



Agenda Date: 07/10/19
Agenda Item: 5A

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)	ORDER ADOPTING
)	PARTIAL STIPULATION
)	
)	DOCKET NO. AX18010001
IN THE MATTER OF THE PETITION OF NEW JERSEY-AMERICAN WATER COMPANY, INC. WITH CALCULATION OF RATES UNDER THE TAX CUTS AND JOBS ACT OF 2017)	
)	
)	DOCKET NO. WR18030233

Parties of Record:

Ira G. Megdal, Esq., Cozen O'Connor, on behalf of New Jersey-American Water Company, Inc.
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

The Tax Cuts and Jobs Act of 2017 ("2017 Act" or "Tax Act") was signed into law on December 22, 2017 with an effective date of January 1, 2018. The 2017 Act sets forth changes to the Federal Internal Revenue Tax Code, including a reduction in the maximum corporate tax rate from 35% to 21%.

On January 31, 2018, the New Jersey Board of Public Utilities ("Board") issued an Order ("Tax Order") which established a proceeding ("Tax Proceeding") for all affected utilities to consider the implications of the 2017 Act, and in particular to implement interim rates effective April 1, 2018, until a final Board review is complete. The Tax Order also established a procedural schedule for motions to intervene, discovery, technical conferences, filing of comments, and settlement conferences.

On March 2, 2018, New Jersey-American Water Company ("NJAW" or "Company"), in response to the Tax Order, filed a petition ("Tax Filing") with the Board, including proposed tariffs, reflecting a proposed rate reduction of 5.88%, resulting from the Tax Act. Pursuant to the Tax Order, NJAW deferred, as of January 1, 2018, with interest, at its short term debt rate, the difference between rate recovery made utilizing the tax expense calculated at 35% and the tax expense calculated at 21%, for the period January 1, 2018 through March 31, 2018 ("stub period"). The Company's Tax Filing also included proposals related to the effects of the 2017

Act on Accumulated Deferred Income Taxes ("ADIT"), which would be addressed at a later date of this proceeding.

On March 26, 2018, the Board adopted the proposed tariffs as interim, to be effective April 1, 2018, subject to refund, pending the outcome of this proceeding.

On May 25, 2018, the New Jersey Division of Rate Counsel ("Rate Counsel") filed comments in this matter. Rate Counsel indicated in its comments that it disagreed with the methodology that NJAW utilized to calculate its proposed 5.88% rate reduction. Rate Counsel instead proposed a rate reduction of 6.12%. The Company filed a response to Rate Counsel's comments on June 5, 2018, in which the Company agreed to Rate Counsel's proposed 6.12% rate reduction.

On June 15, 2018, NJAW implemented provisional rates pursuant to N.J.A.C. 14:1-5.12(f)(3) pending a final Order in the Company's then pending base rate case in BPU Docket No. WR17090985. The provisional rates incorporated the reduced maximum federal corporate tax rate. The over collection generated by those provisional rates has been returned with interest.

NJAW, Rate Counsel, and Board Staff (collectively "Signatory Parties") engaged in settlement discussions in this matter. As a result of those settlement discussions, the Signatory Parties agreed to a resolution of the issues related to the refund of the federal income taxes that the Company collected in rates during the stub period ("Partial Stipulation"). Pursuant to the Partial Stipulation,¹ the Signatory Parties stipulate and agree to the following:

1. For the stub period, NJAW deferred with interest the effect of the Tax Act on its books and records at a rate reduction of 6.12% (the "stub period amount");
2. NJAW also deferred the difference between the originally implemented rate decrease of 5.88% and the agreed upon rate decrease of 6.12% for the period of April 1, 2018 through June 14, 2018;
3. The Signatory Parties agree that NJAW will credit the amounts deferred as a one-time credit within 60 days of the effective date of the Board Order approving this Partial Stipulation and will continue to accrue interest at its short-term debt rate during the 60-day period;
4. The Signatory Parties stipulate that NJAW will calculate interest on the amounts deferred using its applicable monthly short-term interest rate; and
5. NJAW will calculate the credits in accordance with Exhibit A attached to the Partial Stipulation.

DISCUSSION AND FINDING:

The Signatory Parties have reviewed the Company's filing, exchanged discovery, filed comments and reply comments, and reached a resolution with regard to the disposition of the stub period amount and the difference between the originally implemented rate decrease of

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

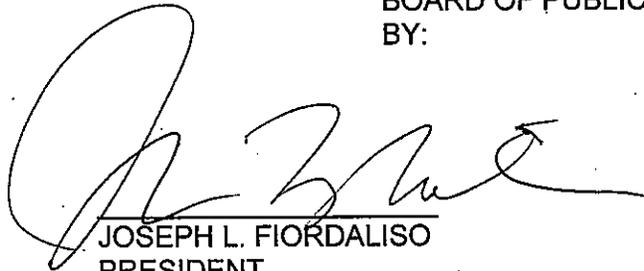
5.88% and the agreed upon rate decrease of 6.12%. The resulting Partial Stipulation will result in NJAW issuing the agreed upon one-time credit to its customers.

The Board, having reviewed the record in this proceeding, including the Company's filing, the comments, reply comments, and the Partial Stipulation, **HEREBY FINDS** the Partial Stipulation to be reasonable, in the public interest, and in accordance with the law. Therefore, the Board **HEREBY ADOPTS** the Partial Stipulation in its entirety and **HEREBY INCORPORATES** its terms and conditions as though fully set forth herein.

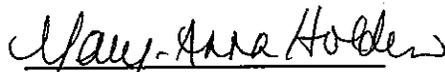
This Order shall be effective on July 20, 2019.

DATED: 7/10/19

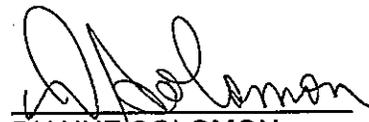
BOARD OF PUBLIC UTILITIES
BY:



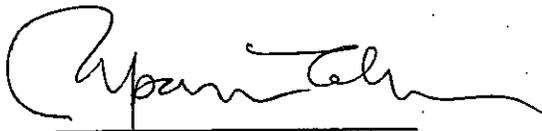
JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



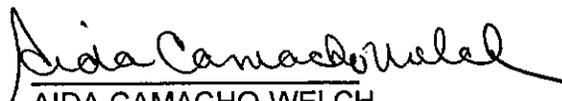
DIANNE SOLOMON
COMMISSIONER



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

**IN THE MATTER OF THE NEW JERSEY-AMERICAN WATER COMPANY, INC. WITH
CALCULATION OF RATES UNDER THE TAX CUTS AND JOBS ACT OF 2017
DOCKET NO. WR18030233**

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Aida Camacho-Welch
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Division of Water

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June 10, 2019

VIA EMAIL AND FIRST CLASS MAIL

Ira G. Megdal

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Aida Camacho-Welch
Secretary
Board of Public Utilities
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Trenton, NJ 08625-0350

**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**

**In the Matter of the Petition of New Jersey-American Water Company, Inc. with
Calculation of Rates Under the Tax Cuts and Jobs Act of 2017
BPU Docket No. WR18030233**

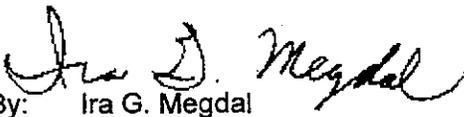
Dear Secretary Camacho-Welch:

This firm represents New Jersey-American Water Company ("NJAWC") in the referenced matter. On behalf of NJAWC we are enclosing with this letter a fully executed Stipulation.

Thank you for your attention to this matter.

Respectfully,

COZEN O'CONNOR, PC


By: Ira G. Megdal

IGM/kn

Enclosure

cc: Service List (via email)

LEGAL\41547337\1

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Thomas McKay, III attorney responsible for New Jersey practice.

issued an Order (the "TCJA Order") which set all affected utility rates as interim and established a proceeding to consider the implications of the TCJA. *See I/M/O New Jersey Board of Public Utilities' Consideration of the Tax Cuts and Jobs Act of 2017*, BPU Docket No. AX18010001 (Jan. 31, 2018).

3. The TCJA Order directed each affected public utility to defer, with interest, the effects of the TCJA on its books and records effective January 1, 2018 and file amended tariffs reflecting a reduction in rates resulting from the reduction in the maximum corporate tax rate effective April 1, 2018, as well as a plan to address other rate factors and to refund any over-collection in rates.

4. On March 2, 2018, New Jersey-American Water filed a petition ("TCJA Filing") under the TCJA Order in Docket Nos. AX1801001 and WR18030233.

5. The TCJA Filing described the impact of the TCJA on New Jersey-American Water and included proposed tariffs reflecting a rate reduction resulting from the TCJA. As a result, the TCJA Filing proposed a rate reduction of 5.88%.

6. In accordance with the TCJA Order, New Jersey-American Water deferred, as of January 1, 2018 with interest at its short-term debt rate, the difference between rate recovery made utilizing the tax expense calculated at 35% and the tax expense calculated at 21% for the period January 1, 2018 through March 31, 2018 (the "stub period").

7. The TCJA Filing also included proposals related to the effects of the TCJA on accumulated deferred income taxes ("ADIT") which effects will be addressed at a later stage of this proceeding.

8. On March 26, 2018, the Board adopted the proposed tariffs as interim to be effective April 1, 2018, subject to refund pending the outcome of this proceeding.

9. On May 25, 2018, Rate Counsel filed comments in this matter.

10. Regarding New Jersey-American Water's proposed rate reduction, Rate Counsel disagreed with New Jersey-American Water's calculation methodology and proposed a rate reduction of 6.12%.

11. New Jersey-American Water submitted reply comments on June 5, 2018 in which it agreed to Rate Counsel's proposed rate reduction of 6.12%.

12. On June 15, 2018, New Jersey-American Water implemented provisional rates pursuant to N.J.A.C. 14:1-5.12(f)(3) pending a final Order in its then pending base rate case. The provisional rates incorporated the reduced maximum federal corporate tax rate. The over collection generated by those provisional rates has been returned with interest.

13. New Jersey-American Water has received and responded to all discovery requests that have been propounded in this proceeding.

14. The Signatory Parties engaged in settlement discussions in this matter. Because of these discussions, the Signatory Parties agree to a resolution of the issue related to the refund of the federal income taxes that New Jersey-American Water collected in rates during the stub period and hereto stipulate as follows:

I. **FEDERAL INCOME TAX DIFFERENTIAL TO BE DEFERRED AND RETURNED WITH INTEREST**

15. For the stub period, New Jersey-American Water deferred with interest the effect of the TCJA on its books and records at a rate reduction of 6.12% (the "stub period amount").

16. New Jersey-American Water also deferred the difference between the originally implemented rate decrease of 5.88% and the agreed upon rate decrease of 6.12% for the period April 1, 2018 through June 14, 2018.

17. The Signatory Parties agree that New Jersey-American Water will credit the

amounts deferred as a one-time credit within 60 days of the effective date of a Board Order approving the Partial Stipulation and will continue to accrue interest at its short-term debt rate during the 60-day period.

18. The Signatory Parties stipulate that New Jersey-American Water will calculate interest on the amounts deferred using its applicable monthly short-term interest rate.

19. New Jersey-American Water will calculate the credits in accordance with Exhibit A attached hereto.

II. MISCELLANEOUS

20. This Partial Stipulation shall be binding on the Signatory Parties on approval of the Board. This Partial Stipulation shall bind the Signatory Parties in this matter only and shall have no precedential value.

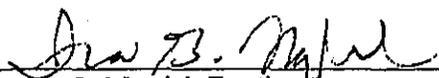
21. This Partial Stipulation contains terms, each of which is interdependent with the others and essential in its own right to the signing of this Partial Stipulation. Each term is vital to the agreement as a whole, since the Signatory Parties expressly and jointly state that they would not have signed the agreement had any term been modified in any way. Since the Signatory Parties have compromised in numerous areas, each is entitled to certain procedures in the event that any modifications whatsoever are made to this Partial Stipulation.

22. If any modification is made to the terms of this Partial Stipulation, the Signatory Parties each must be given the right to be placed in the position it was in before the Partial Stipulation was entered into. It is essential that each Signatory Party be given the option, before the implementation of any new rate resulting from any modification of this Partial Stipulation, either to modify its own position to accept the proposed changes, or to resume the proceeding as if no agreement had been reached.

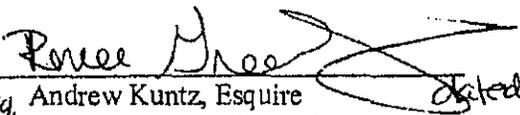
23. The Signatory Parties believe that these procedures are fair to all concerned, and therefore, they are made an integral and essential element of this Partial Stipulation.

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

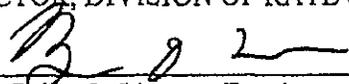
NEW JERSEY-AMERICAN WATER COMPANY, INC.

By: 
Ira G. Megdal, Esquire

GURBIR GREWAL
ATTORNEY GENERAL OF NEW JERSEY
ATTORNEY FOR STAFF OF THE NEW JERSEY
BOARD OF PUBLIC UTILITIES

By:  Dated: June 7, 2019
Renee Greenberg, Andrew Kuntz, Esquire
DAG, on behalf of: Deputy Attorney General

STEFANIE A. BRAND
DIRECTOR, DIVISION OF RATE COUNSEL

By: 
Brian O. Lipman, Esquire
Litigation Manager

Dated: June 7, 2019

NEW JERSEY AMERICAN WATER COMPANY
CALCULATION OF STUB PERIOD REFUND
Docket No. AX18010001
Docket No. WR18030233

NJAW Base:

<u>Customer Group, at 1/31/2019</u>	<u>Amount</u>
Metered Water Customers	615,842
Resale/Contract Customers	57
Sewer Customers	39,051
Private Fire Services	9,501
Private Fire Hydrants	2,180
Public Fire Hydrants	44,320
Total customers/connections	710,951
Total Refund	9,520,605
Refund per customer/connection	\$ 13.39

NJAW DSIC:

<u>Customer Group, at 1/31/2019</u>	<u>Amount</u>
Metered Water Customers	615,842
Resale/Contract Customers	46
Total customers	615,888
Total Refund	969,407
Refund per customer/connection	\$ 1.57

SHORELANDS:

<u>Customer Group, at 1/31/2019</u>	<u>Amount</u>
Metered Water Customers	10,981
Resale/Contract Customers	2
Private Fire Services	132
Private Fire Hydrants	188
Public Fire Hydrants	842
Total customers/connections	12,145
Total Refund	52,933
Refund per customer/connection	\$ 4.36

*For applicable metered water/resale customers, DSIC and NJAW base rate refunds will be combined into a single cu

** Customer/connection counts are as of January 31, 2019

NEW JERSEY-AMERICAN WATER COMPANY
CALCULATION OF STUB PERIOD DEFERRAL AND INTEREST

Interest Rate	2018	January	1.7339%	0.1445%
		February	1.7841%	0.1487%
		March	2.0647%	0.1721%
		April	2.3466%	0.1956%
		May	2.3224%	0.1935%
		June	2.3587%	0.1966%
		July	2.3951%	0.1996%
		August	2.3883%	0.1990%
		September	2.3516%	0.1960%
		October	2.3966%	0.1997%
		November	2.5428%	0.2119%
		December	2.7784%	0.2315%
	2019	January	2.8416%	0.2368%
		February	2.8369%	0.2364%
		March	2.8043%	0.2337%
		April	2.7777%	0.2315%
		May**	2.8000%	0.2333%
		June**	2.8000%	0.2333%

NJAW Base:		Monthly Accrual	Balance	FIT	Interest-bearing	Interest*	Ending Balance
2018	Jan	\$3,117,680	\$3,117,680	(\$654,713)	\$2,462,967	\$3,559	\$3,121,239
2018	Feb	\$2,965,207	6,085,446	(1,278,154)	4,808,292	\$7,149	6,093,595
2018	Mar	\$2,847,901	8,941,496	(1,877,714)	7,063,782	\$12,154	8,953,650
2018	Apr	\$118,310	9,071,960	(1,905,112)	7,166,848	\$14,015	9,085,975
2018	May	\$121,120	9,207,096	(1,933,490)	7,273,606	\$14,077	9,221,173
2018	Jun	\$88,437	9,309,610	(1,955,018)	7,354,592	\$14,456	9,324,066
2018	Jul	\$0	9,324,066	(1,958,054)	7,366,012	\$14,702	9,338,768
2018	Aug	\$0	9,338,768	(1,961,141)	7,377,627	\$14,683	9,353,451
2018	Sep	\$0	9,353,451	(1,964,225)	7,389,226	\$14,480	9,367,931
2018	Oct	\$0	9,367,931	(1,967,266)	7,400,655	\$14,780	9,382,711
2018	Nov	\$0	9,382,711	(1,970,369)	7,412,342	\$15,707	9,398,418
2018	Dec	\$0	9,398,418	(1,973,668)	7,424,750	\$17,191	9,415,609
2019	Jan	\$0	9,415,609	(1,977,278)	7,438,331	\$17,614	9,433,223
2019	Feb	\$0	9,433,223	(1,980,977)	7,452,246	\$17,618	9,450,841
2019	Mar	\$0	9,450,841	(1,984,677)	7,466,164	\$17,448	9,468,289
2019	Apr	\$0	9,468,289	(1,988,341)	7,479,948	\$17,314	9,485,603
2019	May	\$0	9,485,603	(1,991,977)	7,493,626	\$17,485	9,503,088
2019	Jun	\$0	9,503,088	(1,995,649)	7,507,439	\$17,517	9,520,605
2019	Jul	(\$9,520,605)	0	0	0	\$0	0

NJAW DSIC:		Monthly Accrual	Balance	FIT	Interest-bearing	Interest*	Ending Balance
2018	Jan	\$317,302	\$317,302	(\$66,633)	\$250,669	\$362	\$317,664
2018	Feb	\$307,657	625,322	(131,318)	494,004	\$794	626,056
2018	Mar	\$317,678	943,734	(198,184)	745,550	\$1,283	945,017
2018	Apr	\$0	945,017	(198,454)	746,563	\$1,460	946,477
2018	May	\$0	946,477	(198,760)	747,717	\$1,447	947,924
2018	Jun	\$0	947,924	(199,064)	748,860	\$1,472	949,396
2018	Jul	\$0	949,396	(199,373)	750,023	\$1,497	950,893
2018	Aug	\$0	950,893	(199,688)	751,205	\$1,495	952,388
2018	Sep	\$0	952,388	(200,002)	752,386	\$1,474	953,862
2018	Oct	\$0	953,862	(200,311)	753,551	\$1,505	955,367
2018	Nov	\$0	955,367	(200,627)	754,740	\$1,599	956,966
2018	Dec	\$0	956,966	(200,963)	756,003	\$1,750	958,716
2019	Jan	\$0	958,716	(201,330)	757,386	\$1,793	960,509
2019	Feb	\$0	960,509	(201,707)	758,802	\$1,794	962,303
2019	Mar	\$0	962,303	(202,084)	760,219	\$1,777	964,080
2019	Apr	\$0	964,080	(202,457)	761,623	\$1,763	965,843
2019	May	\$0	965,843	(202,827)	763,016	\$1,780	967,623
2019	Jun	\$0	967,623	(203,201)	764,422	\$1,784	969,407
2019	Jul	(\$969,407)	0	0	0	\$0	0

SHORELANDS:		<u>Monthly</u> <u>Accrual</u>	<u>Balance</u>	<u>FI</u>	<u>Interest bearing</u>	<u>Interest*</u>	<u>Ending</u> <u>Balance</u>
2018	Jan	\$17,163	\$17,163	(\$9,604)	\$13,559	\$20	\$17,183
2018	Feb	\$15,379	32,562	(6,838)	25,724	\$38	32,600
2018	Mar	\$18,931	51,531	(10,821)	40,710	\$70	51,601
2018	Apr	\$0	51,601	(10,836)	40,765	\$80	51,681
2018	May	\$0	51,681	(10,853)	40,828	\$79	51,760
2018	Jun	\$0	51,760	(10,870)	40,890	\$80	51,840
2018	Jul	\$0	51,840	(10,886)	40,954	\$82	51,922
2018	Aug	\$0	51,922	(10,904)	41,018	\$82	52,004
2018	Sep	\$0	52,004	(10,921)	41,083	\$81	52,085
2018	Oct	\$0	52,085	(10,938)	41,147	\$82	52,167
2018	Nov	\$0	52,167	(10,955)	41,212	\$87	52,254
2018	Dec	\$0	52,254	(10,973)	41,281	\$96	52,350
2019	Jan	\$0	52,350	(10,993)	41,357	\$98	52,448
2019	Feb	\$0	52,448	(11,014)	41,434	\$98	52,546
2019	Mar	\$0	52,546	(11,035)	41,511	\$97	52,643
2019	Apr	\$0	52,643	(11,055)	41,588	\$96	52,739
2019	May	\$0	52,739	(11,075)	41,664	\$97	52,836
2019	Jun	\$0	52,836	(11,096)	41,740	\$97	52,933
2019	Jul	(\$52,933)	0	0	0	\$0	0

*Interest should be net of tax, as Reg Liability is not part of rate base, and is treated as taxable income for tax purposes.

** To be updated with the actual short-term interest rate