Agenda Date: 10/20/17
Agenda Item: 5D

STATE OF NEW JERSEY

Board of Public Utilities
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Trenton, New Jersey 08625-0350
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WATER

IN THE MATTER OF THE PETITION OF SUEZ WATER ARLINGTON HILLS INC. FOR APPROVAL OF AN INCREASE IN RATE FOR WASTEWATER SERVICE AND OTHER TARIFF CHANGES

ORDER ADOPTING INITIAL DECISION WITH MODIFICAITONS AND CLARIFICATIONS

ORDER DENYING MOTION OF ORAL ARGUMENT

ORDER DENYING MOTION TO REOPEN THE EVIDENTIARY RECORD

DOCKET NO. WR16060510
OAL DOCKET NO. PUC 09261-2016

Parties of Record:

Stephen B. Genzer, Esq., Saul Ewing Arnstein & Lehr LLP, on behalf of SUEZ Water Arlington Hills Inc.
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD[1]:

I. BACKGROUND AND PROCEDURAL HISTORY

On June 15, 2016, pursuant to N.J.S.A. 48:2-21 and N.J.A.C. 14:1-5.12, and other relevant statutes and regulations, SUEZ Water Arlington Hills Inc. ("Petitioner," "SUEZ," "Arlington Hills," "SWAH," or "Company"), a public utility having its principal offices at 461 From Road, Paramus, New Jersey, and subject to the jurisdiction of the Board of Public Utilities ("Board"), filed a petition seeking to increase its rates for wastewater service amounting to approximately $1,404,396 or 118% above the annual level of test year revenues as of April 30, 2016. To mitigate the effects of the proposed rate increase on its customers, the Company also proposed that the rate increase be implemented in four (4) installments and increase rates annually over the course of the next four years. The Company proposed that the initial increase in rates become effective on July 29, 2016.

[1] Commissioner Dianne Solomon did not participate.

The Petitioner currently serves approximately 600 residential customers and 25 commercial customers in the Borough of Mount Arlington and one commercial customer in the Township of Roxbury, Morris County, New Jersey.

On July 29, 2016, the Board issued an Order suspending the Company's proposed rate increase until November 29, 2016. By Order dated October 31, 2016 the Board issued an Order further suspending the proposed rate increase until March 29, 2017. On June 20, 2016, the Board transmitted this matter to the Office of Administrative Law ("OAL") for hearings. Administrative Law Judge ("ALJ") Danielle Pasquale was originally assigned to hear the matter. On October 21, 2016, the matter was reassigned to ALJ Irene Jones. A duly noticed public hearing was held on November 14, 2016. No members of the public appeared at the hearing.

The Company's filing is based on a test year ending April 30, 2016 and updated for known and measurable changes calculated to the post-test year period ending October 31, 2016. The Company presented the prefiled testimony of the following witnesses: Gary Prettyman (Exhibit PT-1); Elda Gill (Exhibit PT-2); Peiling Lin (Exhibit PT-3); and Antonio Vicente (Exhibit PT-4). The Company submitted the rebuttal testimony of Gary Prettyman (Exhibit PR-T-1) and Pauline Ahern (Exhibit PR-T-2). The New Jersey Division of Rate Counsel ("Rate Counsel") filed the testimony of the following witnesses: Dante Mugrace (Exhibit RC-2); Howard J. Woods (Exhibit RC-4); Marlon Griffing (Exhibit RC-5); and Brian Kalcic (Exhibit RC-7). Rate Counsel also filed updated schedules on behalf of Mr. Mugrace (Exhibit RC-3) and submitted the sur-rebuttal testimony of Dr. Griffing (Exhibit RC-5).

Evidentiary hearings were held before ALJ Jones on March 13 and March 16, 2017. The Parties[2] filed Initial briefs on April 13, 2017 and reply briefs on May 4, 2017. The record in this matter closed on May 8, 2017. By proposed form of Order dated June 22, 2017, Acting Director and Chief ALJ Laura Sanders requested that the Board extend the time for filing AJ Jones' Initial Decision until August 7, 2017 pursuant to N.J.S.A. 52:14B-10(c) and N.J.A.C. 1-1-18.8. The Board extended the time for filing ALJ Jones' Initial Decision until August 7, 2017 at its June 30, 2017 public agenda meeting. Judge Jones issued her written Initial Decision August 16, 2017. On August 28, 2017, the Board and the OAL executed an Order of Extension allowing the Board to issue a final agency decision by November 14, 2017.

1. Motion for Oral Argument

On August 4, 2017, while the ALJ's Initial Decision was still pending, Petitioner filed a motion, pursuant to N.J.A.C. 1-1-12.1 and N.J.A.C. 1:1-12.3, requesting oral argument in person before the Board on all or some of the issues in this matter. While acknowledging that its request for oral argument was unusual, the Petitioner stated that it believed that the Board should take advantage of the opportunity presented by this fully litigated case to hear argument on what Petitioner believes ware important policy issues to be decided in this case. The Petitioner also stated that some of these policy issues have not been formally presented to the five Commissioners on the Board in fully litigated proceedings in decades.

On August 14, 2017, Rate Counsel filed a Cross Motion to Strike Petitioner's Motion for Oral Argument. Rate Counsel argued that the Company's brief did not discuss at all the reasons why its unusual request for oral argument should be granted. Rate Counsel further argued that the Petitioner's brief lays out the Company's substantive arguments on issues that were currently

[2] The Parties to this matter are Petitioner, Rate Counsel, and the Staff of the Board of Public Utilities ("Staff" or "Board Staff").

before ALJ Jones. Rate Counsel further argued that the fact that Petitioner served its premature motion not only on the Board's Secretary but to each individual Commissioner suggests that Petitioner's goal may not have been to obtain oral argument once the Initial Decision was issued and exceptions and reply exceptions were filed but to get an additional "bite at the apple" to bring its substantive arguments directly to the Commissioners.

Rate Counsel stated that the motion should be rejected because it was contrary to the Board's procedural rules. Rate Counsel also stated that the motion should be stricken from the record to minimize the taint that has already been placed on the proceeding by the Company's inappropriate direct substantive filing with the individual Commissioners. In addition, Rate Counsel stated that the Board's rules provide for when and how the Board may grant oral argument on a matter before issuing a final order. Rate Counsel further stated that N.J.A.C. 14:1-8.2 and N.J.A.C. 14:1-8.3 make it clear that relief requested by Petitioner may not be granted until after the receipt of the initial decision, exceptions to the initial decision, and reply exceptions. Rate Counsel therefore argued that Petitioner's motion should be denied and that its contents should be stricken from the record.

The Petitioner filed its response to Rate Counsel's Cross Motion to Strike on August 15, 2017. The Petitioner argued that Rate Counsel's allegation that it was attempting to get a "second bite at the apple" was simply wrong. The Petitioner also argued that the purpose of its motion for oral argument by all parties was to provide the Commissioners the opportunity to consider, given the significant policies issues to be ultimately decided by them, whether they wished to hear, directly, the positions of the parties on those issues and have an opportunity to ask questions and test the merits of the specific policy arguments as opposed to relying solely on the written record. The Petitioner deemed improper Rate Counsel's argument that the Company's motion was premature.

In addition, the Petitioner noted that one of the regulations cited by Rate Counsel, N.J.A.C. 14:1-8.3, applies to when the Board, on its own motion, may call for oral argument. The Petitioner further stated that Rate Counsel's argument that the Company did nothing to justify its request for oral argument is completely counter to the facts. Finally, the Company argued that oral argument is appropriate because the Board was presented with the unique opportunity, in this fully litigated case, to opine on and set precedential polices for all utilities operating in this State on many issues that have not received the detailed scrutiny or reconsideration from the Board in decades.

II. INITIAL DECISION AND ALJ RECOMMENDATIONS

On August 8, 2017, Judge Jones convened a status conference and orally announced how she decided the contested issues in this matter. ALJ Jones also reopened the record so that Parties could prepare schedules and compute the overall rate increase based on her overall recommendations herein. On August 10, 2017, Petitioner submitted proposed schedules reflecting Judge Jones's recommended rate increase. Also on August 10, 2017, Rate Counsel and Staff advised Judge Jones that they had agreed that Petitioner's proposed schedules accurately reflected her proposed revenue requirement. Judge Jones issued her written Initial Decision August 16, 2017.

The Initial Decision, which totaled 30 pages, included a list of witnesses, a list of exhibits, a statement of the case and procedural history, and a discussion of findings and recommendations for each of the issues raised by the Parties. As reflected partly in Exhibit P-4, Schedules 2 and 7, ALJ Jones recommended a rate base of $13,051,761, a return on common equity of 9.75%, an overall rate of return of 7.61%, and a rate increase of $1,310,114 or 115.19%. Key elements of the Initial Decision are summarized below.

1. **Rate of Return**

The Company presented the prefiled testimony of Mr. Prettyman to support a rate of return ("ROR") of 7.61% based on its proposed capital structure of 47.00% debt with a cost rate 5.19% and 53.00% equity with a cost rate of 9.75% (PT-1). Mr. Prettyman opined that while a 10.25% return on equity ("ROE") and 7.89% ROR could be justified, the Company seeks a lower ROE/ROR to mitigate the impact of the instant rate increase. Further, the 9.75% request is consistent with the Board's most recent ROE awards and, thus, in his view, reflects the Board's policy on this issue. Ibid.

Dr. Griffing, Rate Counsel's witness, recommended a 8.57% ROE in his Direct Testimony (RC-5), which is updated to 8.65% in his Surrebuttal Testimony (RC-6). In arriving at his recommendations, he first selected and analyzed a comparison group of eleven (11) water companies and then performed Discounted Cash Flow ("DCF") and Capital Asset Pricing Model ("CAPM") analyses on this comparison group. His recommendations were based on the results of his DCF analyses – the initial 8.57 and the updated 8.65 are, respectively, the midpoint of the range of 7.03 and 10.12 and the range of 7.14 and 10.17 (RC-6 at 7). The results of his CAPM-7.24 from his Direct Testimony and 7.16 and 7.20 from the three CAPM analyses from his Surrebuttal Testimony were only used as a check (RC-5 at 31; RC-6 at 8 and 11).

Because Rate Counsel did not support a 9.75% ROE, the Company filed the Rebuttal Testimony of Ms. Ahern (PRT-2), who criticized Dr. Griffing's recommended 8.65% ROE to be unreasonable for three reasons: it is not consistent with expected capital market conditions; it is based exclusively upon a DCF analysis that mathematically tends to "mis-specify" the investor required market return when market-to-book ratios diverge from unity; and it is not consistent with the Board's public policy relative to the return on common equity cost rate for water utilities or for electric and natural gas utilities (PRT-2 at 3-4). Ms. Ahern also concluded that Dr. Griffing's recommendation of 8.65% does not meet the mandate of FPC v. Hope Natural Gas, 320 U.S. 591, 64 S. Ct. 281, 88 L. Ed. 333 (1944) (PRT-2 at 4-6).

To arrive at her recommendation of 10.85 % return on equity, Ms. Ahern carried out four analyses on the same comparison group of water companies using several methodologies, including CAPM, DCF, and the Risk Premium Model (PRT-2 at 15-17). Ms. Ahern concluded that the 9.75% return on equity requested by the Company is extremely conservative (PRT-2 at 25).

Board Staff presented several reasons to support and adopt the Company's ROE of 9.75% and an ROR of 7.62% (Staff Brief at 8): Dr. Griffing's 8.65% ROE does not reflect the Company's small size risk; the Company currently only serves approximately 600 residential customers and 25 commercial customers and one commercial customer; comparing to the comparison group, the size of the Company is so small that it is impossible for it to have an access to the public capital market and bank loans and private equity are relatively more expensive; the Company's lack of diversity in terms of business mix, customer mix, and territorial mix makes it even more risky to the prospective investors; Dr. Griffing essentially assumed that the Company is treated as a stand-alone company, yet no adjustment is made to his estimate to reflect the small size risk premium (Staff Brief at 12-16).

2. ALJ's Recommendation on Rate of Return

ALJ Jones noted that Dr. Griffing accepted the Company's proposed capital structure of 53 percent equity and 47 percent debt with a cost of debt of 5.19 percent. ALJ Jones found that the Company sought a 9.75% ROE and proposed a capital structure that consisted of 53 percent of equity and 47 percent of long-term debt, resulting in an overall ROR of 7.61 percent. Initial Decision at 3. The Company's initial ROR request was included in the direct testimony of Mr. Prettyman, who opined that while a 10.25 percent ROE and a 7.89 percent ROR could be justified, the Company seeks a lower ROE/ROR to mitigate the impact of the instant rate increase. Ibid.

ALJ Jones was persuaded by the analyses presented by the Company and Staff supporting a 9.75 percent ROE with an overall ROR of 7.62 percent, which the ALJ found to be consistent with the mandate of FPC v. Hope Natural Gas, 320 U.S. 591, 64 S. Ct. 281, 88 L. Ed. 333 (1944) that the return to the equity owner should be commensurate with the return on investments in other enterprises having corresponding risks. Initial Decision at 9. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, to maintain its credit, and to attract capital. Ibid. Accordingly, the ALJ found that a 9.75 percent ROE allows the Company a sufficient return to be attractive to potential investors and provides a sufficient return on invested capital to allow it to attract capital. Id. at 10.

3. Consolidated Taxes

Arlington Hills is included in the consolidated federal income tax filing of its parent company SUEZ Water Resources. The Company's initial filing did not include a consolidated tax adjustment ("CTA").

Rate Counsel proposed a CTA based on the method approved by the Board in I/M/O the Matter of the Petition of Rockland Electric Company for Approval of Changes in Electric Rates, Its Tariff for Electric Service, Its Depreciation Rates, and for Other Relief, BPU Docket No. ER02100724, Order dated April 20, 2004 ("Rockland Order").

Rate Counsel recommended basing the CTA on a twenty-year look-back period, arguing that this time frame reflects an accurate picture of the Company's negative and positive net income and the amount of taxes paid. Rate Counsel further argues that the effect of any outlier years is minimized by the twenty-year period. Relying on 26 U.S.C.A. § 172, Rate Counsel also points out that the twenty-year period is consistent with Federal tax laws, which allows losses to be carried forward for twenty years. Based on twenty years of data provided by the Company, Rate Counsel's proposed CTA to rate base is a $107,440 deduction (RC-2 at 13, 14; Schedule DM-28).

Staff recommended adopting the CTA proposal that was included in the Company's rebuttal testimony (PRT-1 at 42-44) and Schedule GSP-6 attached thereto, reflecting a CTA of $79,381, and which would result in a rate base reduction of $79,381. Staff's and the Company's proposed adjustment is consistent with the Board's Order in I/M/O the Board's Review of the Applicability and Calculation of a Consolidated Tax Adjustment, BPU Docket No. EO12121072, Order dated October 22, 2014 ("2014 CTA Order"),[3] which directed that the Board's CTA policy should remain in effect subject to following modifications:

[3] An incorrect version of the 2014 CTA Order was mistakenly served by a Secretary's letter dated November 3, 2014. Therefore, on December 17, 2014, the Board reissued the 2014 CTA Order, as

> 1. The review period for the calculation shall be for five calendar years including any complete year that is included in the test year;
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> 2. The calculated tax adjustment based on that review period shall be allocated so that the revenue requirement of the company is reduced by 25% of the adjustment; and
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> 3. Transmission assets of the EDCs would not be included in the calculation of the CTA.
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> [Id. at 11.]

Rate Counsel argued that (i) the Company's use of the 75%/25% split in favor of shareholders unfairly denied ratepayers an adequate share of the consolidated tax benefits; (ii) the rate base deduction adopted by the Board in the Rockland Order already includes a sharing of benefits, because a rate base deduction is akin to a carrying charge; (iii) with rate base deduction, there is no need for additional sharing; (iv) the use of the twenty-year look-back period is also preferable because it minimizes outlier years; and (v) the 2014 CTA Order was currently under appeal which nullified it in favor of the twenty-year look-back period.

SUEZ noted that (i) it continues to disagree with the concept of a CTA; (ii) it had followed the methodology required by the 2014 CTA Order; (iii) Rate Counsel's own witness had conceded that the Company's adjustment was in line with the Board's stated policy; (iv) Rate Counsel's proposed adjustment was in accord with Rate Counsel's policy and not Board policy; and (v) it agreed that Rate Counsel had appealed the Board's decision but noted that Rate Counsel had not asked for a stay of the Board's Order.

Staff argued that the consolidated tax savings should be shared with customers. Staff agreed that the Board's 2014 CTA Order was currently on appeal, but argued that the Order represents the Board's policy with respect to the CTA. Staff further argues that, in the 2014 CTA Order, the Board stated in pertinent part:

> ...Therefore, the Board believes that any further modifications to the CTA policy should be made in the same manner as past modifications and therefore **FINDS** that the implementation of any modification to its current CTA policy should be done by Board order as the calculation of the CTA will be company specific.
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> Under the Board's longtime policy, when a regulated utility is part of a holding company structure and is included in the consolidated federal income tax filing of its parent company and, as a result, the parent company and the regulated utility (as well as other subsidiaries) pay less federal income taxes than each would pay if it filed separately, these consolidated tax savings are shared with the regulated utility's customers. This policy was implemented to ensure that when ratepayers pay the tax expense of the utility,

originally intended, with only the docket number corrected, thus issuing the final order from the CTA proceeding that had been commenced in January 2013 regarding the CTA calculation to be used in adjusting a utility's rate base. See 2014 CTA Order at 1.

they receive some credit for those payments if, as a result of the consolidated tax filing, less taxes are ultimately paid.

The methodology utilized to calculate the CTA in the most recent fully litigated rate case has been used by the Board for approximately twenty years. The method used is the so-called "rate base" method which allows the parent company to keep certain tax savings, while requiring the jurisdictional entity to reflect the savings by reducing the rate base upon which the utility's return is determined. The Board determined that this was an appropriate way for the regulated entity to share the benefits resulting from filing a consolidated tax return. The Board reiterates its belief that the rate base methodology remains an appropriate way to share CTA savings. However, the Board believes that to more accurately balance the allocation of the savings, that amount of the calculated CTA savings should be adjusted by utilizing a specific percentage sharing method to be used before any credit is applied.

The current CTA method involves a look-back to 1991 to calculate the required base rate adjustment; however, since that time, both federal income tax laws and the corporate structures of many of the utility companies have changed. It has become clear that the review period has been extended not because of any regulatory rationale but merely by the passage of time. The Board can find no rational basis for the unending extension of the review period, and believes that the implementation of a shorter, fixed review period is necessary to return the impact of the CTA to that which was originally intended. This shorter look-back will mean that the tax adjustment will more closely reflect the current economic state of the utility at the time the CTA is applied.

The Board has determined that, based upon the complete record, there is a sound policy argument for continuing the CTA and concurs with Staff's proposed modifications. We believe that these modifications will accomplish two things: customers will continue to share in the tax savings realized by the utility's parent; and a fixed review period will enable the regulated utilities to better plan the tax implications of their filings and investments.

The Board also believes that it is not appropriate to include in the calculations of CTA the transmission portion of an Electric Distribution Company's ("EDC's") income since those earnings are not subject to the Board's jurisdiction.

These modifications give recognition to the fact that a fundamental tenet of utility regulation is that any methodology used by the regulator must result in an end result that is just and reasonable for both ratepayers and shareholders. The application of the Board's existing CTA policy has resulted in violation of that fundamental principle. We believe that the modifications proposed by Staff strike an appropriate balance between the interests of the regulated utilities and their customers.

Based on the complete record in this proceeding, the Board **HEREBY FINDS:**

1. New Jersey regulated utilities, as part of holding companies, are required to reduce rates as a result of a CTA applied during base rate cases to reflect certain tax savings realized by the holding company.

2. Utilities that are not structured as holding companies do not incur the CTA. The vast majority of states do not impose a CTA and neither does the Federal Energy Regulatory Commission ("FERC").

3. Changes in the Internal Revenue Code to incentivize wind, solar, renewables, manufacturing, and research and development have caused the CTA to increase to the point that continued use in its current form will discourage investment which is contrary to the State's policies for energy and economic growth.

4. The policy change is being made to encourage economic growth and improve the investment climate in the State.

Therefore, based on the entire record before us, the Board **FINDS** that it is appropriate to continue to include a Consolidated Tax Adjustment in utility base rate filings. The Board also **FINDS** that the current CTA policy shall remain in effect with the following modifications:

1. The review period for the calculation shall be for five calendar years including any complete year that is included in the test year;
2. The calculated tax adjustment based on that review period shall be allocated so that the revenue requirement of the company is reduced by 25% of the adjustment; and

> 3. Transmission assets of the EDCs would not be included in the calculation of the CTA.
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> [2014 CTA Order, at 10-12, footnotes omitted.]

Thus, the adjustment recommended by Staff in its initial brief is consistent with modified CTA adjustment found to be reasonable by the Board in the 2014 CTA Order.

4. ALJ's Recommendation on Consolidated Taxes

After reviewing the record and the position of the parties, ALJ Jones recommended a CTA of $79,381[4] as proposed by Petitioner and Staff. She noted that the 2014 CTA Order was currently under appeal but stated that it was still Board policy and had precedential value unless and until it was overturned by the court.

5. Post-Test Year Additions

The parties made very different arguments with regard to the Board's decision in I/M/O Elizabethtown Water Company, Decision on Motion for Determination of Test Year and Appropriate Time Period for Adjustments, BRC Docket No. WR8504330 ("Elizabethtown"), Order dated May 23, 1985 ("Elizabethtown Order"). The Company asks the Board to revisit the Elizabethtown Order, especially as to post-test-year rate base additions. The Company contends that the Elizabethtown Order is thirty-two years old and that a rigid application thereof places an undue burden on small water and wastewater companies. The Company therefore included an anticipated investment of post-test year projects of $205,858 to be made between May 1, 2016 and October 31, 2016. During the evidentiary hearings, the Company agreed that the only investment actually required during the post-test year period was for $924 for the replacement of the pump for the old wastewater treatment plant which was demolished.

Rate Counsel did not dispute the Company's proposed test year ending April 30, 2016. However, Rate Counsel asserted that the Elizabethtown Order held that only post-test year projects that are major in nature and consequence can be recovered. Rate Counsel noted that during evidentiary hearings, the Company conceded that only $924 of its anticipated $205,858 routine post-test-year additions would be placed into service. The $924 post-test-year addition was for the replacement of a pump at its old wastewater treatment plant. The $924 pump is no longer in service and no longer part of utility plant in service because the old wastewater treatment plant has been demolished. Rate Counsel therefore argued that the Petitioner's request to include routine post-test year additions should be rejected.

Staff asserted that the Company provided support to substantiate the post-test year addition for the construction of the new wastewater treatment plant and the main extension to connect the Fieldstone and Shadow Woods Development to the new wastewater treatment plant. Staff argued that these costs occurred within six (6) months from the close of the test year, were major in nature and consequence, and are already in service. However, Staff further argued that the Company did not provide support to substantiate the level of post-test year additions in the amount of $924. The replacement of the pump was taken out of the existing wastewater treatment plant and has since been demolished. Therefore, the item is not used and useful.

[4] Judge Jones found a CTA of $79,381 as the undisputed result from applying the 2014 CTA Order, and said adjustment is consistent with Exhibit P-4, Schedule 7, attached to the Initial Decision. However, although it is immaterial, an apparent clerical error in the Initial Decision indicates a CTA of $79,981.

Consequently, Staff recommended that the $924 not be included as part of the Company's rate base.

6. ALJ's Recommendation on Post-Test Year Additions

After carefully considering the parties' positions, ALJ Jones ruled that the $924 pump should not be included in rates because it is not used and useful in the provision of service. The ALJ further ruled that the Company's remaining post-test-year plant additions should not be included in rate base because they were not known and measurable, and the Company could not provide a projected in-service date.

7. Rate Case Expenses

The Board first began sharing rate case expense between shareholders and ratepayers in the early 1980's. In I/M/O South Jersey Gas Company, BPU Docket No. 818-754, Order dated November 24, 1982) ("South Jersey"), the Board stated:

> We adopt the Staff's and the ALJ's two-year amortization of rate case expense, with one modification. That modification is to take half of the Company's rate case expense exclusive of Rate Counsel's expenses and reflect as a below the line expense. This treatment of the Company's rate case expense is appropriate because some portion of that expense is a cost of maintaining the stockholder's investment which costs should be reasonably borne to the investor we have used a 50-50 split between ratepayer and investor.
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> [Id. at 5.]

In I/M/O the Petition of Hackensack Water Company, BPU Docket No. 815-447, Order dated January 12, 1983, the Board cited South Jersey, supra, and stated:

> However, in order to be consistent with recent orders in other proceedings decided subsequent to the submission of Staff's proposal in this matter, we will modify Staff's proposal to allow for the equal sharing of the Company's rate case expense, exclusive of Rate Counsel expenses, by the shareholders and ratepayers. This treatment of the Company's rate case expenses is appropriate because a portion of that expense, which we have determined to be fifty percent, is a cost of maintaining the shareholder's investment which cost should reasonably be borne by the investor.
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> [Id. at 4.]

In almost every litigated gas, electric, and water rate case that followed, the Board shared rate case expenses 50-50 between ratepayers and shareholders. In I/M/O the Matter of the Application of West Keansburg Water Company, BPU Docket No. 838-737, Order dated April 12, 1984) ("West Keansburg"), the Board stated:

> In the recent past in proceedings involving the State's major utility companies, the Board has shared rate case expenses, excluding Rate Counsel fees, equally between the shareholders and the ratepayers. While we will continue to consider this issue on a case by case basis, we are of the opinion that the sharing of rate case expenses by a company the size of Petitioner is inappropriate. It is our belief that the sharing of rate case expenses would have a greater negative effect on companies such as Petitioner as opposed to major utilities. This is because rate case expenses make up a substantially higher percentage of operating expense for such companies and the resultant reduction in the earned rate of return would be greater.
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> [Id. at 2.]

In I/M/O the Petition of Long Beach Water System, BPU Docket No. 8310-855, Order dated July 5, 1984) ("Long Beach"), the Board stated:

> In addition, the Administrative Law Judge applied the Board's policy of sharing rate case expense between ratepayers and shareholders in this case. The Board has refined its rate case expense policy due to the significant revenue impact for other than major utility companies. Thus, recently in the West Keansburg case, BPU Docket No. 838-787 (1984), we permitted full recognition of reasonable rate case expense, Long Beach Water Company, about a fourth of the size of West Keansburg, falls into this category and we would therefore recognize full rate case expense, adjusted by the staff's position.
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> [Id. at 4.]

After Long Beach, there was an extended period of time when there were no litigated rate cases involving a small water utility. In the few water cases that were litigated, the Board ordered that rate case expenses be shared equally between ratepayers and shareholders. In I/M/O the Petition of Environmental Disposal Corporation, BPU Docket No. WR94070319, Order dated July 17, 1996 ("Environmental Disposal"), the Board rejected the ALJ's recommendation that the Board adopt a stipulation that agreed to an "amortization of rate case expenses without 50/50 sharing." Id. at 6.

In I/M/O the Petition of Pennsgrove Water Supply Company, BPU Docket No. WR98030147, Order dated June 30, 1999 ("Pennsgrove"), the Board adopted the ALJ's recommendation and stated:

> The ALJ observed that often small utilities go years in loss situations before requesting rate relief during which time the shareholders have borne the ongoing costs of subsidizing the operation. In these cases, the ALJ noted that it is arguable that the shareholders need not be required to bear a portion of the expense. The ALJ did not find that in the case of Pennsgrove. Considering that Pennsgrove's rates were last increased two and one-half years ago and that the loss incurred during that period, at

> least during the last year, was not substantial, the ALJ believed a sharing as proposed by Staff and the Advocate is reasonable.
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> [Id. at 12.]

In I/M/O the Petition of Seaview Water Company, BPU Docket No. WR98040193, Order dated October 1, 1999 ("Seaview"), the Board noted that Seaview Water Company had 75 customers. Id. at 1. The Board found that "[t]he ALJ noted that he believed the Board in reviewing these matters should always consider that extraordinary circumstances may require deviation from a 50/50 sharing, but he didn't find any extraordinary circumstances in this matter. Id. at 8. The Board then ordered that rate case expenses "be shared 50/50 between shareholders and ratepayers." Ibid.

In I/M/O of the Petition of Middlesex Water Company, BPU Docket No. WR00060362, Order dated June 6, 2001, the Board cited Pennsgrove and adopted Rate Counsel's recommendation to share rate case expenses 50/50 between ratepayers and shareholders. Id. at 27.

In I/M/O the Petition of Gordon's Corner Water Company, BPU Docket No. WR00050304, Order dated July 13, 2001, the Board adopted the ALJ's recommendation that:

> rate case expenses be set at $70,000 shared 50/50 between ratepayers and shareholders and amortized over a three-year period. The Board recognized that a rate case benefits both ratepayers and shareholders, and absent any special circumstances, sharing of these expenses is appropriate and consistent with prior Board Orders.
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> [Id. at 17.]

In I/M/O the Petition of Parkway Water Company, BPU Docket No. WR05070634, Order dated September 4, 2016, the Board adopted the ALJ's recommendation that rate cases should be shared between ratepayers and shareholders. Id. at 16. The Board "recognize[d] that a rate case benefits both ratepayers and shareholders and, absent any special circumstances, sharing of rate case expenses is appropriate and consistent with prior Board Orders." Id. at 17.

In this matter, the Company requested that SWAH be permitted to recover all of its prudently incurred rate case expenses arguing that it would be wholly inappropriate to split the cost of this necessary rate case between the customer receiving the benefit of this rate case and the cost of processing the case (PT-1 at 6). During rebuttal, the Company updated its rate case expenses to $340,000 noting that its originally projected rate case expenses of $85,000 was based on the assumption that this case would not be litigated.

Rate Counsel noted that the Board's long standing 50/50 rate case sharing policy is rooted in fundamental fairness, as both shareholders and ratepayers benefit from a rate case proceeding. Rate Counsel further argued that the Company offered no compelling reason to deviate from the Board's long-standing policy. Also, Rate Counsel did not object to updating the total legal expenses to $250,048 as provided by the Company in transcript request RC-TR-1. In addition, Rate Counsel recommended that 50% of the Company's rate case expenses be amortized over four years.

Staff recommended that the rate case expenses be split 50/50 between Arlington Hills and ratepayers. Staff noted that the Board has consistently shared rate case expenses 50/50 between ratepayers and shareholders in most litigated cases since South Jersey. Staff also noted that the Board, in West Keansburg, supra, stated that it would consider the issue of sharing of rate case expenses on a case-by-case basis. However, Staff argued that this case does not present circumstances which justify deviation from a 50/50 sharing of rate case expenses. Staff further argued that Petitioner is hardly a small utility. While agreeing that SUEZ Arlington Hills serves approximately 600 customers, Staff argued that Arlington Hills is part of the much larger multinational SUEZ corporate umbrella. Staff therefore recommended that the Company's rate case expenses be shared 50/50 between SUEZ and its customers in accordance with the long-standing practice of the Board. Staff agreed with Rate Counsel's recommendation that the rate case expenses for this proceeding be amortized over four years to match the Company's proposed rate phase-in period.

8. ALJ's Recommendation on Rate Case Expenses

Citing Seaview, supra, the ALJ noted that the Board had shared rate case expenses in a much smaller utility that had less than eighty customers. The ALJ also noted that the ALJ in Seaview had recommended a 50/50 sharing of rate case expenses, noting that deviation from the standard policy should only apply in extraordinary cases, which were not demonstrated in that matter. ALJ Jones also found that petitioner was not a major utility but was a subsidiary of the larger multinational SUEZ Water Company and thus lay outside of the type of small utility referred to in West Keansburg, supra. The ALJ found that there was no doubt that the rate case expenses incurred by Petitioner were reasonable and appropriate but stated that she was not persuaded that a cogent, compelling argument had been made for a deviation from the 50/50 sharing policy. The ALJ further stated that the size of the proposed rate increase further militates against a departure from the sharing concept. ALJ Jones thus found that the Board's 50/50 sharing policy should continue and that rate cases should be amortized over four years as it matches that four-year phase-in period.

9. Rate Phase-In Carrying Charges

Rate Counsel and Staff did not oppose the Company's request to phase-in the proposed rate increase over four years. However, the parties disagree as to how the rate phase-in should be implemented. The Petitioner argued that 50% of the proposed rate increase be implemented during the first year of the increase with equal amounts be recovered (with carrying costs) for each of the next three years. Rate Counsel argues that the resulting rate increase should be implemented in four equal phases of 25% each.

During rebuttal, the Company proposed for the first time that the ALJ and the Board allow carrying charges on the revenues not collected during the phase-in period and that the Company be allowed to compute interest on the unrecovered amount of the revenues not collected as a result of the phase-in (PRT-1 at 44). Rate Counsel opposed the Company's request for carrying charges, noting that (i) the Company's proposed rate increase exceeds 100%; (ii) the Company proposed a rate phase-in in an effort to mitigate rate shock; (iii) the Company never requested carrying charges on its proposed phase-in in its petition and did not amend its petition to make such a request; and (iv) the request for carrying charges was made more than six months after the filing of the petition and after the close of discovery.

Staff also opposed Petitioner's request for carrying charges. Citing Seaview and Environmental Disposal, supra, Staff noted that (i) the Board has occasionally ordered that significant rate increases be phased-in to mitigate rate shock for the affected ratepayers; (ii) it was unaware of any proceeding where the Board had allowed carrying charges for a rate phase-in; (iii) the proposed rate increase is significant and that the Board in both Seaview and Environmental Disposal, supra, expressed a desire to avoid rate shock in the case of large rate increases; and (iv) including carrying charges on revenues not collected during the phase-in period will increase the size of the resulting rate increase. Staff therefore recommended that Petitioner's request to include carrying charges on revenues not collected during the phase-in period be denied.

10. ALJ's Recommendation on Rate Phase-In Carrying Charges

The ALJ agreed that phase-ins are generally implemented as a counter-measure of rate shock from a large rate increase. She also agreed that Staff and Rate Counsel were correct that the Board has generally disfavored awarding of carrying costs. ALJ Jones also stated that there was no doubt that the Company's request to recover carrying costs was incongruous with a rate phase-in, the purpose of which is to mitigate rate shock. The ALJ therefore concluded that the magnitude of the rate increase that results from this proceeding warrants caution and recommended that Petitioner's request for carrying costs be denied.

11. Incentive Compensation

The Company requested that the ALJ and the Board allow inclusion of the portion of incentive compensation paid to employees that is based solely on the achievement of personal goals, and not tied to the financial performance of SWAH, or its affiliates. Rate Counsel argued that the portion of incentive compensation that is linked to individual employee goals is not known and measurable. Rate Counsel further argued that the Company offered no information about how many employees actually achieve their individual goals, or how much of this portion of incentive compensation gets paid, and therefore this portion of incentive compensation should not be recovered in rates.

The Company disputed $12,461 in incentive compensation paid to SUEZ's Management and Services' ("M&S") employees that Mr. Mugrace removed. The Company claimed that Mr. Mugrace made a "calculation oversight." The Company's Petition requested M&S Fees totaling $42,244. During the pendency of this rate case, the Company received Board approval of a new methodology for allocating M&S fees. This new methodology would have increased the allocation to SWAH from $42,244 to $115,969. The Company decided not to make an amended request for the higher amount. However, when Mr. Mugrace asked the Company to provide the amount of incentive compensation imbedded in M&S fees, the Company provided the amount that is embedded using the new methodology. The Company now appears to want to utilize the amount of incentive compensation embedded in the $42,244 allocation under the old methodology. The Company, however, never provided this information.

According to Rate Counsel, Mr. Mugrace did not make any calculation error. Instead, Mr. Mugrace used the exact amount of incentive compensation, $12,461, that the Company provided to him. The Company has the burden of justifying all components of the revenue requirement, and if a different amount of incentive compensation was appropriate, the Company should have provided that information. Also, Rate Counsel asserted that Mr. Mugrace simply used the amount of incentive compensation expense that the Company provided. Based on the information provided by the Company, Rate Counsel contends that $12,461 in incentive compensation related to M&S should be excluded from rates.

Staff pointed out that the Board has historically disallowed incentive compensation, citing to I/M/O the Verified Petition of Rockland Electric Company for Approval of Changes in Electric Rates, Its Tariff for Electric Service, Its Depreciation Rates, and for Other Relief (Base Rate Filing), BPU Docket No. ER02100724, page 71, Order dated April 20, 2004; I/M/O the Matter of the Petition of Jersey Central Power & Light Company for Approval of Increased Base Tariff Rates and Charges for Electric Service and Other Tariff Revisions, page 4, BPU Docket No. ER91121820J, Order dated June 15, 1993. Staff concurred with Rate Counsel's expert, Mr. Mugrace, who stated that incentive compensation should be removed from cost of service because ratepayer funding of such awards is contrary to Board policy and there is prior Board precedent consistently ruling against it for ratemaking purposes. Staff therefore recommended that incentive compensation should be removed from cost of service.

12. ALJ's Recommendation on Incentive Compensation

Because of the magnitude of the proposed rate increase, ALJ Jones recommended excluding incentive compensation from rates. While noting that the Board has historically denied incentive compensation, ALJ Jones also noted that the same economic conditions that existed in 2003 and 2008 do not exist today. She also noted that incentive compensation plans are indeed a part of today's economy. While recommending against including incentive compensation in rates, ALJ Jones stated that she was persuaded that it may be time to revisit the issue of including incentive compensation in rates and suggested that the Board may want to consider whether a sharing concept similar to rate case expenses should be considered for incentive compensation.

13. The Apartment Rate

In its petition, the Company sought recognition of 360 new customers associated with a new apartment complex and townhouses. The Petitioner reflected the developer's original plan that each of the 300 apartments in the apartment complex would be individually metered with 5/8" meters. The Petitioner subsequently notified the parties that the developer had revised its plan and that each apartment building would now be master metered in lieu of individual metering. Thus, the Company removed the 300 5/8" meters and added nine (9) 3" meters and four (4) 2" irrigation meters. This adjustment resulted in a decrease in pro-forma present rate revenues. As noted by the ALJ, the Petitioner included the apartment rate revenue from the projected new apartment tenants in order to mitigate the impact of the rate increase on the current customers despite the fact that neither the apartment building nor the townhouses are in service and will not be for some time, clearly long past the post-year adjustment period recommended by the Elizabethtown case and which is otherwise adhered to by Staff.

In light of a change to master metering, the Company sought to remove the apartment customers from the residential rate classification to a new apartment rate classification. The Company argued that charging the apartment buildings a commercial rate classification was inappropriate because it would result in the apartment complex, a commercial customer being billed approximately $365,000 under the SUEZ's present rates rather than be billed approximately $41,000 under a residential rate classification. The Company instead proposed that a new apartment rate be established for the apartment buildings. The proposed new apartment rate would result in the apartment buildings being billed approximately $200,000 under the new rate classification.

Rate Counsel argued that the Company's proposed apartment rate should be rejected because it was not supported by a cost-of-service study. Rate Counsel also objected to the apartment rate because it is designed to give the Company greater revenues from fixed service charges. Rate Counsel also contended that the Company provided no support for its assumption that the apartment buildings would be billed as commercial and not residential customers. Rate Counsel further argued that the apartment buildings should be billed as residential customers absent existing tariff provisions that define apartment buildings as commercial customers. Finally, Rate Counsel disputed the Company's contention that the apartment rate mitigates the rate impact of this case to residential customers because it simply charges one set of residential customers (the apartment dwellers) higher rates than another set of residential customers (the non-apartment residential customers).

Staff noted that the Petitioner currently has approximately 24 commercial customers and understands that these commercial customers consist of at least one strip mall and several office buildings. Staff believed that the usage pattern for an apartment complex will be different from that of an office building or a strip mall. For example, the office buildings will only be occupied during normal business hours. The water usage for an office building normally consists of the usage that will be associated with a lunchroom or a break room. Water usage for an apartment will be comprised of bathroom (i.e., showering), laundry, dishwashing, etc. Thus, an apartment complex could be expected to have much higher water usage than an office complex. This in turn will lead to an apartment building having a higher wastewater bill than an office building. These higher wastewater bills will likely be passed on to the tenants in the form of higher rents. Staff therefore recommended that an apartment rate be established for the new apartment complex and that this rate be based on the methodology proposed by Petitioner.

14. ALJ's Recommendation on the Apartment Rate

The ALJ noted the Company argued that it is under no obligation to undertake an expensive cost-of-service-study and that the fact that it had not submitted a cost-of-service-study should not be dispositive of the issue. ALJ Jones further noted that Petitioner's current tariff includes 2" and 3" meters that are used to serve commercial customers. She also noted that the Company argued that its proposal for an apartment tariff was revenue neutral and does not harm the new residents of the new apartment complex. ALJ Jones therefore was persuaded that the Company's proposed apartment tariff was the best solution. She noted that while it was true that the apartment tariff is not supported by a cost-of-service-study, it was also true that the Company's current tariff place the new apartment customers under the Company's commercial tariff. ALJ Jones further noted that, as Staff pointed out, the usage patterns for customers of the Company's current commercial tariff and a residential customer in an apartment complex are vastly different. Given the change in the developer's plans, ALJ Jones recommended that the Company's proposed apartment tariff should be adopted because it was the most equitable solution under the circumstances.

III. EXCEPTIONS AND REPLY EXCEPTIONS

By letter dated August 22, 2017, the parties advised the Board that they had agreed to file exceptions on August 30, 2017, and replies to exceptions by September 8, 2017.

On August 29, 2017, Board Staff filed a letter, noting that the Initial Decision references a petitioned phase-in of the proposed rate increase over four years and its findings presume a four-year rate phase-in period. Board Staff Exceptions at 1. However, Board Staff asserted, the decision does not explicitly conclude that a four-year rate phase-in period is appropriate. Staff, therefore, reiterated its position that a four-year rate phase-in period is appropriate for the reasons stated in its post-hearing brief dated April 13, 2017. Ibid.

On August 30, 2017, Rate Counsel filed a letter brief with exceptions to the Initial Decision. Although Rate Counsel stated that ALJ Jones properly followed policy in ordering the sharing of rate case expenses equally between ratepayers and shareholders, in denying the recovery of incentive compensation expenses, and in denying the Company's late request for carrying charges on the rate phase in, it took exception to the Initial Decision's proposed return on equity, consolidated income tax adjustment, and the proposed apartment rate. Rate Counsel Exceptions at 1-3.

Rate Counsel argued that the ALJ's recommended return on equity should be rejected because it is not based on any record evidence. Id. at 5-7. Also, according to Rate Counsel, given the magnitude of the rate increase, the Board should set the ROE at the lowest number that is sufficient to attract capital and ensure the financial integrity of the Company. Id. at 7-10. As to the CTA, Rate Counsel stated that the Board should modify the ALJ's decision to reflect Rate Counsel's recommended CTA of $107, 440 to reflect an adequate sharing of the tax benefits from the Company's participation in a consolidated tax filing. Id. at 11-13. In addition, Rate Counsel contended that the Initial Decision is not clear as to which proposed apartment rate the ALJ recommended and that if the Board adopts the ALJ's proposed apartment rate, then it must be revenue neutral. Id. at 13-14. Lastly, Rate Counsel asserted that the Board should adopt the ALJ's recommendation for an equal increase in each year of the phase-in. Id. at 14.

On August 30, 2017, the Company filed its Exceptions Brief, stating that it agreed with the ALJ regarding the return on equity, the consolidated tax adjustment, and the establishment of the apartment rate. SUEZ Exceptions at 1-2, 6-8. As a general matter, Petitioner took exception to the ALJ's denial of certain requests of the Company based on her perception of Board policy, while relying on generalized concerns about the magnitude of "the proven, prudent and reasonable rate increase." Id. at 8. The Company noted that where the ALJ relied on this generalized concern regarding the size of the increase, she did so in lieu of substantive rationale. Ibid. Petitioner also argued that the Initial Decision incorrectly denies the recovery of carrying costs resulting from the voluntary four-year phase-in. Id. at 10-20. In addition, Petitioner contended that rate case expenses are no different than other prudently incurred and justified utility expenses and should be reimbursed by the customers so as to match costs to provide service with customer rates. Id. at 20-29. Finally, the Company stated the Board should clarify its policy on incentive compensation and allow recovery on that portion of its incentive compensation expense not tied to its financial performance, as the ALJ recommended. Id. at 29-33.

On September 8, 2017, the Company filed its Brief in Reply to Exceptions from Rate Counsel, essentially requesting that the Board find Rate Counsel's exceptions to the ALJ's decision to be without merit and adopt the ALJ's recommendations as to return on equity, CTA, and the apartment rate. SUEZ Reply Exceptions at 1-5. Petitioner contended that the ALJ's recommended return on equity of 9.75% is amply supported by the record evidence and should be adopted by the Board. Id. at 6-15. Also, neither Rate Counsel's recommended return on equity of 8.65% nor its ultimate non-record based argument for return on equity of 9.60% is appropriate based on the law, Board's reasoning or the evidence in this case. Id. at 7. The Company also contended that prior settlements and the size of the necessary and prudent rate increase in this case have no bearing on the appropriate return on equity to be awarded to the Company. Id. at 11-12.

According to Petitioner, the ALJ's recommendation to adopt the Company's proposed CTA is consistent with the Board's recently pronounced CTA policy and should be adopted by the Board. Id. at 16. Also, the ALJ's recommendation to approve the Company's proposed apartment rate for the two-inch and three-inch meters serving the Atkins Development Apartment building has no impact on the Company's overall revenue requirement, is reasonable, and should be approved by the Board. Id. at 18. In addition, the Apartment Rate is revenue neutral and does not harm customers. Id. at 20. Finally, Petitioner argued that while the ALJ's Initial Decision is silent on how to implement the four-year phase in, the Company's proposal should be adopted by the Board. Id. at 22-23.

On September 8, 2017, Rate Counsel filed a letter brief on reply exceptions, reiterating its arguments and re-emphasizing the unusual circumstances and the magnitude of the proposed rate increases in this case and why it should not be used as an occasion to evaluate long-standing Board policies, especially as regards to carrying charges, the sharing of rate case expenses, incentive compensation, and phase-in of significant rate increases. Rate Counsel Reply Exceptions at 2-11. Also, Rate Counsel noted that ALJ Jones stated that one quarter of the revenue requirement should be phased-in each year. Id. at 11. Rate Counsel asserts that, in modifying the ALJ's recommendation, the Board should adopt an ROE of no greater than 9.60% and a consolidated tax adjustment of $107,440. Ibid. Finally, Rate Counsel stated that the Board should either decline to adopt the Apartment Rate or adopt an Apartment Rate that is revenue-neutral. Id. at11-12.

IV. MOTION TO REOPEN THE RECORD

As discussed more fully below, an adjustment for consolidated tax saving adjustment ("CTA") was one of the issues that were raised by the parties and decided by Judge Jones. On September 18, 2017, the Appellate Division of the Superior Court of New Jersey issued a decision that remanded the Board's 2014 CTA Order to the Board for a Rule making.

By letter dated September 19, 2017, Rate Counsel filed a motion requesting that the Board reopen the evidentiary record for the limited purpose of taking additional evidence on the appropriate CTA for Petitioner in light of the Appellate Division decision. Among other things, Rate Counsel argued that the CTA methodology set forth by the Board in the 2014 CTA Order can no longer be used unless it is adopted as a rule. Specifically, Rate Counsel requested that the Board require the Company to submit an updated CTA using the Rockland Methodology.

The Petitioner filed its response to Rate Counsel's motion by letter dated September 20, 2017. Among other things, the Petitioner argued that the Court reversed the CTA Order because the Board had failed to follow the Administrative Procedure Act in establishing a rule. The Petitioner further argued that the law or policy contained in an opinion or order that has been reversed on other grounds is still good law and that the parties and the Board may continue to rely on it. The Petitioner noted that Rate Counsel did not request a stay of the CTA Order and that the Appellate Division's decision did not stay the CTA Order. Finally, the Petitioner argued that the evidentiary record on the CTA in this proceeding was fully developed.

Rate Counsel responded to Petitioner by letter dated September 27, 2017. Among other things, Rate Counsel argued that SUEZ's opposition to its motion to reopen the evidentiary record encouraged the Board to defy the Appellate Division's decision, ignored the law, and had no merit. Rate Counsel further argued that the evidentiary record does not support the Company's five-year lookback period.

V. DISCUSSION AND FINDINGS

The Board has been given broad authority in the general supervision, regulation of and control over public utilities. N.J.S.A. 48:2-13. The Legislature has delegated its power over the activities of public utilities and has vested the Board with broad discretion in the exercise of that authority. See, e.g., In re Public Service Elec. and Gas Company's Rate Unbundling, Stranded Costs and Restructuring Filings, 167 N.J. 377 (2001). In exercising its authority to set just and reasonable rates as mandated by N.J.S.A. 48:2-21, the Board carries out a legislative function which requires the use of its expertise in a manner that is sufficiently flexible to be responsive to changing conditions, and which balances complex and competing interests. Ibid. 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, e.g., FPC v. Hope Natural Gas, 320 U.S. 591, 64 S. Ct. 281, 88 L. Ed. 333 (1944); N.J.S.A. 48:2-21 and N.J.S.A. 48:3-1.

1. Petitioner's Motion for Oral Argument

As to Petitioner's motion for oral argument, the relevant rules provide as follows:

> After receipt of the initial decision, the exceptions and answers thereto, if any, will be disposed of by the Board based on the exceptions, answers and briefs filed unless the Board, in its discretion, requires or permits oral argument, in which case the Board will schedule the matter for argument before it.
>
> [N.J.A.C. 14:1-8.2.]

Also, N.J.A.C. 14:1-8.3 provides: "The Board may institute on its own motion a review of any aspect of the initial decision and it may call for oral argument, the filing of briefs, or both, or the taking of additional testimony." Ibid. Thus, the applicable regulations provide that the Board in its discretion decides whether to grant a request oral argument. See, e.g., In the Matter of Comprehensive Resource Analysis of the Energy Programs Pursuant To Section 12 of the Electric Discount and Energy Competition Act of 1999, BPU Docket. Nos. EX99050347, EO99050348, EO99050349, EO99050350, EO99050351, GO99050352, GO99050353, and GO99050354, Order dated July 13, 2001 ("The Board believes that the parties have well and fully articulated their arguments in the briefs and that those briefs, in conjunction with the lengthy record, are sufficient for deciding these motions. The Board DENIES the motion for oral argument."); In the Matter of Public Service Electric and Gas Company's Rate Unbundling, Stranded Costs and Restructuring Filings, BPU Docket Nos. EO97070461, EO97070462, and EO97070463, Order dated August 24, 1999 ("At our April 21, 1999 public agenda meeting, we determined to deny the motion for oral argument. We note that oral argument is discretionary with the Board and we are satisfied that the CFC and all parties have had extensive opportunities to raise their concerns through evidentiary hearings, briefing, the stipulation process and in written comments with respect to the pending stipulations."); Harcord Packard Company v. Bell Atlantic-New Jersey, Inc., OAL Docket No. PUC 10413-94, BPU Docket No.

TC94090402U, Order dated September 26, 1995 ("upon careful consideration, we FIND that oral argument and additional testimony would not add measurably and constructively to this matter, and therefore, DENY Petitioner's request."); In the Matter of the Old Towne Group, OAL Docket No. BRC 617-93, BPU Docket No. WC92090979, Order dated July 15, 1994 ("In this matter, the Board believes the positions of the parties have been thoroughly litigated and briefed in the written record before it, and is convinced that oral argument is neither necessary nor appropriate. Therefore, the Board HEREBY DENIES the Petitioner's request for oral argument."); In the Matter of the Petition of Public Service Electric and Gas Co. for Authority To Revise Its Depreciation Rates; In the Matter of the Petition of Public Service Electric and Gas Co. for Approval of 1990 TLG Decommissioning Studies and Nuclear Unit Decommissioning Costs, OAL Docket Nos. PUC 8868-91, PUC 8869-91, and 8868-91, BPU Docket Nos. EE91081428 and EE91081429 (Consolidated), Order dated May 14, 1993 ("The Board denied the Coalition's request for oral argument on its Exceptions . . .").

Petitioner's motion for oral argument by and large involves policy issues ("the now 32-year-old Elizabethtown decision," return on equity, carrying costs, etc.) that would affect all utilities rather than just Petitioner. Petitioner has requested oral argument before the Board rather than before the ALJ before whom this case was fully litigated. Indeed, oral argument is discretionary with the Board and we note that all parties have had ample opportunities to raise their concerns through evidentiary hearings, briefing, exceptions, etc. Because this case was fully litigated, a sufficiently competent evidentiary record was established, and the parties filed briefs and exceptions, the Board sees no need to grant oral argument. The Board therefore **HEREBY DENIES** Petitioner's motion for oral argument.

2. Rate Counsel's Motion To Reopen the Record

Following the Appellate Division's reversal of a separate Board Order relating to the CTA, see Discussion at Section V(3)(b), infra at page 20, Rate Counsel requested that "the Board re-open the evidentiary record and require the Company to submit an updated CTA calculation using the Rockland Methodology." Rate Counsel's Motion to Re-Open the Evidentiary Record at 3. Rate Counsel's motion to reopen the hearing and supplement the record was filed pursuant to N.J.A.C. 14:1-8.4(a).

N.J.A.C. 14:1-8.4 provides as follows:

> (a) At any time after the conclusion of a hearing in a proceeding or adjournment thereof sine die, but before the entering and issuance by the Board of its final decision or order, any party to the proceeding may file with the Board a motion to reopen the hearing for the purpose of taking additional evidence. Such motion shall set forth clearly the reasons for reopening of the hearing, including any material changes of fact or of law alleged to have occurred since the last hearing.
>
> (b) If, after the hearing in a proceeding, the Board shall have reason to believe that conditions of fact or of law have so changed as to require, or that the public interest requires, the reopening of such hearing, the Board will issue an order for the reopening of same.

Also, N.J.A.C. 1:1-18.5 states as follows:

> (a) Motions to reconsider an initial decision are not permitted.
>
> (b) Motions to reopen a hearing after an initial decision has been filed must be addressed to the agency head.
>
> (c) Motions to reopen the record before an initial decision is filed must be addressed to the judge and may be granted only for extraordinary circumstances.

Whether to reopen the proceedings to consider new evidence is within the Board's discretion. In re Public Service Elec. and Gas Company's Rate Unbundling, Stranded Costs and Restructuring Filings, 330 N.J. Super. 65, 128-129 (App. Div. 2000). Indeed, a motion to reopen the record may be granted only for extraordinary circumstances. See In the Matter of the Petition of Atlantic City Electric Company, d/b/a Conectiv Power Delivery, for Approval of Amendments To Its Tariffs To Provide for an Increase in Rates for Electric Service, OAL Docket No. PUC 6917-02, BPU Docket No. ER02080510, Order dated March 24, 2003, citing State of New Jersey v. Boardwalk Regency Corp., 94 N.J.A.R. 2d 73 (1993) (on motion to reopen the record pursuant to N.J.A.C. 1:1-18.5, the new evidence must have the capacity to effect a change in the determination of a material fact or a conclusion of law reached in the initial decision). Here, there is no new evidence which is needed and the evidentiary record contains sufficient, competent, and credible evidence on all the relevant issues in this case. No additional factual findings are required for the Board to rule on the CTA issue or any other issue. N.J.S.A. 52:14B-10(c). The Board therefore exercises its discretion and **HEREBY DENIES** Rate Counsel's motion to reopen the evidentiary record.

3. Initial Decision

As to the underlying rate issues in this case, based on its review of the extensive record in this proceeding, which has been summarized in some detail above, the Board has determined that the Initial Decision, subject to the below clarifications, represents an appropriate resolution of the issues in this contested-case matter. Accordingly, the Board **HEREBY ADOPTS** the Initial Decision **WITH CLARIFICATION** as described below.

(a). Rate of Return

The Board notes that Rate Counsel's reliance as precedent on the Board's acceptance of "black box" settlements in rate proceedings is misplaced and inappropriate. The Board's acceptance of a settlement among parties does not reflect Board policy and/or precedent. Rate Counsel's reliance on settlement in other base rate cases at 9.6% return on equity is wholly misplaced and is not reflective of any policy of this Board. The Board decides rate of return based on the individual record in a litigated case after considering the arguments and record made in that proceeding based upon a complete record.

Based on the evidentiary record, and as discussed above, the Board **HEREBY ADOPTS** the ALJ's recommendations of a 9.75% ROE and a 7.62% ROR, as set forth more fully in the Initial Decision. The Board believes that the ALJ correctly considered the Company's peculiar and unique circumstances and that the recommended 9.75% allows the Company a sufficient return to be attractive to potential investors and provides a sufficient return on invested capital to allow it to attract capital. However, the Board's decision on ROE herein does not establish any policy on ROE, which should be determined on a case-by-case basis.

(b). Consolidated Taxes[5]

As noted above, the Board, beginning in January 2013, issued a number of Orders regarding the CTA calculation to be used in adjusting a utility's revenue requirement calculation resulting from among other things, a determination of a utility's rate base. By the 2014 CTA Order, the Board set a revised method of calculating a CTA.[6] The Board required New Jersey regulated utilities, that are part of holding companies, to reduce rates through a CTA applied during base rate cases to reflect savings that occur when the net effect of filing a consolidated tax return is that the organization as a whole pays less in federal income taxes than it would have paid if each affiliate filed a separate, stand-alone income tax return. Following a stakeholder process, the Board set forth criteria to be used to calculate the revenue requirement impact of the CTA, to be applied in future rate cases. The Board's 2014 CTA Order was appealed by Rate Counsel, and remained pending on appeal while this rate case was at the OAL. The appeal was determined by the Appellate Division after the Initial Decision was rendered by the ALJ in this case.

As previously stated, Arlington Hills is included in the consolidated federal income tax filing of its parent company SUEZ Water Resources. Nevertheless, Petitioner did not initially propose a consolidated tax adjustment in the determination of its rate base. Rate Counsel proffered expert testimony on the issue and Petitioner submitted rebuttal testimony on the issue, which was supported by Board Staff. ALJ Jones acknowledged that the Board's CTA Order cited above was on appeal. ALJ Jones then considered the arguments set forth by Petitioner, Rate Counsel and Staff, on the basis of the testimonies filed, the documents and exhibits entered into the record and the calculations of the parties in this case and found a CTA adjustment to rate base of $79,381 as proposed by Petitioner and Staff. Subsequent thereto, on September 18, 2017, the Appellate Division of the Superior Court of New Jersey issued a decision that overturned, on procedural grounds, the Board's 2014 CTA Order, finding that the Board should have implemented changes to the CTA by rulemaking rather than by Board Order. In the Matter of the Board's Review of the Applicability and Calculation of a Consolidated Tax Adjustment, Docket No. A-1153-14T1 (App. Div. September 18, 2017). The Appellate Division specifically indicated that it did not rule on the merits of calculating a CTA.

Rate Counsel filed a motion requesting that the Board reopen the record in this case for the purpose of taking additional evidence on the appropriate CTA for Petitioner in light of the Appellate Division decision. Rate Counsel argued, inter alia, that the CTA methodology set forth by the Board in the CTA Order can no longer be used until it is adopted as a rule. In response, Petitioner argued that the Appellate Division's reversal of the CTA Order was for failure to follow the Administrative Procedure Act in establishing what the Court deemed to be a rule. The Appellate Division did not rule on the merits of calculating a CTA. Petitioner further argued that a law or policy contained in an opinion or order that has been reversed on other

[5] President Richard S. Mroz recused himself on this issue only. He participated in, and voted on, the remaining issues in this case. See also footnote 6, infra.

[6] The Board reaffirmed the CTA criteria in I/M/O the Verified Petition of Jersey Central Power & Light Company for Review and Approval of Increases in and Other Adjustments to Its Rates and Charges for Electric Service, and for Approval of Other Proposed Tariff Revisions in Connection Therewith; and for Approval of an Accelerated Reliability Enhancement Program ("2012 Base Rate Filing"), OAL Docket No. PUC16310-12, BPU Docket No. ER12111052, Order dated March 25, 2017).

grounds is still good law, and the parties and the Board are free to continue to rely on the law or policy that has been reversed on other grounds. Petitioner noted that the Appellate Division's decision did not stay the CTA Order, nor did Rate Counsel request a stay. Finally, Petitioner argued that the record in this proceeding was fully developed with regard to CTA. Rate Counsel responded that Petitioner's response encourages the Board to defy the Appellate Division's decision. Rate Counsel argued that the ~~prior CTA~~ "Rockland methodology" should be used as regulatory policy in this and all future rate case. Based on the foregoing, Rate Counsel's argued that its position, namely, a proposed $107,440 reduction to rate base, is the appropriate CTA in this proceeding.

Despite arguing that it continues to disagree with the concept of a CTA, Petitioner argued that there is ample record support for a CTA in the amount determined by the ALJ. The Board agrees. The Board **FINDS** that the appropriate CTA for Petitioner was extensively argued and litigated by the parties to this fully litigated rate case, and was the subject of expert testimony, calculations and schedules, record evidence. As stated, Petitioner did not initially propose a consolidated tax adjustment in the determination of its rate base. Rate Counsel filed testimony and supporting schedules arguing a CTA be applied. Rate Counsel argued that a twenty year look back period, or review period, should be applied because it reflected an accurate picture of the Company's negative and positive net income and the amount of taxes paid. Petitioner filed rebuttal testimony supporting a five-year look-back period, or review period, and further supporting the conclusion that 25% of the calculated savings be allocated to ratepayers through a rate base adjustment. Board Staff supported ~~the~~ Petitioner's calculation of the CTA in its rebuttal testimony based on the record in this case accepted by the ALJ in finding the appropriate CTA to be $79,381.

The amount of a CTA in any given matter is within the Board's statutory jurisdiction to consider just and reasonable rates. N.J.S.A. 48:2-21(b)(1).

Nevertheless, the Board does not believe it is bound by any particular methodology in any particular case and may exercise its discretion based on a record in such case to determine and make appropriate adjustments for a company's actual tax liability and thus ensure the reasonableness of the resultant rates. In re Revision of Rates Filed by Toms River Water Co., 158 N.J. Super. 57, 60-61 (App. Div. 1978), rev'd on other grounds, 82 N.J. 201 (1980). Although Rate Counsel urges the "Rockland methodology" for supporting a twenty year look back period, Rate Counsel previously submitted comments to the Board acknowledging that the length of this review period could result in inappropriately large adjustments, and that changes in the tax code might impact the propriety of that calculation. In the Matter of the Board's Review of the Applicability and Calculation of a Consolidated Tax Adjustment, Docket No. A-1153-14T1 (App. Div. September 18, 2017) (slip op. at 10). Indeed, in separate proceedings, Rate Counsel proposed alternate criteria to be used by the Board in lieu of the "Rockland methodology." Ibid.

Moreover, twelve out of the last thirteen base rate cases before the Board resulted in settlements which provide no precedent and no basis that a twenty-year look-back was employed, adopted or used by all parties in reaching their settlement. Against this backdrop, and with competing expert testimony on the record, the Board is free to consider and adopt either position or craft a different one based on the record, other than ~~those~~ that proffered by any party.

The Board therefore **FINDS** that the Petitioner's rebuttal testimony, supported by Board Staff, to be reasonable, based on the record in this case, and supported under the unique facts and circumstances of this fully litigated rate case. The Board makes no determination as to its applicability in other cases.

The parties had ample opportunity to present in the record the economic impact on ratepayers, and the parties availed themselves of that opportunity with the submission of expert testimony and supporting calculations and exhibits. A robust record was created by which the Board is able to consider the positions of the parties. The Board is satisfied that the record supports a five year look back or review period and an allocation to ratepayers of 25% of the benefits of consolidated tax savings, and the Board therefore **ADOPTS** a CTA in the amount of $79,381. Based upon an independent review of the evidence in the record, the Board **HEREBY FINDS** that a rate base adjustment of $79,381 to be the appropriate CTA for this proceeding.

(c). Rate Phase-In Carrying Charges

The Board **NOTES** that the ALJ rejected Petitioner's request for carrying charges during the rate phase-in. ALJ Jones discussed at length the requested phase-in of the proposed rate increase and found a four-year rate phase-in period to be appropriate. However, the Initial Decision does not explicitly indicate how the resulting rate increase should be implemented over that four-year period. The Petitioner is proposing that 50% of the proposed rate increase be implemented during the first year of the rate increase, with the remainder of the increase being implemented equal amounts (with carrying costs) over the next three years. Rate Counsel argues that the rate increase should be implemented in four equal phases of 25% annually. The Board **HEREBY FINDS** that 50% of the rate increase should be implemented on the effective date of this Order with the remaining three phases of the increase being implemented in equal installments with no carrying charges over the next three years (i.e., commencing one year from the effective date of this Order).

Subject to the clarifications noted above, and having otherwise accepted the Initial Decision with the exhibits and schedules attached hereto, the Board **HEREBY FINDS** the Company's rate base to be $13,051,761, its overall rate of return to be 7.61%, its return on common equity to be 9.75%, and its revenue requirement to be $993,240. This results in a rate increase of $1,310,115 to be phased-in with 50% of the proposed rate increase be implemented during the first year of the rate increase, with the remainder of the increase implemented in equal amounts over the next 3 years, without carrying costs.. The Board **HEREBY FINDS** that with the adjustments described above, the resulting rates approved for SUEZ Water Arlington Hills, Inc. to be just and reasonable, reflecting this Board's reasonable judgment based on a review of the extensive record developed in this proceeding. See In re N.J. Power & Light Co., 9 N.J. 498 (1952).

Therefore, the Board **FINDS** the Initial Decision, subject to the modifications and clarifications herein, to be just and reasonable, in the public interest, and in accordance with the law. The Board accordingly incorporates herein the Initial Decision and all attachments and schedules thereto as its own. Also attached to this Order are schedules reflecting the following: (i) revenue requirement calculation (ii) income statement; (iii) rate base summary; (iv) rate of return; and (v) summary of operating expenses.

The Board **HEREBY ORDERS** SUEZ Arlington Hills to file tariffs consistent with the findings in this Order within five (5) days of the date of this Order.

This Order shall be effective on 11-13-17

DATED: 11-13-17

BOARD OF PUBLIC UTILITIES
BY:

RICHARD S. MROZ[7]
PRESIDENT

JOSEPH L. FIORDALISO
COMMISSIONER

MARY-ANNA HOLDEN
COMMISSIONER

UPENDRA J. CHIVUKULA
COMMISSIONER

ATTEST:

IRENE KIM ASBURY
SECRETARY

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

[7] As previously stated, President Mroz recused himself and did not participate or vote on the issue relating to the Consolidated Tax Adjustment. See footnote 4, supra. President Mroz signs this Order as to all remaining issues.

IN THE MATTER OF THE PETITION OF SUEZ WATER ARLINGTON HILLS INC. FOR APPROVAL OF AN INCREASE IN RATES FOR WASTEWATER SERVICE AND OTHER TARIFF CHANGES

BPU DOCKET NO. WR16060510
OAL Docket No. PUC 09261-2016

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SUEZ Water Arlington Hills
BPU Docket No. WR16060510
OAL Docket No. PUC 09261-2016
Revenue Deficiency

	Board	
Rate Base	$13,051,761	See: Attached Rate Base Summary
Rate of Return	7.61%	See: Attached Rate of Return
Required Operating Income	$993,239	
Test Year Operating Income	$239,349	See: Attached Income Statement
Income Deficiency	$753,890	
Revenue Factor	1.7378	See: Petition - Exhibit P-4
Required Increase	$1,310,110	Differences due to rounding

SUEZ Water Arlington Hills Inc.
Rate Base Summary

Line No.	Description	Company's Position	Rate Counsel's Position	Staff's Position	ALJ	Board
1	Utility Plant in Service	$ 16,677,168	$ 16,915,489	$ 16,915,489	$16,677,168	$16,677,168
2	Accumulated Depreciation	-				
3	Net Plant	16,677,168	$ 16,915,489	$ 16,915,489	16,677,168	16,677,168
4	Contributions in Aid of Construction	(2,774,770)	$ (2,854,509)	$ (2,854,509)	($2,774,770)	($2,774,770)
5	Accumulated Deferred Income Taxes	(830,820)	$ (830,820)	$ (830,820)	(830,820)	(830,820)
6	Prepaid Expenses	5,258	$ 5,258	$ 5,258	5,258	5,258
7	Working Capital (1/8 O&M)	54,306	$ 49,173	$ 49,173	54,306	54,306
8	Consolidated Income Tax	$ (79,381)	$ (107,440)	$ (79,381)	(79,381)	(79,381)
9	Total Rate Base	$ 13,051,761	$ 13,177,151	$ 13,205,210	$ 13,051,761	$ 13,051,761

SUEZ ARLINGTON HILLS
Rate of Return

Company Position:

	Capital Structure Ratio	Cost Rate	Weighted Cost of Capital
Long Term Debt	47.00%	5.19%	2.439%
Capital Equity	53.00%	9.75%	5.168%
Total Capitalization	100%		7.61%

Rate Counsel's Position:

	Capital Structure Ratio	Cost Rate	Weighted Cost of Capital
Long Term Debt	47.00%	5.19%	2.439%
Capital Equity	53.00%	8.65%	4.585%
Total Capitalization	100%		7.02%

Staff Position:

	Capital Structure Ratio	Cost Rate	Weighted Cost of Capital
Long Term Debt	47.00%	5.19%	2.439%
Capital Equity	53.00%	9.75%	5.168%
Total Capitalization	100%		7.61%

ALJ

	Capital Structure Ratio	Cost Rate	Weighted Cost of Capital
Long Term Debt	47.00%	5.19%	2.439%
Capital Equity	53.00%	9.75%	5.168%
Total Capitalization	100%		7.61%

Board

	Capital Structure Ratio	Cost Rate	Weighted Cost of Capital
Long Term Debt	47.00%	5.19%	2.439%
Capital Equity	53.00%	9.75%	5.168%
Total Capitalization	100%		7.61%

SUEZ WATER ARLINGTON HILLS
SUMMARY OF OPERATING EXPENSES

Description	Company Proposal	Rate Counsel Position	Staff Position	ALJ	Board
Operating Expenses					
Labor Expense	$ 149,484	$ 149,486	$ 149,486	$ 149,484	$ 149,484
Power	$ 23,187	23,187	23,187	$ 23,187	$ 23,187
Chemicals	$ 10,000	10,000	10,000	$ 10,000	$ 10,000
Waste Disposal	$ 35,886	35,886	35,886	$ 35,886	$ 35,886
Insurance	$ -			$ -	$ -
Fringe Allocation	$ 57,956	57,956	57,956	$ 57,956	$ 57,956
Rate Case Expense	$ 45,683	31,256	31,256	$ 45,683	$ 45,683
Management and Services Fees	$ 29,783	29,783	29,783	$ 29,783	$ 29,783
Outside Services	$ 38,303	38,303	38,303	$ 38,303	$ 38,303
Regulatory Commission Expense	$ 5,965	5,452	5,452	$ 5,965	$ 5,965
Other O&M Expenses	$ 36,104	36,104	36,104	$ 36,104	$ 36,104
Total Operation and Maintenance Expense	$ 432,351	$ 417,413	$ 417,413	$ 432,351	$ 432,351
Depreciation & Amortization Expense					
Depreciation	$ 372,864	370,752	370,752	$ 372,864	$ 372,864
Taxes Other Than Income					
Property Taxes	$ 10,823	10,823	10,823	$ 10,823	$ 10,823
Gross Receipts, Excise and Franchise Taxes	$ 274,820	255,588	255,588	$ 274,820	$ 274,820
Total Taxes Other Than Income	$ 285,643	$ 266,411	$ 266,411	$ 285,643	$ 285,643
Total Operating Expenses	$ 1,090,858	$ 1,054,576	$ 1,054,576	$ 1,090,858	$ 1,090,858

SUEZ WATER ARLINGTON HILLS
WR16060510
INCOME STATEMENT

Line No.	Description	Company Proposal	Rate Counsel Position	Staff Position	Adjustments	ALJ	Board
1	Operating Revenue	$ 1,137,324	$ 2,276,175	$ 2,451,915	$ 1,310,115 115.19%	$ 2,447,439	$ 2,447,439
	Operating Expenses						
2	Operating & Maintenance Expense	$ 429,179	$ 396,782	$ 396,771	$ 3,172	$ 432,351	$ 432,351
3	Depreciation & Amortization Expense	$ 372,864	$ 370,752	$ 370,752		$ 372,864	$ 372,864
4	Taxes Other than Income	$ 138,532	$ 266,411	$ 301,774	$ 147,111	$ 285,643	$ 285,643
5	Total Operating Expenses Before Income Taxes	$ 940,575	$ 1,033,945	$ 1,069,297	$ 150,283	$ 1,090,858	$ 1,090,858
6	Operating Income Before Income Taxes	$ 196,749	$ 1,242,230	$ 1,382,618	$ 1,159,832	$ 1,356,581	$ 1,356,581
7	Federal Income Taxes	$ (133,484)	$ 230,075	$ 287,280	$ 405,941	$ 272,457	$ 272,457
8	Deferred Federal Income Taxes	$ 90,884	$ 92,204	$ 90,844		$ 90,884	$ 90,884
9	Operating Income	$ 239,349	$ 919,951	$ 1,004,494	$ 753,891	$ 993,240	$ 993,240
10	Rate Base	$ 13,051,731	$ 13,177,151	$ 13,205,210		$ 13,051,761	$ 13,051,761

State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. PUC 09261-16

AGENCY DKT. NO. WR16060510

IN THE MATTER OF THE PETITION OF SUEZ WATER ARLINGTON HILLS, INC., FOR APPROVAL OF AN INCREASE IN RATES FOR WASTEWATER SERVICE AND OTHER TARIFF CHARGES.

Stephen Genzer, Esq., and **Courtney L. Schultz**, Esq., for petitioner Suez Water Arlington Hills, Inc. (Saul Ewing, LLP, attorneys

Brian Lipman, Esq., and **Christine M. Juarez**, Assistant Deputy Rate Counsels, for respondent Division of Rate Counsel (Stephanie Brand, Esq., Director, Division of Rate Counsel, attorney)

Andrew Kuntz and **Veronica Beke**, Deputy Attorneys General, for respondent New Jersey Board of Public Utilities (Christopher S. Porrino, Attorney General of New Jersey, attorney)

Record Closed: August 8, 2017 Decided: August 16, 2017

BEFORE **IRENE JONES**, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

On June 15, 2016, petitioner, Suez Water Arlington Hills, Inc. ("SWAH" "Petitioner" or "Company") filed a petition with the New Jersey Board of Public Utilities "BPU" or "Board") seeking an 118 percent increase in its sewer rates. The request, if granted, would result in an annual increase in the Company's sewer rates of $1,404,396. The increase was driven by the construction and operation of a new $12.5 million state-of-the-art wastewater treatment plant to service 600 customers. Due to the magnitude of the requested increase and the size of its customer base, the Company proposed to phase-in the increase over four years.

The Board transmitted the case to the Office of Administrative Law for hearing on June 21, 2016. A public hearing was held on November 14, 2016, before the Honorable Danielle Pasquale, ALJ. The notice of public hearing was published in the Daily Record; however, no members of the public appeared.

On October 21, 2016, the matter was reassigned to the undersigned. A status conference was held on December 7, 2016, wherein new hearing dates were established and a procedural schedule for discovery and the filing of testimony was set. The parties to this matter are the Company, the Board Staff, and Rate Counsel.

The Company presented the prefiled testimony of five witnesses: Gary Prettyman, Antonio Vicente, Pauline Ahern, Elda Gil, and Peiling Lin. Rate Counsel prefiled the testimony of its witnesses: Dante Mugrace, Howard Wood, Brian Kalcic, and Marion Griffing. At the hearing, witnesses Prettyman, Vicente, and Ahern testified in support of their prefiled testimony. All Rate Counsel witnesses testified in support of their prefiled testimony. Post-hearing briefs were filed by the parties and the record closed on May 5, 2016. At the request of the undersigned, the time for the issuance of this decision was extended to August 7, 2017. On August 8, 2017, the undersigned reopened the record to allow the parties to prepare schedules and compute the overall increase based upon my recommendations herein.

The parties have reached an agreement on some of the issues. The proposed test year ending April 30, 2016; prepayments; revenue requirement for the master metering in the apartments; property taxes; and general liability insurance. Also, the Company does not contest Rate Counsel's proposed adjustments on commercial revenues; power expense; chemical expense; waste-disposal expense; outside-services expenses; and other O&M expenses.

The parties were unable to agree on the appropriate rate of return; post-test-year additions; rate-case expenses; incentive compensation; the Company's proposed Apartment Rate; and the recovery of carrying costs associated with the four-year phase-in period.

RATE OF RETURN

The Company seeks a 9.75 percent return on equity ("ROE"). The Company's proposed capital structure consists of 53 percent of Equity and 47 percent of Long-Term Debt, resulting in an overall rate of return ("ROR") of 7.61 percent. The Company's initial ROR request was included in the direct testimony of Gary S. Prettyman ("Prettyman"), senior director regulatory business. Mr. Prettyman is not an expert ROR witness, but included the ROR adjustment in his prefiled testimony. (PT-1.) Prettyman opined that while a 10.25 percent ROE and a 7.89 percent ROR could be justified, the Company seeks a lower ROE/ROR to mitigate the impact of the instant rate increase. Further, the 9.75 percent request is consistent with the Board's most recent ROE awards and, thus, in his view, reflects the Board's policy on this issue.

Rate Counsel opposes the Company's requested ROE. It contends that the appropriate ROE is 8.57 percent, (now updated to 8.65 percent) and a 6.98 percent ROR (updated to 7.02 percent). This recommendation was presented by its ROR witness, Dr. Marlon F. Griffing, Ph.D. ("Griffing"), senior consultant with PCM&G Associates ("PCMG"), an economic consulting firm. Dr. Griffing holds bachelor's, master's and doctoral degrees in economics from the University of Nebraska—Lincoln. He has sixteen years' experience as an expert witness and consultant on cost of capital,

capital structure, and rate design for natural gas and electric utilities in rate cases and other public-utility matters.

Griffing notes that SWAH is a subsidiary of Suez Water Resources, Inc. ("SWR"). SWR is the parent company for a large group of companies operating under the Suez umbrella that provides water services and wastewater treatment. In arriving at his recommendation, he analyzed a comparison group of water companies and conducted Discounted Cash Flow ("DCF") and Capital Asset Pricing Model ("CAPM") analyses. SWR's profile is consistent with the profiles in his comparison group. The profile group consists of American States, America Water Works, Aqua America, Artesian Resources Corporation, California Water, Connecticut Water Services, Consolidated Water, Global Water Resource, Middlesex Water, SJW Groups, and York Water Corporation. (RC-5, Ex. 2.) The comparison group, like SWR, operates water and wastewater systems.

In Griffing's DCF analysis, the comparison group had a growth rate of 6.48 percent and an expected dividend yield of 2.09 percent ROE. The group's lowest ROE was 7.03 percent and the highest ROE was 10.12 percent. His initial recommendation of an 8.57 percent ROE and a 6.98 percent ROR reflects the differing views of the experts of future economic conditions. It is important to note that Griffing accepts the Company's proposed capital structure of 53 percent equity and 47 percent debt with a cost of debt of 5.19 percent.

Significantly, Griffing has not reflected a flotation adjustment in his 8.57 percent ROR. He concedes that the adjustment is normally imputed on the ROE to recognize the costs and fees associated with new debt, even in the absence of a projected debt issuance. Despite this generally accepted rule, he concluded that a flotation adjustment was not required because no new debt issuance was projected. Moreover, he further concluded that the cost of a new debt issuance is already reflected in the Company's weighted cost of debt.

Dr. Griffing's CAPM analysis was performed as a check on the reasonableness of his DCF results. This analysis yielded an ROE value of 7.24 percent. (RC-5 at 31.)

He looked at the midpoint of his DCF results to arrive at an appropriate ROE recommendation of 8.57 percent on equity and an overall rate of return of 6.98 percent.

In his surrebuttal, Dr. Griffing updated his ROE and ROR recommendation using updated DCF and CAPM analyses. His update revises upward his ROE to 8.65 percent and ROR to 7.02 percent. His DCF analysis was expanded to include a low, median and high growth rate for each company in the comparison group. The mean ROE for the comparison group is 8.64 percent and the low mean ROE is 7.14 percent. The high mean ROE is 10.17 percent. (RC-6 at 7.) A third DCF analysis with updated data for the comparison group resulted in a low ROE mean of 7.08 percent and a high ROE mean of 10.11 percent. (RC-6 at 8).

Griffing's updated CAPM analysis consisted of three analyses, using three thirty-year Treasury bond yields from different dates. His first updated CAPM analysis resulted in an ROE of 7.16 percent. This update used a January 23, 2017–February 24, 2017, timeframe. His second CAPM ROE analysis used January 30, 2017–March 3, 2017, and resulted in 7.16 percent. His third and final CAPM analysis used the thirty-year Treasury bond yield for one day, March 3, 2017, and predicted an ROE of 7.20 percent. (RC-6 at 11.)

Because Rate Counsel did not support a 9.75 percent ROE, the Company presented an expert rebuttal ROR witness, Pauline M. Ahern ("Ahern"), an executive director of Scott Madden, Inc. Ahern has testified on behalf of investor-owned utilities before thirty-one state regulatory commissions in the United States and Canada on rate-of-return issues including, but not limited to, common equity cost rate, fair rate of return, capital-structure issues, relative investment risk, and credit quality issues. She is a graduate of Clark University, Worcester, MA, and holds a bachelor of arts degree with honors in economics. She also obtained a master of business administration degree with high honors in finance from Rutgers University.

The purpose of Ahern's testimony was to rebut Dr. Griffing's recommendation. Ahern does not accept Dr. Griffing's recommended ROE/ROR because she deems it unreasonable for three reasons. First, it is not consistent with expected capital market conditions; second, it is based exclusively upon a DCF analysis that mathematically tends to "mis-specify" the investor required market return when market-to-book ratios diverge from unity; and third, it is not consistent with the Board's public policy relative to the return on common equity cost rate for water utilities or for electric and natural gas utilities. (PRT2 at 3, 4.)

Ahern also concludes that Dr. Griffing's recommendation does not meet the mandate of Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591, 64 S. Ct. 281, 88 L. Ed. 333 (1944), and Bluefield Water Works & Improvement Co. v. Public Service Commission of West Virginia, 262 U.S. 679, 43 S. Ct. 675, 67 L. Ed. 1176 (1923) that requires that a public utility be given an opportunity to earn a fair rate of return.

Ahern maintains that Griffing's recommended ROE is substantially lower than most adopted returns of 9.75 percent and below the lowest return on common equity of 9.60 percent authorized by the New Jersey Board of Public Utilities ("NJBPU") since 2012. Moreover, his recommendation is below the currently authorized returns on common equity of 9.75 percent for all of the regulated water utilities operating in New Jersey. The Company's proposed 9.75 percent return on common equity was based on BPU policy rather current investor expectations. (PRT-2 at 4, 6.)

Ahern recommends an ROR of 10.85 percent, adjusted to accept the Company's proposed rate of 9.75 percent. She used several methodologies to support her recommendation. (PRT-2 at 15-17.) Like Griffing, she performed a DCF analysis, which she also checked using the CAPM. She also performed a Risk Premium model ("RPM") using a proxy group of water utilities. Her water proxy group was identical to the comparison group that Dr. Griffing used in his analysis. Because SWAH's stock is not publicly traded, Ahern deemed it necessary to determine whether an adjustment was appropriate, since the comparison group's stock is publicly traded. The analysis revealed the following result:

Summary of Common Equity Cost Rate

Water Proxy Group

Discounted Cash Flow Model ("DCF")	8.47 percent
Risk Premium model ("RPM")	11.34 percent
Capital Asset Pricing Model ("CAPM")	9.52 percent
Cost of Equity Models Applied to Comparable Risk, Non-Price Regulated Cost	10.48 percent
Common Equity Cost Rate Before Adjustment	10:00 percent
Credit Risk Adjustment	0.09 percent
Business Risk Adjustment	0.75 percent
Common Equity Cost Rate After Adjustment	10.84 percent
Recommended Common Equity Cost Rate	10.85 percent

Ahern concludes that a common equity cost rate of 10.00 percent is indicated before any adjustment for credit and business risks arising from SWAH's forecasted Moody's bond rating of A3, and its greater business risks due to its smaller size relative to the Water Proxy Group. The 10.00 percent common equity cost rate is based upon all four models applied to the market data of the proxy group without any qualitative or quantitative adjustment to the DCF result. The 10.00 percent common equity cost rate, based solely upon the Water Proxy Group, must be adjusted upward by 0.09 percent for credit risk and 0.75 percent to reflect SWAH's increased unique business risk. After adjustment, the indicated credit and business risk-adjusted common equity cost rate is 10.84 percent, which Ahern rounded to 10.85 percent, her recommended common equity cost rate. Thus, Ahern concludes that the Company's requested return on common equity of 9.75 percent is extremely conservative. (PRT-2 at 25.)

Staff, consistent with its internal regulatory policy, did not present a witness, but presented its recommendation in its initial brief. Staff adopts the Company's proposed recommended ROE of 9.75 percent and ROR of 7.62 percent. Staff also accepts the Company's proposed capital structure of 46.66 percent of long-term debt at a cost rate of 5.19 percent and a weighted cost of rate of 2.42 percent; and 53.34 percent of common equity with a cost rate of 9.75 percent and a weighted cost rate of 5.20 percent, for an overall return of 7.62 percent. (SIB at 8.)

Staff takes issue with Dr. Griffing's failure to consider the specific risks that the Company faces as a stand-alone company. Since petitioner is a non-diversified smaller company than its parent company, Staff concludes that its business risks are higher than SWR and the comparison group. Griffing's analyses only looked at the Company as an integrated entity with its parent company, SWR. (SIB at 12.)

Further, Staff contends that Dr. Griffing's use of the midpoint range of 8.65 percent in his DCF analysis is not supported by any proof that the midpoint range is the best estimate. Specifically, Staff noted that while 8.65 percent is based on Dr. Griffing using one-half of the expected growth rate to estimate the expected dividend yield and adjusted for expected growth in the next year, he failed to explain why he only used one-half of the estimated growth rate rather than the full growth rate as is generally required in the DCF model. (SIB at 13.)

Staff further asserts that an ROE of 8.65 percent and an ROR of 7.02 percent could undercut investor's required earnings. Dr. Griffing's methodology to achieve his recommendation is improper because petitioner's market-to-book ratio is much higher than one. (Ibid.) Since Griffing failed to convert the book value of the equity or the capital structure, debt cost rate and rate base must be converted and expressed in terms of market value. This omission will undercut investor required earnings. (SIB at 14.)

Staff concludes that an ROE of 8.65 percent could be unattractive to potential investors in violation of the capital attraction criterion of Hope , supra, 320 U.S. 597, 64 S. Ct. 281, 88 L. Ed. 333. Staff notes that Dr. Griffing's updated testimony that increased his recommended ROE implicitly acknowledges the recent interest-rate increase and that further potential increases are projected. While Griffing asserts that the market already knew of potential rate increases and his recommendation satisfied the Hope criteria, Staff disagrees and concludes that the current market expectation of a high-interest-rate environment could cause the Company to be unattractive to potential investors with an ROE of 8.65 percent. (SIB at 14.)

Finally, Staff argues that an 8.65 percent ROE could have a large negative impact on the Company's revenues. The difference between an ROE of 8.65 percent and an ROE of 9.75 percent is approximately $132,000–$139,333, or some 9 to 10 percent of the Company's requested rate increase of $1.404 million. (SIB at 15.) Thus, Staff asserts that based on testimonies of both experts and the Board's recent ROE awards in other recent base-rate cases, the Company should receive a 7.62 percent ROR, as illustrated:

	Capital Structure (percent)	Component Cost Rate (percent)	Weighted Cost Rate (percent)
Equity	53.34	9.75	5.20
LTD	46.66	5.73	2.42
ROR			7.62

(SIB at 16.)

Staff concludes that petitioner is a small entity and lacks diversification in terms of business mix, customer mix, and territorial mix. Thus, its business risk should be assessed as relatively higher. Moreover, its size alone would make the company unable to access public capital markets, if it were a stand-alone company. Bank loans and private equity are relatively more expensive. Under the current economic environment of a high expectation of rising interest rates, the 9.75 percent ROE is reasonable, and it is the mid-point of the 8.65 percent and 10.85 percent recommended, respectively, by Dr. Griffing and Ms. Ahern. (SIB at 15, 16.)

I am persuaded by the analyses presented by the Company and Staff, thus I **FIND** that the appropriate ROE is 9.75 percent with an overall ROR of 7.62 percent. This recommendation is consistent with the mandate of Hope, supra, 320 U.S. 597, 64 S. Ct. 281, 88 L. Ed. 333, where the United States Supreme Court set forth the standard for a reasonable return on equity of a regulated utility. It held that the return to the equity owner should be commensurate with the returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, to maintain its credit, and to attract capital. Hope, supra, 320 U.S. at 603, 64 S. Ct. at 289, 88 L. Ed. at 346.

Here, a 9.75 percent ROE allows the company a sufficient return to be attractive to potential investors. It also provides a sufficient return on invested capital to allow it to attract capital.

I do not **FIND** the testimony of Dr. Griffing to be persuasive, particularly because his adjustment to the growth rate and his failure to include a flotation adjustment are not sufficiently explained. As Staff argues, these two factors are customary in any DCF analysis. Therefore, such a deviation from the norm without compelling justification or even a solid rationale invites one to conclude that the omission was arbitrary and done simply to drive a lower ROE/ROR. (Exh. P-4, update for ALJ's recommendation).

CONSOLIDATED TAXES

In its direct testimony, the Company did not propose any adjustment to reflect any taxes saved because its parent company, SWAH Corporation, files a consolidated tax return with its unregulated and regulated (SWAH, et al.) subsidiaries. (RC-2.) Rate Counsel and Staff have proposed that the savings that flow from the filing of a Consolidated Tax Return be recognized. However, Staff and Rate Counsel disagree on the way to recognize these savings. In response to the two adjustments, the Company has agreed to Staff's proposed consolidated tax adjustment ("CTA").

Dante Mugrace ("Mugrace") presented Rate Counsel's proposed CTA. Mugrace is a senior consultant with the economic and management consulting firm of PCMG and Associates, LLC. Mugrace's experience consists of twenty-eight years of employment with the New Jersey Board of Public Utilities, with his last ten years as bureau chief for the Water Division. He also has two years of employment with Snavely King Majoros & Associates, Inc., a regulatory consulting firm. (RC-2 at 2.) Mugrace holds a bachelor's degree in accounting, and master's degrees in business administration and public administration. He was retained by Rate Counsel to recommend an appropriate revenue requirement for the petitioner.

Mugrace recommends basing the CTA on a twenty-year look-back period, as this time frame reflects an accurate picture of the Company's negative and positive net income and the amount of taxes paid. The effect of any outlier years is minimized by the twenty-year period. And it is consistent with federal tax laws, which allow losses to be carried forward for twenty years. 26 U.S.C.A. § 172 (2014). Based on twenty years of data provided by the Company, Mugrace calculates an adjustment to rate base of $107,440. (RC-2 at 13, 14; Schedule DM-28.)

Staff recommends adopting the Company's CTA proposal that was presented in Mr. Prettyman's rebuttal testimony. (PRT-1 at 42.) Prettyman based his adjustment on the Board's generic Order on consolidated taxes, wherein it set a new policy on the consolidated tax adjustment for all of the state's utilities, except those that were exempted in the Order. In that Order, the Board ordered that the "look back period" (or the review period) for the CTA calculation be modified to five calendar years, inclusive of a complete test year. Further, the Board ordered that the CTA adjustment be allocated so that the revenue requirement of the company is reduced to 25 percent of the adjustment. And it ordered that any transmission assets of an electric-distribution company be excluded from the calculation of the CTA. Under this methodology, Staff and the Company proposed a rate-base deduction of $79,381. See: I/M/O the Board's Review of the Applicability and Calculation of a Consolidated Tax Adjustment, BPU Docket Nol. E012121072, Board Order dated 12/17/14.

I **FIND** that the appropriate CTA adjustment is $79,981 as proposed by the Company and Staff. While it is true that the Generic Order is under appeal, it is still the Board policy, and until such time that it is overturned by the court, it has precedential value.

POST-TEST-YEAR ADDITIONS

The Company requests recognition of $13,568,324 of post-test-year additions. Company witness Antonio Vicente, P.E. ("Vicente") testified in support of the request. Vicente testified that the Company was replacing its existing sewer-treatment plant at a cost of $12.8 million. Additionally, to meet customer service standards and regulatory requirements, the Company's other capital projects included the replacement of sewer laterals; replacement of short mains and manholes; replacement pumps; replacement of treatment equipment; miscellaneous facilities improvements; and control-equipment improvements. The total estimated cost of these other projects, which will be placed in service between May 2016 and the end of October 2017, is approximately $205,858.

Additionally, petitioner will also place in service $505,296 of plant from the installation of new collection mains. The entire cost of the new collection mains is being contributed by the developer. The Company currently has approximately 590 residential customers and 25 commercial customers located in Mount Arlington Borough. The collection system is being expanded to provide service to a 300-unit apartment complex ("Fieldstone") and 60-unit townhouse development ("Shadow Woods").

Rate Counsel's witness, Howard J. Woods, Jr., ("Woods"), a professional engineer and an independent consultant, recommends recognition of only two post-test-year additions, the $12.857 million for the new wastewater treatment plant and $505,296 of costs for the main extension to service the new development, Atkins. Woods asserts that the remaining $205,558 represents routine and recurring projects that are not major in nature and consequence.

In its updates, the Company revised its construction expenditures and stated that the actual cost of the wastewater plant was $12,618,849, or $238,321 less than projected. Additionally, witness Vicente acknowledged that routine post-test-year additions did not occur as forecast, as the Company only spent $924 on a pump at the old wastewater treatment plant, which was retired when the plant was demolished.

Considering the updated testimony, Rate Counsel deems the issue of post-test-year additions as moot, as the new sewer plant and the main extension to service the Atkins development were both in service at the end of the post-test-year period cited in In re Elizabethtown Water Company Rate Case, BPU Docket No. WR8504330, Order (May 23, 1985). Thus, Rate Counsel recommends recognizing $13,362,466 of rate-base additions. It contends that the remaining projects are beyond the six-month post-test-year criteria, and are not major in nature and consequence. Thus, it recommends disallowance of $205,857 of plant additions, as they are routine and recurring. (RC-2 at 7, 8.)

Staff recommends recognition post-test-year additions of $12,857,170 for the construction of the new wastewater treatment plant ("WWTP") and $505,296 to connect the Fieldstone and Shadow Woods development to the new WWTP. Staff notes that these costs occurred within six months of the close of the test year, were major in nature and consequence, and are already in service.

However, Staff asserts that the Company has not provided support to substantiate the remaining level of post-test-year additions, and the $924 replacement pump is no longer used and useful.

The Company seeks to have the Board revisit the Elizabethtown Water Order as it relates to post-test-year additions. It contends that the Order is thirty-two years old, and a rigid application of the "3-6-9 rule" places an unreasonable burden on small wastewater companies. Further, it contends that Rate Counsel, while accepting the revenues for new customers outside of the 3-6-9 rule, refuses to accept plant additions and carrying costs related to the same project in violation of the matching principle, a fundamental ratemaking tenet. Here, the Company's proposal matches rates to its investments and costs required to serve its customers over the period that rates will be effective. (PIB at 45.)

I have carefully considered the parties positions on this issue. In light of the Company's updated position, the only remaining addition is the $924 pump, which is no longer used and useful. A fundamental tenet of ratemaking is that plant must be used and useful in the rendition of service. Here, the pump is not used and useful, thus it cannot be recognized in rates. As to remaining planned additions, Vicente acknowledged that they did not occur as forecasted and gave no dates as to when they would in fact be in service. Thus, I **FIND** that they are not known and measureable and therefore should not be recognized in rates.

RATE-CASE EXPENSES

In his prefiled testimony, witness Prettyman noted that it would be "wholly inappropriate to split the cost of this necessary rate case between customers receiving the benefit of this rate case and the cost of processing the case" (PT-1 at 6). Company witness Peiling Lin calculated the rate-case expenses at $85,000. Lin proposed a three-year amortization period, for a pro forma adjustment of $28,333.

Rate Counsel witness Mugrace accepted the Company's proposed level of rate-case expenses, but rejected both the proposed amortization period and the request to recover all of its rate-case expenses, absent the sharing concept. He recommends a continuation of the 50/50 sharing between ratepayers and SWAH's shareholders. Further, he recommends that the expenses be recovered over four years consistent with the Company's proposed rate-phase-in period. His proposed adjustment is $10,625 (RC-2, Sch. D-5).

On rebuttal, the Company updated its rate-case expenses to $340,000. Witness Prettyman noted that the original projection of $85,000 was based on an assumption that this case would not be litigated.

Staff recommends that the rate-case expenses be split 50/50 between the Company and the ratepayers. Staff further recommends recognizing the Company's updated amount of $340,000 and a four-year amortization to match the proposed rate-phase-in period.

In its reply brief, Rate Counsel states that it neglected to include $36,521 for witness Ahern. Thus, it points out that total rate-case expenses per the Company are $365,462. (RCRB at 13.)

The Company seeks to deviate from the 50/50 sharing concept on the basis that a rate case is the only mechanism available to allow utilities to change base rates to reflect changes in the cost of doing business. Consequently, rate-case expenses are a cost of doing business and are simply a part of providing safe and adequate service, as a rate case is only a vehicle that allows a company to recover new costs, such as costs of new plant investment. Thus, petitioner asserts that so long as rate-case expenses are prudently incurred they should be fully recoverable. (PIB 29, 31.)

Petitioner further contends that the rationale underpinning the 50/50 sharing of rate case expenses has never been explained. The "benefit" argument is inherently flawed because neither the shareholder or the ratepayer benefits from a justified rate increase or decrease.

Moreover, the sharing formula violates the matching concept of ratemaking that requires a matching of customer rates with the costs of serving the customers. In summary, petitioner requests that the Board revisit this policy, which is limited to this jurisdiction only. Finally, petitioner contends that the sharing policy has such a chilling effect on small companies that they either forego seeking rate relief or delay necessary plant improvements and new additions to plant in service. Here, removal of the sharing policy will not impact rates, as the Company's revenue requirement will remain at the requested level of $1,404.396.

Rate Counsel rebuts that to require ratepayers to bear total rate-case expenses is "patently unfair." The issue that impeded settlement in this case was the determination of the appropriate rate of return on equity. Ratepayers receive no benefit from a higher ROE except higher bills. A higher ROE benefits the Company's shareholders, exclusively. (RCRB at 14.)

It is without question that the Board's long-established policy is that rate-case expenses are to be shared 50/50 between the company and its ratepayers. The Board's rationale for its policy was set forth in 1982 in the South Jersey Gas Company base-rate case where the Board first allowed a 50/50 split, exclusive of Rate Counsel's fees, between the ratepayer and the company's shareholders. In so ordering, the Board concluded that such treatment was warranted because "some portion of that expense is a cost of maintaining the stockholders investment." In re South Jersey Gas Co., BPU Docket No. 818-754, Order (November 24, 1982). Since that case, the 50/50 sharing policy was pretty much the standard operating procedure until 1984, when the Board deviated from policy in In re the Application of West Keansburg Water Co., BPU Docket No. 838-737, Order (April 12, 1984). There, the Board refined the 50/50 sharing policy by noting the distinction between a major utility company and a much smaller utility, finding:

> In the recent past in proceedings involving the State's major utility companies, the Board has shared rate case expenses, excluding Rate Counsel fees, equally between the shareholders and the ratepayers. While we will continue to consider this issue on a case by case basis, we are of the opinion that the sharing of rate case expenses by a company the size of Petitioner is inappropriate. It is our belief that the sharing of rate case expenses would have a greater negative effect on companies such as Petitioner as opposed to major utilities. This is because rate case expenses make up a substantially higher percentage of operating expense for such companies and the resultant reduction in the earned rate of return would be greater.

Thus, West Keansburg Water recognizes the "greater negative effect" from the sharing policy on small utilities. As Staff notes, the impact is a direct burden on the earned rate of return, as it causes it to be reduced.

However, in a subsequent case, the Board rejected this approach when it denied total recovery of rate-case expenses to a much smaller utility that had less than eighty customers. See In re the Petition of Seaview Water Co., BPU Docket No. WR98040193, Order (October 1, 1999). In that matter, the parties contended that the rate case conferred a substantial benefit on the company by allowing it to recover a lost source of revenue when it lost its largest customer. Further, it noted that but for the rate case the shareholders would have to absorb lost revenue. Moreover, it was argued that the harm to the ratepayers would be extraordinary and disproportionately heavy if they had to absorb the total rate-case expense. The ALJ recommended the 50/50 sharing policy, noting that deviation from the standard policy should only apply in extraordinary circumstances, which were not demonstrated in that matter.

I **FIND** that petitioner is not a major utility, but a subsidiary of the larger multinational Suez Water Company. Thus, it lies outside of the type of small utility referred to in the Board's West Keansburg Order. However, there is no doubt that the rate case herein is prudent and appropriate. That said, I am not persuaded that a cogent, compelling argument has been made for a deviation from the 50/50 sharing policy. There are no extraordinary factors presented in this case that would warrant a departure from longstanding Board policy. Notably, the current regulatory scheme undermines an argument for a full recovery of rate-case expenses. In this regard, it is noted that the emergence of the Purchased Wastewater Treatment Adjustment Clause and the Purchased Water Adjustment Clause allows utilities to avoid base-rate cases for significant time frames.

Further, the size of the proposed rate increase herein mitigates against a departure from the sharing concept. The proposal to phase in this increase was done to mitigate the rate shock, thus, adding additional costs from rate-case expenses is contrary to that purpose. While there is no doubt that the Company took major steps to avoid this litigation by employing substantial mitigating measures, the harm resulting from a failure to settle this matter should not be heaped on the ratepayers for a decision that they did not make.

Moreover, here, as in the Seaview case, this base-rate case will allow the Company to recover new plant investment and a return thereon. Additionally, if approved, the Company will have a new rate classification—the apartment rate. It is clear that there are direct benefits that will inure to the Company from this rate case. Thus, I **CONCLUDE** that the 50/50 sharing policy should continue. I further **CONCLUDE** that a four-year amortization period is appropriate, as it matches the four-year phase-in period. (Exh. P-4, Sch 2 updated for ALJ's recommendations)

Rate Phase-In—Carrying Charges

In his rebuttal testimony, witness Prettyman proposed for the first time that the Company be awarded carrying charges on the revenues not collected during the phase-in period and be allowed to compute interest on the unrecovered amount of revenues as a result of the phase in. (PRT-1 at 44.) The request for the carrying cost was based on a delay of the instant rate case.

In his direct testimony, witness Prettyman included the revenues from 300 $^5/_8$" meters. This was done based on the developer's presentation that the apartments and townhouses would be individually metered. Subsequently, the developer notified the Company that the apartments would not be individually metered, but that each building would be master-metered. Thus, petitioner advised the parties that it would make an adjustment to deduct 300 $^5/_8$" meters and the associated revenues and add 9 3" meters plus 4 2" irrigation meters. The net adjustment was a decrease in present revenues of $51,684. Prettyman advised that the Company would continue to count the customers, notwithstanding that they are "speculative," as they do not actually exist. (PRT-1, 48.) The Company also included the townhouse residents in its projected revenues despite the fact that the townhouses are also not constructed. Prettyman asserts that while the Company was not required to show this revenue, it did so to be consistent with the matching principle—customers with costs. (PRT-1, 48.)

The new wastewater treatment plant became operable in October 2016. The Company now seeks to recover the carrying costs associated with the four-year phase-in of this rate increase. The four-year phase-in is meant to minimize rate shock. Prettyman concedes that initially the Company elected to forego the carrying costs because it believed that this matter would settle and rates would be effective by year-end 2016, thus allowing it to recover all of the costs with the proposed four-year phase-in. However, the combination of extra time associated with litigation of this matter and its associated costs requires the Company to seek interest on the unrecovered amount of revenues as a result of the phase-in. Interest is calculated at the "anticipated pre-tax rate of return" over four years. (PRT-1, 45.)

In calculating the interest on the requested rate increase of $1,404.396, Prettyman reduced the amount each year of the four-year phase-in by the amount shown on Exhibit P-4, Schedule 1C, of the initial filing. Those amounts are $300,000, $350,000, $424,000, and $329,396. This produces $287,654 of carrying charges. (Exhibit GSP-7, page 1 of 5.)

Alternatively, if the Board were to order that the first phase of the rate increase be increased to approximately 50 percent of the revenue requirement, and if years two, three, and four were equally divided by the remainder, it would mitigate the interest. If that were implemented, the Company would not have to seek recovery of all its real costs resulting from the phase-in. (GSP-7 at 2.) If interest were applied to the phase-in, the resulting percentage increase is shown in GSP-7 at page 3. This method would reduce the interest amount to $184,787. (GSP-7 at 4.) Prettyman also calculated Rate Counsel's recommended increase with a four-year phase-in, spread evenly over the four years. This results in interest of $224,132. (GSP 7 at 5.)

As I previously noted, this case is driven by the Company's expansion of its franchise area to provide sewer service to a 300-unit apartment complex and 60 townhouses. The proposed complex is expected to generate approximately 0.078 million gallons per day of wastewater. The addition of the new customers required the Company to build a new wastewater treatment plant, resulting in a $12,857 million increase to rate base. (PT-4 at 3.) The developer of the apartment building provided over $2.5 million in contributions for the plant and new collection mains. The Company projected an in-service date of October 2016, which it met. However, at the time of filing of this case, it was uncertain how many new tenants would be customers of SWAH. The developer projected a four- to five-year time frame for completion of the project. Because of this uncertainty, the Company proposed that the rate increase be phased in over a four-year period.

Petitioner request that the Board revisit the 3-6-9 rule of Elizabethtown Order in this matter as it places an unreasonable burden on a small waste water company and penalizes it for proposing a four year phase-in that mitigates the impact of 118% increase. While Rate Counsel argues that the carrying costs should be disallowed because it is outside of the period for post test year adjustments, it has accepted the revenues from the post test year period. It is clear that the company will not realize its return on investment until September 2021. Thus, petitioner asserts that this matter is the appropriate case for the Board to revisit the 3-6-9 rule. Recovery of carrying costs resulting from the four year phase in better matches customer rates to the costs incurred to serve them in keeping with the matching principle of ratemaking. SIB at 52.

Rate Counsel and Staff oppose the request for the recovery of carrying costs. Specifically, Rate Counsel objects to the timing of the instant proposal, which was not a part of the petitioner's direct testimony, but was only included in the Company's rebuttal testimony. It maintains that it was "denied an opportunity to conduct discovery" on the issue.

Staff notes that phase-ins are generally implemented as a countermeasure to rate shock from a large rate increase. See Seaview, supra, BPU Docket No. WR98040193, Order (October 1, 1999); In re the Petition of Envtl. Disposal Corp., BPU Docket No. WR94070319, Order (July 17, 1996). Thus, this request is inconsistent with a rate phase-in.

Staff and Rate Counsel are correct that the Board has generally disfavored awarding carrying costs. Moreover, there is no doubt that the Company's request to recover carrying costs is incongruous with a rate phase-in, the purpose of which is to mitigate rate shock. That being said, there is no doubt that there is a legitimate cost associated with deferring revenues, and a failure to recognize this cost constitutes a denial of the recovery of a prudently incurred expense. There is a time value associated with money, and the failure to recognize same may constitute a taking. See Hope, supra, 320 U.S. 597, 64 S. Ct. 281, 88 L. Ed. 333.

However, I am persuaded that the magnitude of this increase warrants caution. As Staff aptly notes, the recovery of carrying costs is inconsistent with a phase-in that seeks to mitigate rate shock.

Incentive Compensation

The Company's labor charges are based on Suez Water New Jersey employees who charge their work time to the Company for services performed. Witness Peiling Lin calculated a ratio using two historical years (2014 and 2015) of labor expense, divided by SWNJ's gross labor expense in each year to get the two-year average ratio. The average ratio was multiplied by SWNJ's gross labor cost of $36,722,873 for 2016 to arrive at the proforma labor expense. (PT-3 at 4.)

Rate Counsel's witness Mugrace adjusted the Company's labor expense to remove costs associated with the Company's incentive compensation ("IC"). Mugrace recommends an adjustment to remove $1,348,154 for incentive compensation and $185,000 for vacant positions that the Company has elected not to fill. If adopted, this adjustment would reduce gross labor expense.

Mugrace recommended disallowance of incentive compensation because the expense is not related to the provision of safe, adequate and proper service but is geared towards adding shareholder value to its investors. As such, it is a cost that should be borne by the shareholders and not the ratepayers. The IC program requires SWAH to meet certain financial targets before Suez will pay any incentive compensation. The Board has generally disallowed incentive compensation in water/sewer cases where it requires an earnings threshold. (RC-2 at 19.) Mugrace recommends $149,486 of labor expenses be recognized in rates.

On rebuttal, witness Prettyman objects to Mugrace's adjustment on two grounds. First, he asserts that Mugrace objects to the Short-Term Incentive Program ("STIP") portion of the incentive compensation program. He asserts that 60 percent of the STIP payment is based on employee performance only and it is paid irrespective of whether the Company achieves its financial target. He calculates Mugrace's adjustment as follows.

	Employee 60 percent	**Financial 40 percent**	**Total**
SWAH	$3,436	$2,291	$5,727
M&S	$6,404	$4,270	$10,674

Thus, in accordance with Mugrace's theory, 60 percent of STIP for SWAH and M&S should be recognized in rates.

His second adjustment to Mugrace's recommendation is to correct a "calculations oversight." Specifically, Mugrace reduced M&S costs by 50 percent on Schedule DM-13. As shown in exhibit GSP-5, if the Company requested the full M&S allocation of $115,969 then it might have been mathematically appropriate to make his adjustment. However, the Company did not request the full allocated M&S fees, yet Mugrace still deducted the full amount of STIP, thus resulting in a 50 percent reduction.

Moreover, Prettyman noted that the Board approved a new Affiliate Agreement in January 2017. As a result of the agreement, SWAH allocated cost would have increased to $115,969. However, the Company did not request recognition of that increase.

Consequently, the M&S fee portion shown on Exhibit P-4, Schedule 2-H, and Mugrace's Exhibit DM-13 is $24,638. The Short-Term Incentive Program compensation allocated within total M&S fees was $10,674, plus Long-Term Incentive Program ("LTIP") compensation of $1,787, for a total of $12,461. Mugrace disallowed the entire $12,461 out of the $24,638, or 50.5 percent. Prettyman argues that to be consistent, Mugrace should have taken a ratio of $12,461 to the total $115,969, or 10.7 percent, and applied that to the $12,461, or $1,333. (PRT-1 at 41.)

Rate Counsel denies that Mugrace's adjustment is mathematically flawed. It acknowledges that the Company's new methodology for allocating M&S fees increased M&S fees from $42,244 to $115,969. In response to a request from Mugrace, the Company stated that its embedded M&S fees were $12,461. Rate Counsel contends that the Company provided the incorrect amount for its embedded M&S fees. Thus, it stands by its $12,461 adjustment.

Rate Counsel further asserts that Mugrace's recommendation is consistent with the Board Policy that disallows incentive compensation. It further disputes that the IC plan is not selective, as it is only those employees who are in exempt, eligible positions who are eligible for IC. Moreover, the personal-performance portion of the plan does allow an employee to base their own performance solely on the Company's financial performance. If the employee elects this option, and the Company does not meet its target, then no incentive compensation is paid to that employee. Finally, Rate Counsel further contends that employee incentive compensation should be denied, as it is not known and measurable.

Staff also opposes recognition of the Company's IC plan in its rates. It relies on long-standing Board policy that has historically denied incentive compensation, citing: In re the Verified Petition of Rockland Electric Company for Approval of Charges in Electric Rates, its Tariff for Electric Services, its Depreciation Rates, and for Other Relief (Base Rate Filing), BPU Docket No. ER02100724, Order (April 20, 2004)\ (ruling that all of Rockland Electric Company's proposed incentive compensation should be disallowed from rates); In re the Petition of Jersey Central Power and Light Company for Approval of Increased Base Tariff Rates and Charges for Electric Service and Other Tariff Revisions, BPU Docket No. ER91121820J, Order (June 15, 1993) (ruling that ratepayers should not be paying additional costs to reward a select group of company employees for performing the job they were arguably hired to perform in the first place).

Petitioner strongly refutes the arguments of Rate Counsel and Staff. It notes that the Rate Counsel's assertion that economic conditions are the same as they were in 2003 is not supported by the record. Further, it notes that this incentive plan is not the same as the IC plans of twenty-five or fifteen years ago.

Petitioner further notes that contrary to Rate Counsel's argument, the IC plan is known and measurable and is not tied to the Company's financial performance. The bonuses are based on a targeted percentage of an employee's salary when they achieve their own personal performance goal. (PRB at 38.) Finally, the Company contends that IC plans are part of the economic fabric of our workforce and are not limited to just senior executives.

I have carefully evaluated the parties' positions. While it is true that the Board has historically denied incentive compensation, it is equally true that the same economic conditions that existed in 2003 and 2008 do not exist today. Moreover, IC plans are indeed a part of our economy. However, in light of the magnitude of the instant increase, I find that it is inappropriate, at this time, to recognize an IC plan in petitioner's rates. Nevertheless, I am persuaded that it is time to revisit this issue and consider whether a sharing concept like rate-case expense is appropriate.

The Apartment Rate

In its initial filing, the Company sought recognition of 360 new customers associated with the construction of a new apartment complex and townhouses, the Fieldstorm and Shadow Woods project (the "Project"). The Project, as originally conceived by the developer, would consist of a 300-unit apartment complex and 60 townhouses. It was projected to generate approximately 0.078 million gallons per day of wastewater. At that time, the developer envisioned that each apartment would be individually metered. Thus, the Company included in revenues 300 $^5/_8$" meters with a monthly meter chart.

Subsequently, the developer advised the Company that the plan was now revised to include master metering for each building in lieu of individual metering. Thus, the Company removed the 300 $^5/_8$" meters and added 9 3" meters and 4 2" irrigation meters. (PRT-1 at 47, 48.) This adjustment resulted in a decrease in present rate revenues of $51,684. The apartment revenue is included despite the fact that neither the apartment building nor the townhouses are in service and will not be for some time.

In light of a change to master metering, the Company now seeks to remove these customers from the residential rate classification to a new apartment rate classification. Prettyman concludes that using a commercial classification is inappropriate, as it would result in the complex being billed $365,044 under present rates rather than $41,207 under a residential classification. He has designed the apartment rate to produce approximately $200,000 in lieu of a commercial rate. (PRT-1, at 50, 51, GSP-8).

Rate Counsel opposes the Company's proposal. It contends that the apartment rate is not supported by a cost of service study ("COSS") to assess the proper revenue allocation for each class of customers. (RCIB at 31.). Further, Rate Counsel asserts that the rate itself is objectionable, because it is designed to give the Company greater revenues from fixed charges than the Company's original rate design notwithstanding that consumption will remain the same. The apartment rate will provide an additional $83,000 in annual revenues compared to the rate design in the Company's petition.

Further, Rate Counsel contends that the Company provides no support for the assumption that the apartment buildings would necessarily be billed as commercial customers. Absent existing tariff provisions that define apartment buildings as commercial customers, apartments should be billed as residential customers. Petitioner could bill the apartment buildings as residential customers simply by adding 2" and 3" fixed service charges to the residential tariff. (RCIB at 32.)

Rate Counsel further disputes the Company's contention that the apartment rate mitigates the rate impact of this case on the residential customers, since it simply charges one set of residential customer apartment dwellers higher rates than another set of non-apartment residential customers.

Staff supports the Company's proposed apartment rate. Petitioner currently has approximately twenty-four commercial customers that consist of at least one strip mall and several office buildings. Staff asserts that the usage pattern for an apartment complex will be different from that of an office building or a strip mall. Staff points out that the office buildings will only be occupied during normal business hours. The water usage for an office building normally consists of the usage that will be associated with a lunchroom or a break room. Water usage for an apartment will be comprised of bathroom (i.e., showering, laundry, dishwashing, etc.). Thus, an apartment complex would be expected to have much higher water usage than an office complex. This in turn will lead to an apartment building having a higher wastewater bill than an office building. These higher wastewater bills will likely be passed on to the tenants in the form of higher rents. Thus, Staff recommends that an apartment rate be established for the new apartment complex and that this rate be based on the methodology proposed by the company in PRT-1 (GSP-8).

The Company refutes that it is under no obligation to undertake an expensive COSS. The fact that it has not should not be dispositive of the issue. The facts support that the Company's current tariff provides that 2" and 3" master meters are used for serving commercial customers. The proposal is revenue neutral and does not harm the new residents of the apartment complex.

I am persuaded that under these facts the Company's proposal is the best solution. While it is true that the request is not supported by a COSS, it is also true that the Company's current tariff would have these new customers under the commercial tariff. As Staff notes, the usage patterns for the Company's current commercial tariff and a residential apartment dweller are vastly different. Given the change in the developer's plan, I **CONCLUDE** that petitioner's proposal is the most equitable solution under these circumstances.

The aforementioned recommendation and the uncontested and or agreed upon adjustments results in overall increase to operating revenues of $1,310.114 or 115.19% to be phase in over four years.

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. 52:14B10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **SECRETARY OF THE BOARD OF PUBLIC UTILITIES, 44 South Clinton Avenue, P.O. Box 350, Trenton, NJ 08625-0350**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

August 16, 2017 Irene Jones

DATE **IRENE JONES**, ALJ

Date Received at Agency: August 16, 2017

Date Mailed to Parties: ______________________

sej

WITNESSES

For Petitioner

Gary S. Prettyman
Antonio Vicente
Pauline Ahern
Peiling Ling
Elda Gill

For Rate Counsel

Dante Mugrace
Howard J. Woods
Brian Kalcic
Marlon F. Griffing

EXHIBITS

For Petitioner:

P-1 to P-7	Documents
P-7A	Notices and Certifications
P-8	Compilation of Data Request Responses consisting of the following:
	RCR-A-38
	RCR-A-39
	RCR-A-40
	RCR-A-41
	RCR-RD-6
	RCR-RD-8
	RCR-RD-9
	RCR-RD-11
	RCR-RD-12
	RCR-RD-13

	RCR-RD-14
	RCR-RD-15
PT-1	Direct Testimony Mr. Prettyman
PT-2	Direct Testimony Ms. Gil
PT-3	Direct Testimony Ms. Lin
PT-4	Direct Testimony Mr. Vicente
PR-T-1	Rebuttal Testimony Mr. Prettyman
PR-T-2	Rebuttal Testimony of Mr. Ahern
P-9	Compilation of Data Request Responses consisting of the following:
	P-A-1
	P-A-2
	P-A-4
	P-A-6
	P-A-8
	P-A-10
	P-A-11
	P-A-14
	P-A-15
	P-A-17
	P-A-16
P-10	Compilation of Data Request Responses consisting of the following:
	P-ROR-3
	P-ROR-5
	P-ROR-6
	P-ROR-11
	P-ROR-12
	P-ROR-13
	P-ROR-15
	P-ROR-16
	P-ROR-17

RCR-ROE-16

P-11	Gordon's Corner Case Document
P-12	Middlesex Water Case Order
P-13	Board's Generic Order
P-14	Jersey Central Proceeding
P-15	PE and TD Responses
P-16	Compilation of Data Request Responses consisting of the following: P-ROR-3 P-ROR-5 P-ROR-6 P-ROR-11 P-ROR-12 P-ROR-13 P-ROR-15 P-ROR-16 P-ROR-17 PCR-ROE-16
P-17	SNL Report

For Rate Counsel:

RC-2	Direct Testimony of D. Mugrace
RC-3	Update Schedule of D. Mugrace
RC-4	Direct Testimony Howard J Woods
RC-5	Direct Testimony Marion Griffing
RC-6	Surrebuttal Testimony Marion Griffing
RC-7	Direct Testimony Brian Kalcic
RC-8	Updated Testimony of B. Kalcic

Exhibit P - 4
Per ALJ Decision

SUEZ Water Arlington Hills Inc.
Statement of Operating Income Including Revenue Deficiency Under Present and Proposed Rates
and for the Twelve Months Ending October 31, 2016

Line No.	Description	Reference	Test Year April 30, 2016	Adjustment	Pro Forma at Present Rates	Adjustment	Pro Forma at Proposed Rates
			(1)	(2)	(3)	(4)	(5)
1	Operating Revenue	P-4, Sch. 1	924,623	$ 212,702	$ 1,137,325	$ 1,310,114	$ 2,447,439
						115.19%	
	Operating Expenses						
2	Operating & Maintenance Expense	P-4, Sch. 2	472,187	(43,008)	429,179	3,172	432,351
3	Depreciation & Amortization Expense	P-4, Sch. 3	179,550	193,314	372,864	-	372,864
4	Taxes Other than Income	P-4, Sch. 4-5	113,157	25,375	138,532	147,111	285,643
5	Total Operating Expenses Before Income Taxes		764,895	175,681	940,575	150,283	1,090,858
6	Operating Income Before Income Taxes		159,728	37,021	196,750	1,159,831	1,356,581
7	Federal Income Taxes	P-4, Sch. 6	91,518	(225,002)	(133,484)	405,941	272,457
8	Deferred Federal Income Taxes	P-4, Sch. 6	22,007	68,878	90,884	-	90,884
9	Operating Income		$ 46,204	$ 193,145	$ 239,349	$ 753,890	$ 993,239
10	Rate Base	P-4, Sch. 7			$ 13,051,761		13,051,761
11	Rate of Return				1.83%		7.61%
12	Required Rate of Return				7.61%		
13	Required Net Operating Income				$ 993,239		
14	Operating Income Deficiency				$ 753,890		
15	Gross Revenue Conversion Factor				1.7378		
16	Revenue Deficiency				$ 1,310,114		

Exhibit P-4
Schedule 2
Per ALJ Decision

SUEZ Water Arlington Hills Inc.
Summary Statement of Operating Expenses

Line No.	Description	Schedule Ref.	Test Year 12m 4/30/2016 (1)	Adjustments (2)	Proforma Present Rates (3)	Proforma Proposed Rates (4)
	Operating Expenses					
1	Labor Expense	P-4, Sch. 2A	130,867	$ 18,617	$ 149,484	$ 149,484
2	Power	P-4, Sch. 2B	44,790	(21,602)	23,187	23,187
3	Chemicals	P-4, Sch. 2C	72,560	(62,560)	10,000	10,000
4	Waste Disposal	P-4, Sch. 2D	30,331	5,555	35,886	35,886
5	Insurance	P-4, Sch. 2E	1,995	(1,995)	-	-
6	Fringe Allocation	P-4, Sch. 2F	44,195	13,761	57,956	57,956
7	Rate Case Expense	P-4, Sch. 2G	-	45,683	45,683	45,683
8	Management and Services Fees	P-4, Sch. 2H	95,355	(65,572)	29,783	29,783
9	Outside Services	P-4, Sch. 2I	46,497	(8,194)	38,303	38,303
10	Regulatory Commission Expense	P-4, Sch. 2J	-	2,793	2,793	5,965
11	Other O&M Expenses	P-4, Sch. 2K	5,598	30,506	36,104	36,104
12	Total Operation and maintenance expense		$ 472,187	$ (43,008)	$ 429,179	$ 432,351
13	Depreciation & Amortization Expense					
14	Depreciation	P-4, Sch. 3	179,550	193,314	372,864	372,864
15	Total Depreciation and Amortization Expense		$ 179,550	$ 193,314	$ 372,864	$ 372,864
16	Taxes Other Than Income					
17	Property Taxes	P-4, Sch. 4	10,805	18	10,823	10,823
18	Gross Receipts, Excise and Franchise Taxes	P-4, Sch. 5	102,352	25,357	127,709	274,820
19	Total Taxes Other Than Income		$ 113,157	$ 25,375	$ 138,532	$ 285,643
20	Total Operating Expenses		$ 764,895	$ 175,681	$ 940,575	$ 1,090,858

Exhibit P-4
Schedule 7
Per ALJ Decision

SUEZ Water Arlington Hills Inc.
Rate Base Summary
Historic Test Year and Pro Forma

Line No.	Description	Reference	Test Year Ended April 30, 2016	Proforma Ending October 31, 2016
1	Utility Plant in Service	Sch. 7-A	$ 7,430,822	$ 16,677,168
2	Accumulated Depreciation	Sch. 7-B	(3,156,644)	
3	Net Plant		4,274,179	16,677,168
4	Contributions in Aid of Construction	Sch. 7-C	(1,756,202)	(2,774,770)
5	Accumulated Deferred Income Taxes	Sch. 7-D	(738,616)	(830,820)
6	Prepaid Expenses	Sch. 7-E	-	5,258
7	Working Capital (1/8 O&M)	Sch. 7-F	-	54,306
8	CTA			(79,381)
9	Total Rate Base		$ 1,779,361	$ 13,051,761