



Agenda Date: 8/29/18
Agenda Item: 5C

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

WATER

IN THE MATTER OF THE NEW JERSEY BOARD OF PUBLIC UTILITIES' CONSIDERATION OF THE TAX CUTS AND JOBS ACT OF 2017))))	DECISION AND ORDER ADOPTING STIPULATION OF SETTLEMENT
COMPLIANCE FILING OF GORDON'S CORNER WATER COMPANY)))	DOCKET NO. AX18010001 DOCKET NO. WR18030243

Parties of Record:

Stephen B. Genzer, Esq., Saul Ewing Arnstein & Lehr, on behalf of Gordon's Corner Water Company
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:¹

On December 22, 2017, the Tax Cuts and Jobs Act of 2017 ("2017 Tax Cut Act") was signed into law with an effective date of January 1, 2018. The 2017 Tax Cut Act sets forth changes to the Federal Internal Revenue Tax Code ("Tax Code"). One significant change is the reduction in the maximum corporate tax rate from 35% to 21% which took effect January 1, 2018.

On January 31, 2018, the Board issued the Generic Tax Order² in BPU Docket No. AX 18010001, captioned In the Matter of the New Jersey Board of Public Utilities' Consideration of the Tax Cuts and Jobs Act of 2017, concerning the effects of the corporate tax rate change from 35% to 21% and other adjustments as set forth in the 2017 Tax Cut Act. Based on the Board's review of the 2017 Tax Cut Act, the changes to the Tax Code will provide savings to New Jersey public utilities and result in an over-collection of tax revenue by the public utilities that will not be paid in federal income taxes. Id. at 2. The Board stated, "To ensure that ratepayers receive the appropriate benefit from the reduction in taxes collected in rates that will no longer be paid, it is necessary for rates to be adjusted so that utility rates reflect the effective federal corporate tax rate." Id.

Pursuant to the Generic Tax Order, New Jersey utilities, including Gordon's Corner Water Company ("Gordon's Corner" or "Company"), were directed to calculate and defer with interest

¹ Commissioner Robert M. Gordon did not participate.

² See Order, In the Matter of the New Jersey Board of Public Utilities' Consideration of the Tax Cuts and Jobs Act of 2017, BPU Dkt No. AX10010001 (Jan. 31, 2018) ("Generic Tax Order").

the adjustment to rates from January 1, 2018 through March 31, 2018 and to change rates effective April 1, 2018 on an interim basis ("Phase One"). Further, utilities were directed to comply with the provisions of the Generic Tax Order by including other adjustments in the final rates by July 1, 2018 ("Phase Two").

On March 2, 2018, the Company requested that no rate reduction action be taken now and that all aspects of the 2017 Act be addressed in its soon-to-be-filed base rate case. Board Staff directed the Company to comply with the Board's Order and, by letter dated March 16, 2018, the Company filed proposed Tariffs that included an across-the-board rate reduction reflecting the reduction in the corporate tax rate from 35% to 21%. By Order dated March 26, 2018, the Board directed that the Company's plan be reviewed in the instant proceeding, adopted the Tariffs to be effective April 1, 2018, and established that the rates set forth in the Tariffs as interim subject to refund pending the outcome of this proceeding.

By Order dated June 22, 2018, the Board granted the Company's request to extend the procedural schedule to allow the Company additional time to complete its review of its deferred income tax records and to allow the parties to engage in further settlement discussions. The Board directed that the parties submit all necessary information to the Board so as to allow it to consider final rates no later than the Board's September 2018 public agenda meeting, or as soon thereafter as the Board may deem appropriate.

On August 10, 2018, Gordon's Corner, the New Jersey Division of Rate Counsel and Board Staff (collectively, "Parties") executed a stipulation in Gordon's Corner pending rate case ("Rate Case Stipulation") and submitted it to the Office of Administrative Law, requesting an Initial Decision recommending settlement of Gordon's Corner's pending base rate case.³ Under the Rate Case Stipulation, the Parties to the rate case agreed that they have included in the Rate Case Stipulation the effect on Gordon's Corner's rates of both phases of the required calculations as set forth in the Board's Generic Tax Order. The Rate Case Stipulation included both the effects of the Phase One and Phase Two of the Generic Tax Order issues by the Board.

On August 20, 2018, the Parties filed with the Board a fully executed Stipulation of Settlement ("August 2018 Stipulation"),⁴ which incorporated by reference the Rate Case Stipulation. The August 2018 Stipulation also indicated that Gordon's Corner fulfilled all of its requirements set forth by the Board in Docket Nos. AX18010001 and WR18030243, and the Parties agreed that the August Stipulation along with the Rate Case Stipulation resolves all issues reflecting the tax calculations of both cases. Therefore, the Parties requested that the Board accept the August 2018 Stipulation and close Docket No. WR18030243.

DISCUSSION AND FINDINGS

The Parties stipulated and agreed that all issues and requirements set forth in the Generic Tax Order as applied to Gordon's Corner were resolved.⁵ Consistent with the Rate Case Stipulation, Gordon's Corner's new rates to be set as a result of that case include a one-time \$0.56 (i.e., a

³ I/M/O the Petition of Gordon's Corner Water Company for an Increase and Charges for Water Service, BPU Docket No. WR18030268 and OAL Docket No. PUC 05104-2018S.

⁴ Although described in the Order at some length, should there be any conflict between this summary and August 2018 Stipulation, the terms of the August 2018 Stipulation control, subject to the findings and conclusions in this Order.

⁵ Id.

56 cent) credit per customer, reflecting a stub period total credit due to customers of \$8,394. This credit resolves both this matter with respect to Docket No. AX18010001 as well as all issues in the Gordon's Corner Rate Case, associated with both Phase One and Phase Two of the Generic Tax Order. The Board **NOTES** that Gordon's Corner has already complied with Phase One of the Generic Tax Order by lowering its volumetric rate from \$5.15 to \$5.04, or \$154,676 on an annual basis, The Board **FURTHER NOTES** that the new base rates agreed to by the Rate Case Stipulation reflect a rate base adjustment of \$137,421, which represents the Accelerated Deferred Income Tax owed to ratepayers pursuant to the 2017 Tax Cuts Act.

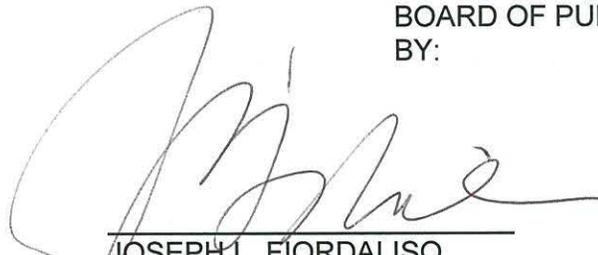
The Board has reviewed the August 2018 Stipulation and **FINDS** that Gordon's Corner has fulfilled all of its requirements set forth by the Board in BPU Docket Nos. AX18010001 and WR18030243.

The Board **HEREBY ADOPTS** the August 2018 Stipulation, which makes the interim rates from the Rate Case Stipulation permanent, and closes Docket No. WR18030243.

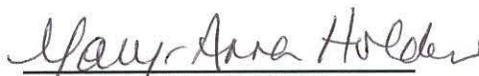
This Order shall be effective on September 8, 2018.

DATED: 8/29/18

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER

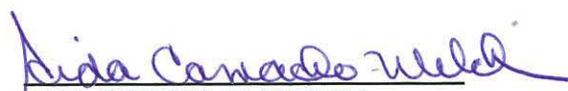


DIANNE SOLOMON
COMMISSIONER



UPENDRA J. CHIVUKULA
COMMISSIONER

ATTEST:



AIDA CAMACHO-WELCH
SECRETARY

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

**IN THE MATTER OF THE NEW JERSEY BOARD OF PUBLIC UTILITIES'
CONSIDERATION OF THE TAX CUTS AND JOBS ACT OF 2017
DOCKET NO. AX18010001**

**COMPLIANCE FILING OF GORDON'S CORNER WATER COMPANY
DOCKET NO. WR18030243**

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SAUL EWING
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August 10, 2018

VIA EMAIL and FED. EX.

Honorable Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
44 South Clinton Ave., Suite 314
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Trenton, NJ 08625

Re: In the Matter of the New Jersey Board of Public Utilities'
Consideration of the Tax Cuts and Jobs Act of 2017
BPU Docket No. AX18010001
Gordon's Corner Water Company
BPU Docket No. WR18030243

Dear Secretary Camacho-Welch:

Enclosed for filing please find an original and ten (10) copies, plus one additional copy, of a Stipulation of Settlement ("Stipulation") which has been executed on behalf of Gordon's Corner Water Company (Petitioner), the Staff of the Board of Public Utilities, and the Division of Rate Counsel, in the above-referenced matter.

This Stipulation fully resolves all matters at issue in this proceeding. Kindly stamp the additional copy of the Stipulation "filed" and return it to me in the enclosed self-addressed, stamped envelope.

Respectfully submitted,



Stephen B. Genzer

SBG/jg
Enclosures
cc: Attached Service List (w/encl., via email and regular mail)

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SERVICE LIST

**In the Matter of the New Jersey Board of Public Utilities'
Consideration of the Tax Cuts and Jobs Act of 2017
BPU Docket No. AX180110001
Gordon's Corner Water Company Compliance Filing
BPU Docket No. WR18030243**

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BACKGROUND

On December 22, 2017, the 2017 Tax Cut Act was signed into law with an effective date of January 1, 2018. The 2017 Tax Cut Act sets forth changes to the Federal Internal Revenue Tax Code (“Tax Code”). One significant change is the reduction in the maximum corporate tax rate from 35% to 21% which took effect January 1, 2018.

On January 31, 2018, the Board issued the Generic Tax Order¹ in BPU Docket No. AX18010001, captioned *In the Matter of the New Jersey Board of Public Utilities’ Consideration of the Tax Cuts and Jobs Act of 2017*, concerning the effects of the corporate tax rate change from 35% to 21% and other adjustments as set forth in the 2017 Tax Cut Act. Based on the Board’s review of the 2017 Tax Cut Act, the changes to the Tax Code will provide savings to New Jersey public utilities and result in an over-collection of tax revenue by the public utilities that will not be paid in federal income taxes. *Id.* at 2. The Board stated: “To ensure that ratepayers receive the appropriate benefit from the reduction in taxes collected in rates that will no longer be paid, it is necessary for rates to be adjusted so that utility rates reflect the effective federal corporate tax rate.” *Id.*

Pursuant to the Generic Tax Order, most New Jersey utilities, including Gordon’s Corner, were directed to calculate and defer with interest the adjustment to rates from January 1, 2018 through March 31, 2018 and to change rates effective April 1, 2018 on an interim basis (“Phase One”). Further, utilities were directed to comply with the provisions of the Generic Tax Order by including other adjustments in final rates by July 1, 2018 (“Phase Two”).

On March 5, 2018, the Board initiated BPU Docket No. WR18030243, captioned *In the Matter of the New Jersey Board of Public Utilities’ Consideration of the Tax Cuts and Jobs Act*

¹ See Order, *In the Matter of the New Jersey Board of Public Utilities’ Consideration of the Tax Cuts and Jobs Act of 2017*, BPU Dkt No. AX10010001 (Jan. 31, 2018) (“Generic Tax Order”).

of 2017- Compliance Filing of Gordon's Corner Water Company, a companion docket to BPU Docket No. AX18010001 to address Gordon's Corner's compliance with requirements of the Generic Tax Order.

On August 10, 2018, the parties to this matter stipulated ("Rate Case Stipulation") and submitted to the Office of Administrative Law requesting an Initial Decision/Settlement ("Gordon's Corner Rate Case Order") in BPU Docket No. WR1803268, OAL Docket No. PUC05104-2018S, Gordon's Corner's current base rate case.² Under the Rate Case Stipulation, the Signatory Parties agreed that they have included in the Rate Case Stipulation the effect on Gordon Corner's rates of both phases of the required calculations as set forth in the Board's Generic Tax Order.³ That Rate Case Stipulation included both the effects of Phase One and Phase Two of the Generic Tax Orders issued by the BPU. The Signatory Parties agree that this Stipulation, along with the Rate Case Stipulation, resolves all issues reflecting the tax calculations in both cases.

SETTLEMENT TERMS

As a result of the foregoing, the Signatory Parties hereby STIPULATE AND AGREE that:

1. Gordon's Corner has fulfilled all of its requirements set forth by the Board in BPU Docket Nos. AX18010001 and WR18030243 and jointly request the Board to issue an Order confirming this finding, closing BPU Docket No. WR18030243, and grant such other relief deemed just and proper by the Board in relation to this joint request.

² *In the Matter of the Petition of Gordon's Corner Water Company for an Increase in Rates and Charges for Water Service*, BPU Dkt. No. WR1803268, OAL Dkt. No. PUC 05104-2018S.

³ See Rate Case Stipulation at ¶10.

2. Consistent with the Gordon's Corner Rate Case Stipulation, Gordon's Corner's new rates to be set as a result of that case, including a one time \$0.56 (i.e. a 56 cent) credit per customer, reflecting a stub period credit due to customers of \$ 8,394, finally resolve both this Tax Docket with respect to Docket No. AX18010001 as well as all issues in the Gordon's Corner Rate Case, associated with both Phase One and Phase Two of the Generic Tax Order. It should be noted that Gordon's Corner Water Company had already complied with Phase One of the Board's Generic Tax Order by lowering its volumetric rate from \$5.15 to \$5.04, or \$154,676 on an annual basis. Furthermore, the parties acknowledge that the new base rates agreed to in the Company's base rate case, BPU Docket No. WR18030268, reflect a rate base adjustment of \$137,421, which represents the excess ADIT owed to ratepayers pursuant to the Tax Cuts & Jobs Act of 2017.

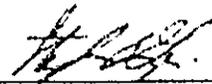
3. This Stipulation is the product of extensive negotiations by the Signatory Parties, and it is an express condition of the settlement embodied by this Stipulation that it be presented to the Board in its entirety without modification or condition. It is also the intent of the Signatory Parties to this Stipulation that this settlement, once accepted and approved by the Board, shall govern all issues specified and agreed to herein. The Signatory Parties to this Stipulation specifically agree that if adopted in its entirety by the Board, no appeal shall be taken by them from the order adopting same as to those issues upon which the Signatory Parties have stipulated herein. The Signatory Parties agree that the within Stipulation reflects mutual balancing of various issues and positions and is intended to be accepted and approved in its entirety. Each term is vital to this Stipulation as a whole, since the Signatory Parties hereto expressly and jointly state that they would not have signed this Stipulation had any terms been modified in any way. In the event any particular aspect of this Stipulation is not accepted and

approved by the Board, then any Signatory Party hereto materially affected thereby shall not be bound to proceed under this Stipulation.

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

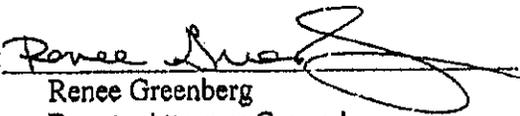
GORDON'S CORNER WATER COMPANY

Date:

By: 
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Saul Ewing Arnstein & Lehr LLP
Attorney for Petitioner

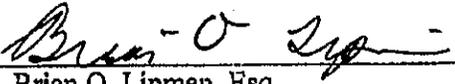
GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY
Attorney for the Staff of the New Jersey
Board of Public Utilities

August 10, 2018
Date:

By: 
Renee Greenberg
Deputy Attorney General

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DIRECTOR - DIVISION OF RATE COUNSEL

August 10, 2018
Date:

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