



Agenda Date: 1/12/22
Agenda Item: 5A

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

WATER

IN THE MATTER OF THE REQUEST BY NEW JERSEY) ORDER
AMERICAN WATER COMPANY FOR A TEMPORARY)
WAIVER OF OPTIONAL INDUSTRIAL WHOLESAL)
TARIFF CONDITION, RATE SCHEDULE F, DUE TO)
IMPACT OF COVID ON WATER CONSUMPTION) DOCKET NO. WT21101160

Parties of Record:

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel
Christopher M. Arfaa, Esq., Director, Corporate Counsel, New Jersey American Water Company

BY THE BOARD:¹

On October 8, 2021 New Jersey American Water Company, Inc. (“NJAWC” or “Company”), a public utility corporation of the State of New Jersey, engaged in the business of providing water and wastewater service in certain portions of Atlantic, Bergen, Burlington, Camden, Cape May, Essex, Gloucester, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Salem, Somerset, Union and Warren Counties, filed a letter requesting that the New Jersey Board of Public Utilities (“Board”) grant a temporary waiver of a condition of the Company’s Optional Industrial Wholesale (“OIW”) Rate Schedule F, NJAWC B.P.U. No. 8 – Water, Original Sheet Nos. 36.4 and 36.4.1 for specific OIW customers due to the unanticipated impact of the COVID-19 public health emergency on those customers’ water consumption.

BACKGROUND AND PROCEDURAL HISTORY

NJAWC’s OIW service is available to customers using 9.350 million or more gallons of water per month and having load factors not in excess of 1.2 times their monthly consumption on an average daily basis. Per the conditions of Rate Schedule F, if a customer’s monthly consumption on an average daily basis exceeds a load factor of 1.2 times the last (rolling) 12 months average monthly consumption on an average daily basis for three (3) consecutive months, between April 1 and September 30, the customer will be removed from the OIW Rate Schedule F and will be billed under the General Metered Service Rate Schedule A-1. If a customer is eliminated from the OIW Rate Schedule based on the stated requirements, they will continue to be billed under the

¹ Commissioner Upendra J. Chivukula did not participate.

Company's General Meters Service ("GMS") rates for a minimum of 12 months and will only be eligible for OIW rates if, after 12 months, their monthly consumption on an average daily basis has not exceeded, for three (3) consecutive months between April 1 and September 30, 1.2 times the last 12-month average monthly consumption.

In response to the COVID-19 pandemic, on March 9, 2020, New Jersey Governor Phil Murphy signed Executive Order No. 103 declaring a Public Health Emergency and State of Emergency.² On or about that same date, Princeton University ("Princeton") and Rutgers University ("Rutgers") announced that all classes would go completely online after spring break in response to the increasing number of COVID cases throughout the State. On June 4, 2021, Governor Murphy signed Executive Order No. 244, which terminated the Public Health Emergency declared by Executive Order No. 103.

The shift to online learning reduced the consumption levels of both Princeton and Rutgers. This had an unanticipated impact on the load factor [1.2 times the last (rolling) 12 months average monthly consumption] used to determine the universities' compliance with the Rate Schedule F average monthly consumption condition during the April – September 2021 period. During the billing months for June, July and August of 2021, both of these customers exceeded their load factor for three (3) consecutive months. Therefore, absent a waiver of this condition, the Company would be required to eliminate both universities from Rate Schedule F and bill them at Rate Schedule A-1, which would result in an 82% rate increase per month over the next 12 months before these customers could potentially become eligible for Rate Schedule F rate.

Since Princeton's and Rutgers' reduction in their 12 month (rolling) average monthly consumption and the increase in their load factors were due to the universities' responses to the declared COVID-19 Public Health Emergency, NJAWC respectfully requested a temporary waiver of the Rate Schedule F condition for the universities to the extent that it would eliminate these customers from Rate Schedule F due to their current consumption exceeding their load factors during the period of April 1, 2021 through September 30, 2021.

By letter dated November 30, 2021, the New Jersey Division of Rate Counsel ("Rate Counsel") stated that it did not object to the Company's request for a waiver of the requirements of Rate Schedule F, NJAWC B.P.U. No. 8 – Water, Original Sheet Nos. 36.4 and 36.4.1 for Princeton and Rutgers. Rate Counsel further stated that it reviewed the Company's letter, its supporting documentation and responses to discovery, and that it agreed that both universities' failure to meet the OIW's tariff's requirements were a direct result of their response to the COVID-19 pandemic. Rate Counsel went on to state that it agreed that this was a legitimate request for granting a waiver.

²In that order, Gov. Murphy stated: I authorize and empower the executive head of any agency or instrumentality of the State government with authority to promulgate rules to waive, suspend, or modify any existing rule, where the enforcement of which would be detrimental to the public welfare during this emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary for the duration of this Executive Order, subject to my prior approval and in consultation with the State Director of Emergency Management and the Commissioner of DOH. Any such waiver, modification, or suspension shall be promulgated in accordance with N.J.S.A. App. A:9-45. E.O. 103, p. 6.

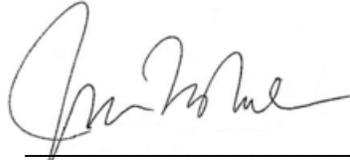
DISCUSSION AND FINDINGS

The Board having carefully reviewed and considered NJAWC's letter, its supporting documentation and Rate Counsel's comments, **HEREBY FINDS** that the shift to online learning by both Rutgers and Princeton was in response to the COVID-19 pandemic and Governor Phil Murphy's declaration of a Public Health Emergency and State of Emergency. The Board **FURTHER FINDS** that the shift to online learning caused Rutgers' and Princeton's usage to decline causing them to exceed their load factors during the billing months for June, July and August of 2021. The conditions of the OIW tariff provides that customers whose monthly consumption on an average daily basis exceeds a load factor of 1.2 times the last (rolling) 12 months average monthly consumption on an average daily basis for three (3) consecutive months, between April 1 and September 30 are to be removed from Rate Schedule F - Optional Industrial Wholesale and be billed under Rate Schedule A-1 General Metered Service. The Board **FURTHER FINDS** that shifting Rutgers and Princeton from Rate Schedule F - Optional Industrial Wholesale to Rate Schedule A-1 General Metered Service, as required by the Conditions of the OIW tariff would result in an 82% rate increase per month before these customers could potentially become eligible again for the OIW rate. Since Rutgers' and Princeton's changes in usage and load factors were the direct result of their shift to online learning in response to the COVID-19 Pandemic and Governor Phil Murphy's declaration of a Public Health Emergency and State of Emergency, the Board **HEREBY CONCLUDES** that granting a waiver of the OIW Tariff provisions for Rutgers and Princeton is appropriate under the present circumstances. Therefore, the Board **HEREBY APPROVES** NJAWC's request for a temporary waiver of the usage and load factor conditions of the Company's Optional Industrial Wholesale Rate Schedule F, NJAWC B.P.U. No. 8 – Water, Original Sheet Nos. 36.4 and 36.4.1 for Princeton and Rutgers.

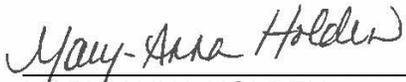
This Order shall be effective on January 19, 2022.

DATED: January 12, 2022

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST:



AIDA CAMACHO-WELCH
SECRETARY

IN THE MATTER OF THE REQUEST FOR TEMPORARY WAIVER OF OPTIONAL INDUSTRIAL
WHOLESALE TARIFF CONDITION, RATE SCHEDULE F. DUE TO IMPACT OF COVID ON
WATER CONSUMPTION

DOCKET NO. WT21101160

SERVICE LIST

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