held before ALJ Cookson on June 18, 2014 at which time dates for a public hearing in Petitioner's service area and evidentiary hearings were scheduled. A public hearing was held on August 4, 2014 at the Kinnelon High School in Kinnelon, New Jersey, within Petitioner's service area, following publication of an appropriate public notice. Two members of the public appeared at the public hearing and objected to the proposed rate increase.

(5) In the course of this proceeding, Petitioner was served with, and responded to, extensive discovery requests by the Division of Rate Counsel ("Rate Counsel") and by Staff of the Board of Public Utilities ("Board Staff"). A discovery and settlement conference was held on September 18, 2014. Petitioner, Rate Counsel, and Board Staff (the "parties") also conferred by telephone on a number of occasions to discuss the matter.

II. STIPULATED MATTERS

(1) 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 parties have reached a Stipulation and do hereby stipulate the following:

(2) The twelve months ended December 31, 2013, adjusted for known and measurable changes, is a reasonable and proper test year period.

(3) It is stipulated and agreed that Petitioner's rate base is \$1,502,072 and that a fair overall rate of return thereon is 6.71%, which reflects a cost rate for common equity of 9.75%, as shown below:

<u>Required Cost of Capital</u>				
	<u>Amount</u>	<u>%</u>	<u>Cost Rate</u>	<u>Weighted Cost</u>
Common Equity	\$582,426	31.30%	9.75%	3.05%
Ford Motor Debt	\$34,163	1.50%	6.74%	0.13%
Long Term Debt	<u>\$1,200,584</u>	66.80%	5.29%	<u>3.53%</u>
Total Cost	\$1,797,173	100%		6.71%

(4) As reflected in Schedules A and C annexed hereto and made part hereof, Petitioner's required operating income is \$773,915, is adjusted, and its pro forma operating income is \$702,007 resulting in an operating income deficiency of \$71,908 and necessitating a revenue increase of \$71,908, representing an overall percentage increase of 12.49% over present rate revenues.

(5) 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.

(6) Attached hereto as Schedule B is the new tariff sheet containing rates and charges conforming to this Stipulation and designed to produce the additional annual revenues to which the parties have stipulated herein. As a result of this settlement, the average quarterly bill for a typical customer with a 5/8" meter, using 5000 gallons of water per month, will go from \$146.42 to \$164.66 an increase of \$18.24 per quarter or 12.46%.

(7) Attached hereto as Schedule C is a schedule demonstrating that the new rates will produce the revenues to which the parties have stipulated herein and reflecting the percentage increase for all classes of service.

(8) Petitioner will file a new tariff with the Board, with copies to the parties, in conformity with this Stipulation, to become effective on such date as the Board may direct.

(9) Petitioner shall resubmit the calendar year 2013 Annual Report to the Board of Public Utilities on or before December 31, 2014, in legible form and properly dated to indicate the correct calendar year of the report. For the Annual Report due for calendar year 2014 and all subsequent years, the entries in the report must be classified in accordance with the Uniform System of Accounts. To the extent that entries are reclassified in the 2014 Annual Report, the Company must submit supplementary information with its report indicating the nature and magnitude of any reclassification needed to conform to the Uniform System of Accounts.

III. 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.

FAYSON LAKE WATER COMPANY
Russo Tumulty Nester Thompson & Kelly, LLP

By: _____

Thomas C. Kelly

DIVISION OF RATE COUNSEL
Stefanie A. Brand Esq ., Director

By: 

Susan E. McClure, Esq.
Assistant Deputy Rate Counsel

John J. Hoffman
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for Staff of the Board of Public Utilities

By: 

Jennifer Hsia
Deputy Attorney General

Dated: October 24, 2014

Exhibit A

FAYSON LAKE WATER COMPANY
Revenue Deficiency Calculation
Test Year Ended December 31, 2013

1. Rate base	\$1,502,172
2. Rate of return	<u>6.1%</u>
3. Income requirement	\$100,189
4. Operating expenses	<u>687,18</u>
5. Total revenue requirement	\$788,05
6. Revenues under current rates	<u>702,07</u>
7. Pre-tax revenue deficiency	\$86,98
8. Revenue taxes @ 18%	<u>12,09</u>
9. Gross revenue deficiency	<u>\$78,307</u>

Fayson Lake Water Company *Ninth Revised Sheet No.4
BPU No.3 Water Superceding
Eighth Revised Sheet No.4

Rate Schedule No. 1
Metered Services

EXHIBIT B

Applicable to Use of Service For:

All residential and commercial serviced through the entire territory served, including service to building contractors.

Character of Service: Continuous

Rate:

- Quarterly charge per thousand gallons consumed in addition to the minimum charge listed below:
\$8.85

Minimum Charge:

Quarterly Facilities for General Metered Services shall be based on the size of the meter and shall be as follows:

5/8"	\$31.91
1"	\$79.79
1-1/2"	\$159.56
2"	\$255.30
Hydrants	\$593.92

Determination of Demand:

Billing shall include the consumption and the facilities charges for each billing period.

Date of Issue: October 2014 Effective December 2014

Issued by John Cannie, President, Fayson Lake Water Company, 160 Boonton Avenue, Kinnelon, NJ 07405

Filed pursuant to decision of Board of Public Utilities in Docket No. WR14050105 dated _____

The State of New Jersey enacted Ch. 443 of the Laws of 1983 concerning the periodic testing of public water supplies which establishes a water tax of \$0.11 per 1,000 gallons of water. This tax is reflected in the above rates. By Order of the Board of Public Utilities Docket No. WR88080977 April 27, 1989.

Exhibit C

Proof of Revenue Calculation and Rate Comparison

Additional Revenue Required	\$	78,807	From D. Peters Schedules
Less Miscellaneous Revenues	\$	(3,801)	From Company Exhibit D
Less Hookup Fees	\$	(2,818)	From Company Exhibit D
Less Turn-Off Fees	\$	(280)	From Company Exhibit D
Net Revenues Required From Sales	\$	71,908	

Present Rate Revenues from Sales	\$	575,948
Net Revenue Increase		12.49%

Service Item	Billing		Present Rate	
	Determinants	Present Rate	Present Rate	Revenues
5/8-inch	794	\$ 28.37	\$	90,103
1-inch	82	\$ 70.93	\$	23,255
1-1/2 inch	2	\$ 141.85	\$	1,135
2 inch	2	\$ 226.96	\$	1,816
Consumption	52,700	\$ 7.87	\$	414,749
Hydrants	85	\$ 528.00	\$	44,880
			\$	575,948

Rate	Revenues	Increase
\$ 31.91	\$ 101,346	12.48%
\$ 79.79	\$ 26,171	12.49%
\$ 159.56	\$ 1,276	12.49%
\$ 255.30	\$ 2,042	12.49%
\$ 8.85	\$ 466,395	12.45%
\$ 593.92	\$ 50,483	12.48%
	\$ 647,714	

Notes:

(1) Billing Determinants from Company Exhibit K

(2) Present rates and Company proposed rates from Company Exhibit L