



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 PETITION OF FAYSON)	DECISION AND ORDER
LAKE WATER COMPANY FOR AN INCREASE IN)	APPROVING STIPULATION
RATES AND CHARGES FOR WATER SERVICE AND)	DOCKET NO. WR17101041
OTHER APPROPRIATE RELIEF)	OAL DKT NO.PUC 16181-2017S
)	

Parties of Record:

Thomas C. Kelly, Esq., Russo Tumulty Nester Thompson & Kelly, LLP, on behalf of Fayson Lake Water Company
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

BACKGROUND/PROCEDURAL HISTORY

On October 6, 2017, pursuant to N.J.S.A. 48:2-21 and N.J.A.C. 14:1-5.12, Fayson Lake Water Company ("Fayson Lake," "Company" or "Petitioner"), a public utility of the State of New Jersey, subject to the jurisdiction of the Board of Public Utilities ("Board"), filed a petition seeking to increase its rates for water service amounting to approximately \$99,836.00 or 15.11% in additional annual revenues. Petitioner subsequently submitted updated schedules, based on actual results for the twelve (12) months ended December 31, 2017.

Fayson Lake is engaged in the business of collecting, treating and distributing water service to approximately 884 customers in certain portions of the Borough of Kinnelon, Morris County, New Jersey.

By this Order, the Board considers the Initial Decision which adopted the Stipulation¹ of Settlement ("Stipulation") executed by the Petitioner, the Division of Rate Counsel ("Rate Counsel"), and Board Staff (collectively, "the Parties"), agreeing that Petitioner's required operating revenue is \$766,034 and its pro forma operating income is \$77,417, resulting in an operating income deficiency of \$29,659 and necessitating a revenue increase of \$40,276, or 6.35% over present rate revenues.

¹ Although described in the Order at some length, should there be any conflict between this summary and the Stipulation, the terms of the Stipulation control, subject to the findings and conclusions in this Order.

On October 30, 2017, the Board transmitted the matter to the Office of Administrative Law ("OAL") for hearing as a contested case and Administrative Law Judge Tricia M. Caliguire ("ALJ Caliguire") was assigned to the base rate proceeding. On November 21, 2017, the Board issued an Order suspending the proposed rate increases until March 15, 2018. A telephone pre-hearing conference was held on December 14, 2017. After proper notice, a public hearing was held on February 21, 2018 at the Kinnelon High School in Kinnelon. Approximately fifteen (15) people from the general public appeared to provide comments at the hearing. Several members of the public stated that additional time was needed to submit additional written comments after the hearing. ALJ Caliguire permitted the filing of written comments until June 30, 2018.

On February 28, 2018, the Board further suspended the proposed rate increases until July 15, 2018.²

DISCUSSIONS AND FINDINGS

During this proceeding, Petitioner was served with and responded to discovery requests by Rate Counsel and Board Staff.

Numerous conferences and settlement discussions were held among the Parties. Following settlement discussions, the Parties reached an agreement and stipulated the following terms:

1. The twelve (12) months ended December 31, 2017, adjusted for known and measurable changes, is a reasonable and proper test year period.
2. Petitioner's rate base is \$1,559,967 and that a fair overall rate of return is 6.86%, which reflects a cost rate for common equity of 9.6%, as shown below:

Required Cost of Capital

	%	Cost Rte	Weighted Cost Rate
Common Equity	40.00%	9.60%	3.84%
Long-Term Debt	<u>60.00%</u>	<u>5.04%</u>	<u>3.02%</u>
Total Cost of Capital	100%		6.86%

3. Petitioner's current operating revenue is \$766,034, as adjusted, and its pro forma operating income is \$77,417, resulting in an operating income deficiency of \$29,659 and necessitating a revenue increase of \$40,276, representing an overall percentage increase of 6.35% over present rate metered sales revenues as referenced in the revenue requirement summary attached to the Stipulation.
4. The revenue requirement to which the Parties have stipulated is necessary to ensure that Petitioner will continue to provide, safe, adequate and proper water service to its customers.

² Although N.J.A.C. 14:1-5.12 permits the Company to implement the proposed rate increases on a provisional basis, subject to refund with interest, the Company did not implement provisional rates following the expiration of the second suspension period.

5. The Company has submitted its proposed new tariff pages, annexed to the Stipulation as Exhibit C, containing rates and charges conforming to the Stipulation and designed to produce the additional annual revenues to which the Parties have stipulated. The quarterly bill for a typical customer with a 5/8" meter, who uses 15,000 gallons per quarter will increase from \$164.66 to \$172.61. This is an increase of \$7.95 per quarter or 4.83%.
6. The Parties agree that the water tank expansion project expense will be carried on the Petitioner's books in Account 183 – Other Deferred Debits – Preliminary Survey, Investigative plans and Costs.
7. The Company will file a new tariff with the Board, with copies to the Parties, in conformity with the Stipulation.

On September 13, 2018, ALJ Caliguire issued an Initial Decision in this matter, recommending adoption of the Stipulation executed by the Parties, finding that they had voluntarily agreed to the Stipulation and that the Stipulation fully disposes of all issues and is consistent with the law.

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 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. Id. In reaching this decision, the Board must balance the needs of the ratepayer to receive safe, adequate and proper service at reasonable rates, while allowing the utility the opportunity to earn a fair rate of return. See FPC v. Hope Natural Gas, 320 U.S. 591 (1944); N.J.S.A. 48:2-21 and N.J.S.A. 48:3-1.

Having reviewed the record in this matter, as well as the Initial Decision and Stipulation, the Board **HEREBY FINDS** that the Stipulation is reasonable, in the public interest and in accordance with the law.

Therefore, the Board **HEREBY ADOPTS** the Initial Decision and the Stipulation attached hereto, including all attachments and schedules, as its own, incorporating by reference the terms and conditions of the Stipulation, and the Board **HEREBY APPROVES** the Company's new tariff pages, consistent with the Stipulation.

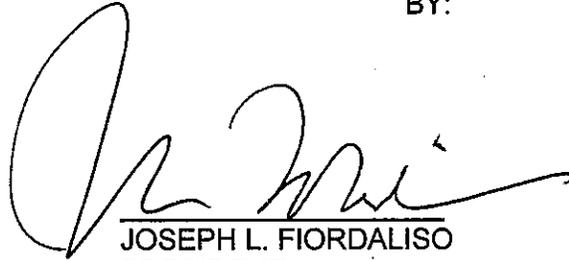
Based on the foregoing, the Board **HEREBY APPROVES** an overall increase in revenues in the amount of \$40,276, representing an approximate 6.35% increase over the Company's present rate revenues.

The Board **HEREBY DIRECTS** the Company to file tariff pages conforming to the terms and conditions of the Stipulation and this Order within five (5) days from the effective date of this Order.

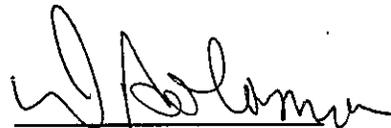
The Order shall be effective on September 27, 2018.

DATED: 9/17/18

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT


MARY-ANNA HOLDEN
COMMISSIONER
DIANNE SOLOMON
COMMISSIONER
UPENDRA J. CHIVUKULA
COMMISSIONER
ROBERT M. GORDON
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 PETITION OF FAYSON LAKE WATER COMPANY FOR AN
INCREASE IN RATES AND CHARGES FOR WATER SERVICE AND
OTHER APPROPRIATE RELIEF**

**BPU DOCKET NO. WR17101041
OAL DOCKET NO. PUC 16181-2017S**

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FAYSON LAKE WATER COMPANY
REVENUE REQUIREMENT SUMMARY

Rate Base	\$1,559,967
Rate of Return	6.86%
Required Operating Income	\$107,076
Pro Forma Operating Income	\$77,417
Operating Income Deficiency	\$29,659
Revenue Conversion Factor	1.358
Revenue Deficiency	\$40,276
Rate Increase	6.35%

EXHIBIT C

Fayson Lake Water Company
BPU No.3 Water
Superseding

Tenth Revised Sheet No.4

Ninth Revised Sheet No.4
Sheet No.4

Ninth Revised

RATE SCHEDULE NO. 1
Metered Services

Applicable to Use of Service For:

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

Character of Service: Continuous

Rate:

* Quarterly charge per thousand gallons consumed in addition to the minimum charge listed below: \$9.01

Minimum Charge:

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

5/8"	\$37.46
1"	\$93.66
1-1/2"	\$187.30
2"	\$299.68

Determination of Demand:

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

Date of Issue: August 2018
2018

Effective September

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

Filed pursuant to decision of Board of Public Utilities in Docket No. WR117101041 dated _____

* The State of New Jersey enacted Ch. 443 of the Laws of 1983 concerning the periodic testing of public water supplies which establishes a water tax of \$0.01 per 1,000 gallons of water. This tax is reflected in the above rates. By Order of the Board of Public Utilities Docket No.WR88080977 April 27, 1989.

EXHIBIT C (CONTINUED)

FAYSON LAKE WATER COMPANY
B.P.U. No. 3 – WATER

Seventh Revised Sheet No. 6
Superceeding Sixth Revised Sheet No. 6

RATE SCHEDULE NO. 2
Fire Protection Service

Rate:

Charge for Fire Hydrants –
Rate per Hydrant per Quarter \$174.29

Terms of Payment:

Net Cash due upon rendering of invoice



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

SETTLEMENT

OAL DKT. NO. PUC 16181-17

AGENCY DKT. NO. WR17101041

**IN THE MATTER OF THE PETITION
OF FAYSON LAKE WATER COMPANY
FOR APPROVAL OF AN INCREASE
IN RATES AND CHARGES FOR WATER SERVICE
AND OTHER APPROPRIATE RELIEF.**

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

Timothy Oberleiton and Patricia Krogman, Deputy Attorneys General, for Staff
of the Board of Public Utilities (Gurbir S. Grewal, Attorney General of New
Jersey, attorney)

Debra Robinson and Christine Juarez, Assistant Deputies Rate Counsel, for Division
of Rate Counsel (Stefanie A. Brand, Director)

Record Closed: September 13, 2018

Decided: September 13, 2018

BEFORE TRICIA M. CALIGUIRE, ALJ:

This proceeding involves a petition by Fayson Lake Water Company (the Company) for an increase in its rates for water service, to make other tariff changes, and for other appropriate

OAL DKT. NO. PUC 16181-17

relief, filed on October 6, 2017, with the Board of Public Utilities (Board). The petition was transmitted to the Office of Administrative Law on October 30, 2017, for determination as a contested case. A telephone prehearing conference was held on December 14, 2017, and a prehearing order issued on December 22, 2017.

On February 21, 2018, a duly-noticed public hearing was held in the Company's service territory, at Kinnelon High School, Kinnelon, New Jersey. The hearing was well attended by members of the public, nine of whom made comments. Neither petitioner nor staff of the Board made comments at the public hearing; the comments made by the members of the public and the representative of the Division of Rate Counsel at the public hearing were transcribed and made a part of the record. (J-1.)

Several members of the public expressed concern regarding the notice of the public hearing. Due to the expressed interest of members of the public for additional time to submit comments on the proposed rate increase, the OAL accepted public comments through June 30, 2018, and notice of this extension were posted on the home pages of the websites maintained by petitioner and Staff of the Board. Two members of the public submitted written comments after the public hearing. (J-2.)

The parties filed on September 13, 2018, a Stipulation of Settlement which resolves all issues in this proceeding. (J-3.) Said Stipulation of Settlement has been signed by petitioner, Staff of the Board, and the New Jersey Division of Rate Counsel.

The Stipulation of Settlement indicates the terms of settlement, and is attached and fully incorporated herein.

I have reviewed the terms of settlement and I **FIND**:

1. The parties have voluntarily agreed to the settlement as evidenced by their signatures or their representatives' signatures on the attached document.

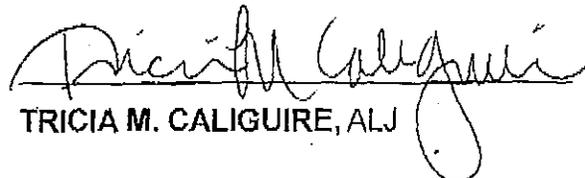
OAL DKT. NO. PUC 16181-17

- 2. The settlement fully disposes of all issues in controversy between the parties and is consistent with the law.

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

This recommended decision may be adopted, modified or rejected by the BOARD OF PUBLIC UTILITIES, which by law is authorized to make a final decision in this matter. If the Board of Public Utilities does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

September 13, 2018
DATE


TRICIA M. CALIGUIRE, ALJ

Date Received at Agency: 9.13.18

Date Mailed to Parties: _____
nd

OAL DKT. NO. PUC 16181-17

APPENDIX

EXHIBITS

Jointly Submitted:

- J-1 State of New Jersey, Office of Administrative law, Transcript of the Public Hearing Held February 21, 2018, Kinnelon High School Library, 123 Kinnelon Road, Kinnelon, New Jersey, Commencing at 5:30 p.m.
- J-2 Public Comment Letter from Mason Ford, dated March 23, 2018; Public Comment Letters from Paul Rosenwasser, dated March 145, 2018
- J-3 Stipulation of Settlement