NJUA
NEW JERSEY UTILITIES ASSOCIATION

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January 10, 2020

VIA ELECTRONIC MAIL
Aida Camacho-Welch
Secretary of the Board
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Trenton, NJ 08625-0350

Re: I/M/O the Proposed Amendment to N.J.A.C. 14:9 Wastewater (Sewer) System Improvement Charge – BPU Docket No. WX19050614

Dear Secretary Camacho-Welch,

I write on behalf of the member companies of the New Jersey Utilities Association (NJUA) in response to the Board of Public Utilities' ("BPU" or "Board") request for comments on the implementation of a Wastewater System Improvement Charge. NJUA is the statewide trade association for New Jersey's investor-owned utilities that at provide essential electric, natural gas, telecommunications, water, and wastewater services to customers throughout the state. NJUA's comments represent the consensus views of our member companies. Each NJUA member reserves the right to submit comments on an individual basis.

NJUA strongly supports the implementation of a Wastewater System Improvement Charge ("WSIC") in New Jersey. Other jurisdictions, such as Illinois, North Carolina, Nevada, Ohio, including one neighboring state, Pennsylvania, have successfully implemented a WSIC. The benefits of WSIC are clear – it would enable wastewater utilities regulated by the Board to invest in their systems in an efficient and responsible manner. In short, a WSIC would allow a wastewater utility to accelerate improvements to its wastewater infrastructure, with continued Board oversight. It is clear that improvements are needed across the state. In 2017, the American Society of Civil Engineers gave New Jersey a "D" rating for its WW infrastructure. Accelerated investment in sewer infrastructure is important on a number of levels, but particularly for health and safety of the state's residents, and for economic development. To start, Sewer leaks or pipe breaks allow sewage to leak into waterways, groundwater, and into our neighborhoods. Groundwater infiltration into leaky, low-pressure sewer pipes means **more** wastewater has to be treated, increasing sewer bills.

In addition, the quality of infrastructure is a top factor in business location decisions and sewer infrastructure is at the top of the list given that sewer line breaks can be very disruptive for a business. In addition, effective sewer systems help control factors such as odor that can drive away business. Further, it is clear that investments in utility infrastructure yield economic benefits that go beyond those directly associated with the improvements. For example, a 2014 Water Research Foundation report every $1M

($1000,000.00) spent by water and wastewater supports the creation of 16 jobs across the economy.[1] Also, a Rutgers Economic Advisory Input-Output model for past utility projects estimated $574,000 in income dollars and $767,000 in gross state product per million dollars spent.[2]

No matter the economic benefits, it is clear that the cost of not investing is much greater than the cost of needed investments. For example, in 2017, the Atlantic County Utilities Authority discovered a sewage leak in a 40-year-old main that was spilling into the Bay by Bader Field. This resulted in a suspension of shellfish harvesting and recreational activity in the area. This is a clear example of the economic harm that can be caused. And clearly there is a public interest. And ASCE notes: "Much of New Jersey's existing wastewater infrastructure will need to be overhauled in the next two to three decades." ASCE looked at the per capita WW and stormwater spending needs by region around the country, and the Mid-Atlantic region's per capita needs are much higher than any other region of the country. The good news is that investor-owned utilities IOU's have a small proportion of wastewater systems throughout the state and, as such, the rate impact will be relatively small.

The current Distribution System Improvement Charge ("DSIC") for water has been very successful. Therefore, there does not appear to be any rationale policy justification to exclude wastewater from a method that enables for accelerated investment in the manner and with the effect that the state has experienced through the water DSIC.

Conclusion

Finally, the NJUA supports implementation of a WSIC in order to enable water companies to make the necessary investments to improvement wastewater system in an efficient and cost-effective manner. We very much appreciate the efforts of Board Staff in beginning this process and would be happy to offer any assistance in coordinating our member companies or offering input on specific provisions as Staff craft the rule proposal. Thank you for providing the opportunity to submit these comments.

Respectfully,

Thomas R. Churchelow, Esq.
President
New Jersey Utilities Association

[1] http://thevalueofwater.org/sites/default/files/Economic%20Impact%20of%20Investing%20in%20Water%20Infrastructure_VOW_FINAL_pages.pdf

[2] http://ceeep.rutgers.edu/wp-content/uploads/2013/11/2010NJNG_Economic_Impact_Report.pdf

NUCA
New Jersey

TO: Aida Camacho-Welch, Secretary of the Board
New Jersey Board of Public Utilities

FROM: Evan Piscitelli, Executive Director
National Utility Contractors Association of New Jersey

DATE: January 10, 2020

RE: Proposed Amendment to N.J.A.C. 14:9 Wastewater (Sewer) System Improvement Charge
BPU Docket No. WX19050614

The National Utility Contractors Association is the nation's oldest and largest association for the utility and excavation construction industry. NUCA represents nearly 2,000 companies in 48 states that provide the materials and workforce to build and maintain our nation's underground water, sewer, gas, electric, and telecommunications systems, as well as water treatment plants. As the Executive Director of the New Jersey chapter, and on behalf of our Board of Directors, it is my pleasure to provide comments in support of the implementation of a Wastewater System Improvement Charge (WSIC).

It is without argument that in many areas our wastewater infrastructure is aging and in a state of disrepair. Unfortunately, compounding the difficulty of focusing on this critical infrastructure is its very nature. Because the systems are buried underground – out of sight and mind – there is a general lack of awareness to its vulnerabilities. It is usually only when there is a major breakdown or failure, leaks or breaks leading to contaminated water for example, that the public must face the underlying problems within the system. But emergency corrective action is the most disruptive and expensive way to solve the problem.

By adopting a WSIC, wastewater utilities would have a tool available to get ahead of these costly emergency situations and be more proactive in terms of making the necessary repairs. By accelerating infrastructure improvements, not only is the public better protected from the impact of a failing wastewater system, but both the State's environment and economy would similarly benefit. Less wastewater seeping into the ground or into our waterways will be a direct outcome of faster repairs. The construction itself will provide good jobs and help New Jersey based companies, many of whom are counted in our membership, continue to succeed in our State and provide employment opportunities.

The supporting evidence is strong. Several other states have accomplished a great deal by implementing a WSIC. New Jersey can also look to its own past following the successful implementation a Distribution System Improvement Charge (DSIC). The time has come to build on this achievement and bring the issue of crumbling wastewater infrastructure into sharper focus. For this reason, NUCA NJ strongly supports the implementation of a Wastewater Service Improvement Charge. We appreciate the efforts of the New Jersey Board of Public Utilities to address this critical issue and for the ability to provide comments. Our Association stands ready to work with staff and provide any assistance needed to further this proposal.

January 10, 2020

VIA ELECTRONIC MAIL

Aida Camacho-Welch

Secretary of the Board

New Jersey Board of Public Utilities

44 South Clinton Avenue, 9th Floor

Trenton, NJ 08625-0350

Re: I/M/O the Proposed Amendment to N.J.A.C. 14:9 Wastewater (Sewer) System Improvement Charge – BPU Docket No. WX19050614

Dear Secretary Camacho-Welch,

On behalf of the Utility and Transportation Contractors Association of NJ (UTCA) we are grateful for the opportunity to respond to the Board of Public Utilities (BPU) request for comments on the potential implementation of a Wastewater System Improvement Charge.

UTCA strongly supports the implementation of a Wastewater System Improvement Charge ("WSIC") in New Jersey. It is well documented that improvements to wastewater systems are needed throughout the state. In light of the challenges all wastewater utilities face with securing the funding needed for investment in infrastructure, wastewater utilities need more options. Federal and state funding is insufficient to meet these needs. WSIC would provide another option for investor-owned wastewater utilities to accelerate improvements to its infrastructure, with appropriate Board oversight and flexibility to fit the needs of individual systems.

Accelerated investment in wastewater infrastructure is critical to the health and safety of the state's residents, economic development and the environment. The BPU has enabled the current Distribution System Improvement Charge ("DSIC") for drinking water systems and has been very successful in accelerating needed investment.

UTCA also supports implementation of tools to enable non-investor owned utilities to make the necessary investments however that is outside the purview of the BPU. Thank you for providing the opportunity to submit these comments.

Best regards,

Dan Kennedy, PP/AICP, MCRP

Director of Environmental & Utility Operations

UTCA of NJ

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Sept. 6, 2019

Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 10th Floor
P.O. Box 350
Trenton, NJ 08625-0350

Re: Proposed Wastewater System Improvement Charge, Board Docket No.: WX19050614

Dear Ms. Camacho-Welch:

The Association of Environmental Authorities (AEA) represents local, regional and county public agencies, mainly authorities, that provide water, wastewater and solid waste utility service to millions across the State of New Jersey. AEA members are regulated by the NJBPU primarily on one matter, One Call. Some AEA members are customers of investor-owned utilities. NJBPU actions at times have implications for public systems.

The Wastewater System Improvement Charge (WSIC) is represented as necessary as a "solution" for infrastructure needs by those supporting it, but will it skew limited resources toward the collection components of systems and away from treatment plants? Does WSIC promote or hinder integrated and comprehensive asset management? In addition, AEA would like to better understand the connection of this proposed mechanism to the regulated utilities' business objectives, such as maintaining credit ratings and paying out dividends. Regulated water/sewer utility annual reports identify strategies associated with "tuck-in" acquisitions and reducing regulatory hurdles. Newly acquired systems with extensive capital needs present rich opportunities for revenue enhancement for investor-owned utilities. Our concern is that WSIC will be one more in a series of regulatory modifications that tilt the playing field in favor of privatization.

We appreciate the opportunity to participate in this stakeholder process.

Very truly,

Margaret N. (Peggy) Gallos
Executive Director, AEA

NEW JERSEY
AMERICAN WATER

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September 6, 2019

Via Email
Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
ATTN: BPU Docket No. WX19050614
44 South Clinton Avenue, 3rd Floor, Suite 314
Trenton, New Jersey 08625-0350

Re: I/M/O the Proposed Amendment to N.J.A.C. 14:9 Wastewater (Sewer) System Improvement Charge – Docket No. WX19050614

Dear Secretary Camacho-Welch:

By way of Notice dated August 16, 2019, the New Jersey Board of Public Utilities ("BPU") invited interested parties to comment on extending the existing Distribution System Improvement Charge ("DSIC"), a regulatory mechanism which incentivizes water utilities to accelerate the level of investment needed to promote the timely rehabilitation or replacement of certain non-revenue producing critical water infrastructure, to investor owned wastewater utilities.

New Jersey-American Water Company, Inc. and Environmental Disposal Corporation (collectively, "New Jersey-American Water" or the "Company") welcome the opportunity to provide comments regarding the proposed modifications to the BPU rules as they pertain to a potential Wastewater (Sewer) System Improvement Charge ("WSIC").

The Company has been successful in utilizing the DSIC to accelerate the replacement of its aging water infrastructure in a systematic, responsible and cost-effective way. The availability of timely cost recovery to support its replacement program gives the Company the ability to plan and manage the consistent deployment of Company and contractor resources to more efficiently and effectively attain and maintain a replacement program that better serves the long-term interests of customers. Through the proposed WISC, the Company seeks to do the same: accelerate the rate of investment to replace its aging wastewater infrastructure in a systematic, responsible manner that addresses the long-term replacement needs of the system in a cost-effective way. Therefore, the Company supports promulgation of the WSIC, as detailed further herein, and welcomes the opportunity to participate further in this process.

I. THE NEED FOR THE WSIC

Approximately seven years ago the BPU recognized that if water utilities were to continue to provide safe and reliable service over the long-term, they would need to devote more resources to the rehabilitation and, where necessary, replacement of their aging water distribution systems (infrastructure) to improve water quality, water pressure and service reliability.

The challenges facing the wastewater utilities are no less daunting. In its *2017 Report Card for America's Infrastructure*, the American Society of Civil Engineers ("ASCE") assigned a grade of "D+" to the state of the country's wastewater facilities[1]: a grade made even more alarming when you consider that it is the *same exact* grade it assigned to wastewater infrastructure in its 1998 report card nearly *twenty years ago*.[2] As the ASCE states in its report, "wastewater treatment plants are the most basic and critical infrastructure systems for protecting public health and the environment . . . It's expected that more than 56 million new users will be connected to centralized treatment systems over the next two decades, requiring at least $271 billion to meet current and future demands."[3]

Like the DSIC, the WSIC would recover the fixed costs (*i.e.*, depreciation and pre-tax return) of certain revenue-neutral (*i.e.*, non-revenue producing, non-expense reducing) collection system improvement projects completed and placed into service between base rate cases. Eligible plant investment should include sewer line replacement or rehabilitation, including structural and non-structural lining projects, grouting and sealing of pipeline joints, laterals, manholes, lift stations and pumps, force mains, smoke testing and camera inspection of collection system pipelines and manholes, main trunk lines and lateral relocations stemming from coordination with government authorities ("Eligible Property").

II. BENEFITS OF THE WSIC

As the DSIC has done, the WSIC would provide New Jersey-American Water with the resources to accelerate the replacement of aging infrastructure, to comply with evolving regulatory requirements and to develop and implement solutions to regional wastewater issues.

Establishment of the WSIC would enable wastewater utilities to address, in an orderly and comprehensive manner, the problems presented by aging wastewater systems. The resulting work will have a positive effect upon service reliability and quality. Further, more timely cost recovery will provide wastewater utilities the financial flexibility to accelerate the pace at which these projects are undertaken and completed.

New Jersey-American Water has always made, and will continue to make investments in its wastewater infrastructure to provide safe and reliable sewer service to our customers. However, the necessary rate of ongoing infrastructure investment to provide safe and reliable service is not the same as the optimum rate of infrastructure investment that best serves the long-term interests of the Company's customers. For example, when there is a break in wastewater system infrastructure, it is "necessary" – a must – that the Company make the repairs. But it is "optimal" to replace infrastructure at a rate that more closely matches the estimated useful life of the respective assets.

From the perspective of long-term sustainable customer service and sewer rates, replacing pipes that are near the end of their useful life in a systematic, responsible manner now will result in lower costs to customers over time rather than waiting to repair and replace pipes as they break. Planned pipe replacements are much less costly on a unit cost basis than are the costs of increasing pipe breaks, with the attendant service disruptions, health risks from potential system overflows, property damages, community health and economic development opportunity costs, and the steep increase in future pipe replacements resulting from prior deferrals.

The WSIC will also affect effluent quality, conservation and sustained economic growth. The WSIC will accelerate and create a consistent program for work that will aid in reducing inflow and infiltration ("I&I") from rainwater and groundwater. In areas of high I&I concerns, New Jersey-American Water and other utilities will be able to proactively conduct investigations and implement sewer lining and replacement. Reducing I&I creates a more efficient conveyance system and aids in water conservation because it reduces the amount of groundwater that seeps into these systems. I&I can lead to system overflows

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[1] See https://www.infrastructurereportcard.org/wp-content/uploads/2017/01/Wastewater-Final.pdf ("2017 Report")
[2] See https://www.infrastructurereportcard.org/wp-content/uploads/2016/10/1998-ASCE-Report-Card-for-Americas-Infrastructure.pdf
[3] 2017 Report, p. 1.

because the system has less room for the wastewater that needs to be treated due to outside water taking up space within the system. While the Company meets all regulatory requirements, wastewater systems with high I&I may not meet New Jersey Department of Environmental Protection requirements for dealing with effluents (BOD or suspended solid reduction goals) because inflowing water dilutes the wastewater before it is treated. I&I also results in more wastewater being treated than is necessary, which can result in higher costs to customers. The implementation of a WSIC can also result in the reduction of leaking sewers (exfiltration), which can have detrimental environmental impacts given the waste products that are conveyed in these pipelines.

Like the DSIC, the implementation of a WSIC will also result in the creation of jobs. A July 2010 report prepared by the Bloustein School, in the context of a broader research initiative, found that increased utility infrastructure investment would produce positive economic impacts to the State of New Jersey, including job creation. *See*, for example, "Economic Impact of Energy Infrastructure Investments" Rutgers Bloustein School, July 2010. It is also anticipated that another economic benefit is increased state and local tax revenues. *Id.*

III. NEW JERSEY-AMERICAN WATER'S WASTEWATER SYSTEM

New Jersey-American Water owns and operates 7 standalone wastewater collection systems and 20 wastewater collection and treatment systems in 11 counties across the State of New Jersey, serving approximately 50,000 customers and a population of approximately 150,000 people, as well as bulk municipal customers. Provided in Table 1 is a list of all wastewater collection and treatment systems owned and operated by New Jersey-American Water.

Table 1 – List of Wastewater Systems

System	County	Customer Connections
Ramapo River Reserve Sewer System	Bergen County	387
Homestead Sewer System	Burlington County	1,273
Mapleton Sewer System	Burlington County	920
Haddonfield	Camden County	4,277
Mount Ephraim	Camden County	1,755
Avalon Country Club Sewer System	Cape May County	208
Ocean City Sewer System	Cape May County	15,570
Camelot Elk	Gloucester County	55
Brass Castle Sewer System	Hunterdon County	69
Crossroads at Oldwick Sewer System	Hunterdon County	75
Fawn Run Sewer System	Hunterdon County	51
Glen Meadows/Twin Oaks Sewer System	Hunterdon County	56
Lookout Pointe Sewer System	Hunterdon County	55
Pottersville Sewer System	Hunterdon County	108

System	County	Customer Connections
Village Square Sewer System	Hunterdon County	39
Adelphia Sewer System	Monmouth County	3,868
Beacon Hill Sewer System	Monmouth County	464
Country Oaks Sewer System	Morris County	165
Four Seasons at Chester Sewer System	Morris County	120
Jefferson Peaks Sewer System	Morris County	396
Morris Chase Sewer System	Morris County	268
Deep Run (Jensens) Sewer System	Ocean County	244
Lakewood Sewer System	Ocean County	15,246
Environmental Disposal Corporation	Somerset County	5,396
Hillsborough Chase Sewer System	Somerset County	104
Hawk Pointe Sewer System	Warren County	122
Port Colden Mall	Warren County	1
Grand Total		51,292

A. Eligible Property

An inventory of all Eligible Property is provided in Table 2, below. New Jersey-American Water utilizes its Geographic Information Systems ("GIS") as the spatial component of its Enterprise Asset Management ("EAM") Program. Wastewater assets, such as collection mains, manholes, and lift stations are spatially located and attributed with critical information about New Jersey-American Water systems. GIS data was used to assist in identifying types and age of Eligible Property. To supplement any missing data derived from GIS, paper maps, consultant studies, and other applicable data are utilized. Additionally, for some recently acquired systems, there is limited information on the wastewater properties. For each system, all data sources were analyzed, and the best available information was used to quantify the types of eligible property.

Table 2 – List of Eligible Property by System

System	County	Gravity Main (LF)	Force Main (LF)	Manholes	Lift Stations	Treatment Plants	Minimum Install Date	Maximum Install Date	Median Install Date
Adelphia Sewer System	Monmouth	169,347	7,544	791	4	1	1/2/1972	12/7/2015	1/1/1994
Avalon Country Club Sewer System	Cape May	7,778	1,515	41	1	1	1/1/1998	1/1/1998	1/1/1998
Beacon Hill Sewer System	Monmouth	24,736	2,460	137	3	1	1/1/1999	1/1/1999	1/1/1999
Brass Castle Sewer System	Hunterdon	10,452	2,924	11	0	1	1/1/1989	1/1/1989	1/1/1989

Table 2 – List of Eligible Property by System

System	County	Gravity Main (LF)	Force Main (LF)	Manholes	Lift Stations	Treatment Plants	Minimum Install Date	Maximum Install Date	Median Install Date
Camelot Elk	Gloucester	5,056	3,924	29	0	1	7/1/2015	12/1/2016	7/1/2015
Country Oaks Sewer System	Morris	8,747	4,677	49	3	1	1/1/1997	1/1/1997	1/1/1997
Crossroads at Oldwick Sewer System	Hunterdon	2,344	3,950	12	3	1	1/1/2003	1/1/2003	1/1/2003
Deep Run (Jensens) Sewer System	Ocean	11,499	5,874	71	3	1	1/1/1992	1/1/2000	1/1/1996
Environmental Disposal Corporation	Somerset	187,772	18,263	1,190	3	1	1/2/1982	1/2/2002	1/1/1992
Fawn Run Sewer System	Hunterdon	3,509	819	3	0	1	1/1/1995	1/1/1995	1/1/1995
Four Seasons at Chester Sewer System	Morris	4,450	0	29	0	1	1/1/2004	1/1/2004	1/1/2004
Glen Meadows/Twin Oaks Sewer System	Hunterdon	5,854	0	26	0	1	1/1/1995	1/1/1995	1/1/1995
Haddonfield	Camden	240,646	9,590	1,006	6	1	1/2/1905	7/28/2018	1/1/1961
Hawk Pointe Sewer System	Warren	10,468	3,720	66	4	1	1/1/2003	1/1/2003	1/1/2003
Hillsborough Chase Sewer System	Somerset	14,154	465	27	0	1	1/1/2005	1/1/2005	1/1/2005
Homestead Sewer System	Burlington	54,196	153	279	1	1	1/1/1982	12/22/2016	1/1/1999
Jefferson Peaks Sewer System	Morris	27,828	1,864	152	1	1	1/1/2007	1/1/2007	1/1/2007
Lakewood Sewer System	Ocean	696,414	40,997	3,438	20	0	1/1/1950	5/23/2019	1/1/1984
Lookout Pointe Sewer System	Hunterdon	1,095	5,040	3	1	1	1/1/2006	1/1/2006	1/1/2006
Mapleton Sewer System	Burlington	42,048	12,382	220	4	1	1/1/1998	1/1/1998	1/1/1998
Morris Chase Sewer System	Morris	20,856	5,244	160	1	1	1/1/2005	1/1/2005	1/1/2005
Mount Ephraim	Camden	94,654	3,949	392	2	1	n/a	n/a	n/a
Ocean City Sewer System	Cape May	433,933	5,465	1,717	13	1	1/1/1910	5/31/2019	1/1/1964
Port Colden Mall	Warren	0	1,532	4	2	0	n/a	n/a	n/a
Pottersville Sewer System	Hunterdon	12,294	631	65	1	1	1/1/1995	1/1/1995	1/1/1995
Ramapo River Reserve Sewer System	Bergen	25,594	2,920	197	2	1	1/1/2004	1/1/2004	1/1/2004
Village Square Sewer System	Hunterdon	3,274	6,858	0	0	1	8/4/1995	8/4/1995	8/4/1995
Grand Total		2,118,996	152,760	10,115	78	25			

New Jersey-American Water owns the following types of sewer collection systems:

Gravity: In a gravity collection system, customer service laterals connect to a sewer main usually located in an alley or street. Sewer mains and collection sewer mains (also referred to as "trunk lines") form a branched network that generally follows street layout and can be accessed from the

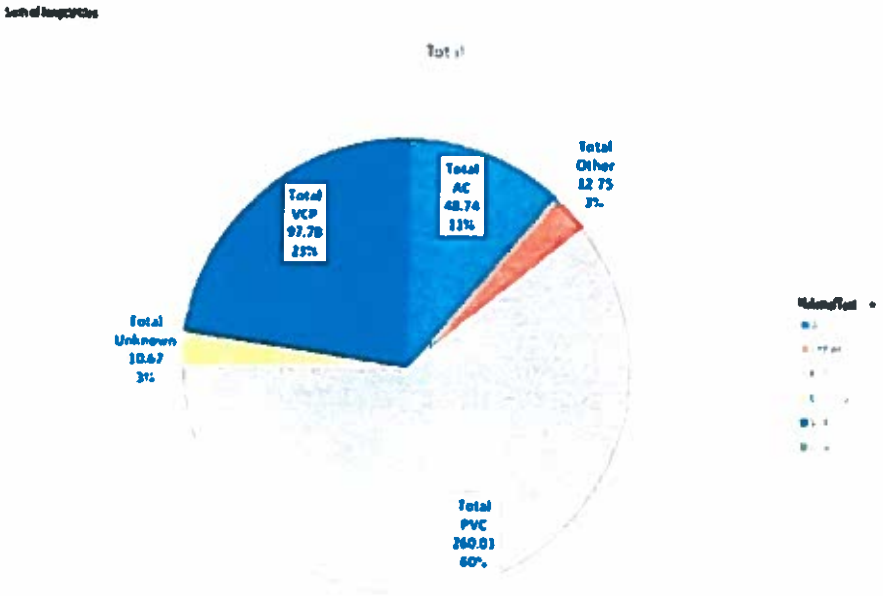
street through manholes. Service laterals can be accessed through lateral cleanouts, generally located near the curb line.

Gravity collection systems either convey sewage directly to a treatment plant or to a lift station. New Jersey-American Water owns the portion of the customer service lateral from the sewer main to the edge of the right-of-way or actual property line. The customer owns the service line extending from the end of the Company service line or connection to and within the customer's premises. New Jersey-American Water owns 2,118,996 linear feet ("LF") of gravity main and 10,115 manholes. Gravity main and manhole material generally depends on installation date. Newer mains are polyvinyl chloride ("PVC") and older mains are mostly asbestos cement ("AC") or vitrified clay ("VC") pipe. Newer manholes are pre-cast or cast in place concrete and older manholes are brick.

Force Main: A force main is a pressurized discharge pipeline from a lift station. A force main pipeline may contain in-line flow meters, valve vaults, air and vacuum release chambers (all of which are integral components of the sewerage system and should be included as Eligible Property). Force mains can convey sewage directly to a treatment plant or to a manhole in the gravity system.

New Jersey-American Water owns and operates 78 lift stations and approximately 152,760 LF of force main. In general, force main material is cast iron for older pipes, and ductile iron or PVC for newer pipes.

Below is a graphical representation of the various pipe materials:



B. The Condition of New Jersey-American Water's Wastewater System

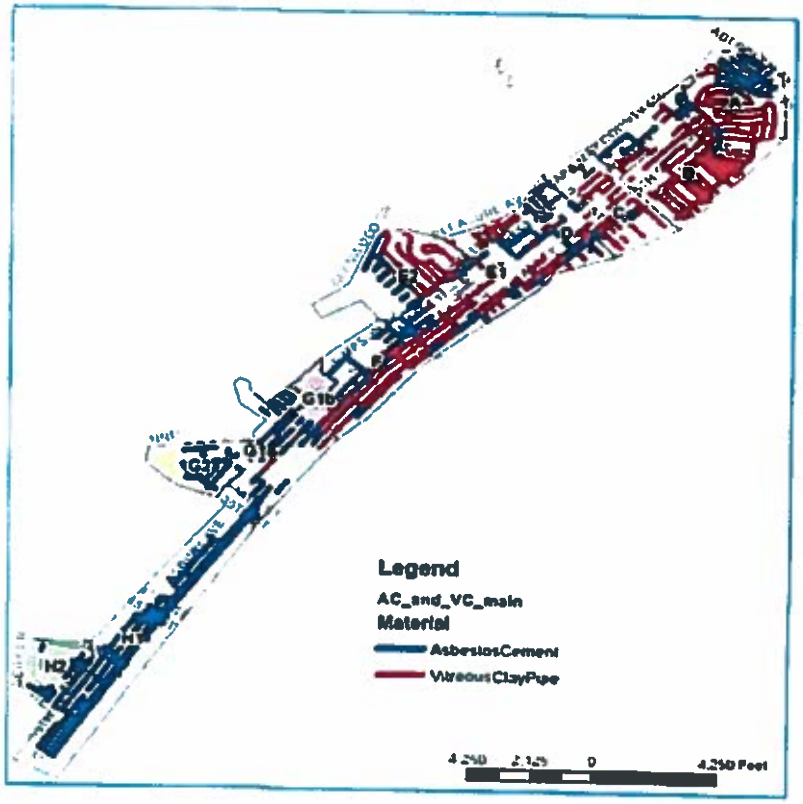
The condition of New Jersey-American Water's wastewater system varies, depending on age, material, local conditions and quality of initial design and installation. Some collection systems require significant capital investment to maintain safe, efficient and reliable service for existing customers. The condition of the wastewater systems acquired by New Jersey-American Water has varied but all require significant

capital investment over the long-term. Haddonfield, Ocean City and Lakewood are the three oldest systems with median install dates of 1961, 1964 and 1984, respectively.

1. **Aging Mains**

Depending on pipe material, the average service life of a sewer main is approximately 75 years. Eleven percent of New Jersey-American Water's sewer mains are more than 80 years old. Twenty-one percent of New Jersey-American Water's mains have an undesignated age; however, given their geographic locations in Lakewood and Mt. Ephraim and the age of those systems, it is hypothesized that most mains with an undesignated age are more than 80 years old. Thus, more than 32% of New Jersey-American Water's sewer mains are more than 80 years old and likely past their average service lives. Further, 19% of New Jersey-American Water's sewer mains are within the 50 to 70 year age range. Combined, more than 50% of NJAW's sewer mains are more than 50 years old.

Additionally, over the past 5 to 10 years, New Jersey-American Water has conducted comprehensive planning studies ("CPS") for portions of its wastewater system, including Ocean City (2012), Lakewood (2017) and its small wastewater systems serving approximately 5,000 customers (2015). Those CPS's have identified critical issues with aging and deteriorating mains impacting New Jersey-American Water's system. For example, Ocean City's sewer collection system includes about 78 miles of gravity main of which 26% are AC and 35% are VC. There are about 20 miles of AC mains and about 27 miles of VC mains located throughout the Ocean City system, as shown on the map below.



The AC and VC mains in Ocean City have been plaguing the system with overflows and blockages, as they are undersized, have sags and/or deterioration from hydrogen sulfide, and/or negative slopes. The mains that New Jersey-American Water prioritized for replacement first in the Ocean City CPS for the years 2012 through 2026 had an estimated cost of $3,310,000. Second and third priority main

replacements had an estimated cost of $2,180,000, and recurring replacement of AC and VC mains had an estimated cost of $5,000,000 a year, for the same time period and likely longer.

To date, New Jersey-American Water has only replaced a small percentage of Ocean City's AC and VC mains due to other competing infrastructure priorities across the system. At the same time, New Jersey-American Water knows that aging mains lead to higher break rates. Based on available multi-year sewer main break rate data, the Ocean City system has the greatest break rate of 1.45 breaks per mile, per year. Lakewood is the next highest with 0.21 breaks per mile, per year. In both of these systems, cast iron pipe, whether lined (as in Lakewood) or unlined (as in Ocean City), experiences more breaks than other sewer main pipe material, such as VC pipe or PVC. In fact, Lakewood and Ocean City have approximately six cast iron lined pipe breaks per mile, per year.

Sewer main breaks are disruptive to the system and to New Jersey-American Water's customers, even more so than water main breaks, because they can lead to sewage in streets, homes and basements. From the perspective of long-term sustainable customer service and sewer rates, replacing pipes that are near the end of their useful life in a systematic, responsible manner now will result in lower costs to customers over time than waiting to repair and replace pipes as they break. As explained above, planned pipe replacements are much less costly on a unit cost basis than are the costs of increasing pipe breaks and the attendant issues associated with reactive repairs and replacement.

2. **Inflow and Infiltration**

Aging infrastructure has also resulted in significant I&I from rainwater and groundwater. I&I has been a problem for several of New Jersey-American Water's wastewater collection systems.

I&I has multiple causes, many of which are related to aging infrastructure. Rainwater inflow can enter the wastewater collection system in various ways, such as storm sewer cross connections, uncapped cleanouts, below-grade manhole lids, or roof drain cross connections. Groundwater inflow can enter the collection system through cracks in sewer pipes, faulty lateral connections, cracks in manhole walls, or deteriorated pipe joints. Groundwater can also enter the collection system through broken service laterals, root intrusion into a lateral pipe, or cracks in the walls of customer-owned grinder pump pits. While customers are responsible for maintaining the customer-owned portion of the service lateral, New Jersey-American Water is responsible for maintaining the portion of the service lateral from the sewer main to the customer-owned service lateral at the edge of the right-of-way or actual property line.

During dry weather conditions, the impact of I&I varies. Some collection systems have minimal impact from I&I during dry weather, while others experience high I&I even in dry weather conditions. For example, a collection system with a high-groundwater table can be significantly impacted by infiltration in dry weather conditions. A good example of this is the high tidally-influenced water table in Ocean City that can contribute to street flooding during extreme tidal events.

In wet weather conditions, the impact of I&I is amplified. Flow entering a wastewater treatment plant can increase significantly due to the influx of groundwater, rainwater, and/or snowmelt from leaking manholes, laterals cleanouts, roof leaders and sump pumps. This may cause a sanitary sewer overflow ("SSO") to occur if flow exceeds the plant's peak hydraulic capacity. Similarly, lift stations can become hydraulically overloaded if the inflow of sewage mixed with groundwater and rainwater exceeds the pumping capacity, causing raw sewage to be released to streets or a local waterway. In addition, the influx of rainwater and groundwater can fill up pipes and manholes in the collection system, causing manhole lids to be lifted and raw sewage to be released into the environment. Hydraulically overloaded pipes and manholes can also cause sewer backups into homes and businesses.

Collection system issues and high I&I were identified at four of New Jersey-American Water's small wastewater systems in its 2015 CPS: Glen Meadows, Brass Castle, Pottersville, and Ramapo. Projects were developed for these systems to either identify the source of the I&I, address known issues contributing to I&I, or mitigate the effects of I&I. These projects address I&I issues by eliminating the

source of I&I in the collection systems or installing process units, such as surge tanks, to minimize the risk of overloading the treatment plants and keeping flows below treatment capacities. However, main replacement/rehabilitation, lateral replacement and manhole rehabilitation is critical to eliminate I&I in the future (for the useful life of the new main) and to serve the best interests of New Jersey-American Water's customers in the long term.

C. Competing Capital Priorities

Unfortunately, routine replacement of aging mains must compete with other critical infrastructure projects throughout the system, as capital is not limitless. The 2015 CPS for New Jersey-American Water's small wastewater systems found that some of the facilities and equipment at the various wastewater systems were in poor condition and/or were not performing effectively or efficiently. Condition improvements were identified and categorized as either Priority A, consisting of high priority condition improvements, or Priority B, consisting of lower priority general condition improvements that are necessary, but not within the next five years. The total estimated cost for the Priority A projects from the 2015 CPS was $8,530,000 and the total estimated cost for the Priority B projects from the 2015 CPS was $1,360,000.

Likewise, the 2017 Lakewood CPS concluded that from 2011 to 2016, sewer loads in Lakewood increased approximately 27% from 3.46 million gallons per day (MGD) to 4.41 MGD. Based upon information from the township engineer and the Company's tracking of development, there is a potential that sewer loads will increase to 6.79 MGD within the next five years and 9.57 MGD by 2031. To address the increase in sewer loads, among other issues, the Lakewood CPS included recommendations for Priority A (short-term) projects recommended for construction prior to 2021 in order to address top priority capacity, system reliability and operational efficiency at a cost of $17.5 million, and Priority B (long-term) projects recommended to address low priority system improvements within the next 15 years to increase system capacity at a cost of $18.5 million.

At the same time, the Lakewood CPS recommended recurring sewer main replacement at a rate of 1 mile (1%) a year and recurring manhole replacements at a rate of 14 manholes (0.5%) a year at an estimated cost of $1,800,000 per year. Likewise, the Ocean City CPS prioritized main replacement at an estimated cost of $3,310,000; second and third priority main replacements at an estimated cost of $2,180,000; and recurring replacement of AC and VC mains at an estimated cost of $5,000,000 a year. However, while this level of replacement is recommended, it is not necessary, and New Jersey-American Water has not and cannot implement those recommendations given the competing capital priorities that are necessary to provide safe and reliable service to its customers. See Table 3 below for the Company's level of investment in Eligible Property over the last five years.

Table 3 – Investment in Eligible Property from 2014 through 2018

Eligible Property	2014	2015	2016	2017	2018	Grand Total
Manhole	362,380	731,670	641,800	444,849	283,947	2,464,646
Pipe and Fittings-10" Structural Lining(CIPP)	29	13,739	44,715		1,171	59,654
Pipe and Fittings-12" Structural Lining(CIPP)		1,699,442				1,699,442
Pipe and Fittings-6" Structural Lining(CIPP)	53,913					53,913
Pipe and Fittings-PE 1"		158				158
Pipe and Fittings-PVC 4"				29	15,360	15,389
Pipe and Fittings-PVC 6"					1,388	1,388
Pipe and Fittings-PVC 8"	(2,273)		(2,982)		1,457,812	1,452,558
Pumping Equipment	311,701	261,949	292,764	5,203,484	319,172	6,389,069
Service Line - Cast Iron 12"		42,755				42,755
Service Line - Cast Iron 2"					5	5
Service Line - Cast Iron 3"			1	(0)	5,942	5,943
Service Line - Cast Iron 4"		10,228			4	10,232
Service Line - Cast Iron 6"					(329)	(329)
Service Line - Ductile Iron 12"			1			1
Service Line - Ductile Iron 3"			1	457		458
Service Line - Ductile Iron 4"					123	123
Service Line - Ductile Iron 8"				1,108	112	1,220
Service Line - HDPE 4"	14,678				2,836	17,514
Service Line - HDPE 6"		0				0
Service Line - PB 1-1/4"					(543)	(543)
Service Line - PE 1-1/4"		64,968				64,968
Service Line - PVC 10"		14,385	205		1,235	15,825
Service Line - PVC 2"	2,780		12,477		4,182	19,439
Service Line - PVC 3"		208			(2)	206
Service Line - PVC 4"	864,539	4,258,024	2,128,664	1,755,872	1,264,688	10,271,787
Service Line - PVC 6"	946,831	1,081,077	1,548,564	1,690,488	1,067,885	6,334,845
Service Line - PVC 8"		6,081	55,111	27,338		88,531
Valve		541			1,124	1,665
Vault		2,102				2,102
WW Plant Sewers	118,467	2,668	13,026	6,897		141,058
(blank)						
Grand Total	2,573,044	8,189,996	4,734,348	9,130,522	4,426,112	29,154,023

Replacing aging main at such a slow rate hardly puts a dent in the overall mains that need to be replaced to achieve a more optimal level of service. Under the current plan, it will take New Jersey-American Water decades to get ahead of the curve, while the potential risk of SSO's, blockages and environmental impacts continues. And the competing capital priorities will only increase as New Jersey-American Water completes its CPS's for other parts of the wastewater system, like Haddonfield, Adelphia, EDC and Mt. Ephraim, which the Company recently acquired under significant capital investment commitments.

IV. CUSTOMER SAFEGUARDS

Although the focus of these comments is on the need for the WSIC, and New Jersey-American Water intends to file additional comments in the future regarding the elements and operation of the proposed WSIC, the success of the program will depend on the ease of implementation and appropriate customer safeguards. Proposed elements of the WSIC rules include the elimination of the pre-approval of projects currently existing under the DSIC in lieu of a prudency review in connection with the surcharge filing, removal of the base spend requirement, and the implementation of a 7.5% cap based on the number of WSIC eligible projects. Additionally, customer safeguards could include annual reconciliation, customer notice, and WSIC reset to zero upon application of new base rates.

V. CONCLUSION

New Jersey-American Water supports promulgation of a WSIC. Such a mechanism would enable the Company to accelerate the rate of investment to replace its aging wastewater infrastructure in a systematic, responsible manner that addresses the long-term replacement needs of the system in a cost-effective way. We appreciate the opportunity to comment on this initiative and welcome future engagement as the process continues.

Respectfully submitted,

Christine Soares

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Corporate Counsel

cc: Service list (via email)

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September 6, 2019

Via e-mail and hand delivery
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Re: I/M/O the Proposed Amendment to NJAC 14:9
Wastewater (Sewer) System Improvement Charge
BPU Docket No.: WX19050614

Dear Secretary Camacho-Welch:

Please accept for filing an original and eleven copies of the Division of Rate Counsel's ("Rate Counsel") comments in connection with the above-referenced matter. Please date stamp the additional copy as "filed" and return it in the enclosed, self-addressed, stamped envelope. Thank you for your consideration and attention to this matter.

Background & Applicability

By notice dated June 5, 2019, the Staff of the Board of Public Utilities ("Board Staff") initiated a stakeholder process to discuss proposed modifications to several aspects of the Board's water and wastewater regulations. By subsequent notice dated July 8, 2019, Board Staff invited interested parties to a meeting on July 23, 2019, to discuss whether there is a need for a Wastewater System Improvement Charge ("WSIC") for regulated wastewater systems equivalent to the need addressed by the existing Distribution System Improvement Charge ("DSIC"). The DSIC is a regulatory mechanism that creates a financial incentive for water utilities to accelerate investment in the rehabilitation or replacement of certain non-revenue producing water infrastructure. The intent of the proposed WSIC would be to provide a mechanism allowing regulated entities to accelerate the recovery of investments in qualified wastewater infrastructure improvements.

There are eleven regulated wastewater entities in New Jersey. New Jersey American Water, Aqua New Jersey, SUEZ Water New Jersey and Middlesex Water Company all own small wastewater systems. Utilities Inc. owns a small system in Sussex County, the Montague Sewer Company. Atlantic City Sewerage Company is an independent system as are Mount Olive Villages Sewer Company and Andover Utility Company. The last two are essentially

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Olive Villages Sewer Company and Andover Utility Company. The last two are essentially developer systems and Andover has no collection network assets. Earlier this year, Village Utility LLC came into existence to service a small development in Sparta Township. Wastewater service is more commonly provided by publicly-owned entities such as municipal sewer departments or municipal or county utility authorities. These public entities are not Board regulated and a WSIC rule will have no impact on these unregulated entities or the investments they may or may not make. Given the makeup of the regulated community and its small scope, it is likely that a WSIC would have little overall impact on infrastructure in New Jersey.

We have had several years of experience with the DSIC. The DSIC has been in use for over eight years since the initial rule was adopted on May 1, 2012. The DSIC was intended to allow all water utilities an incentive to accelerate the rate of investments in distribution system asset renewal. The rule recognized the need for a nexus to a water base rate filing and requires the utility recovering under the rule to file for a base rate case every three years. For a host of reasons, only four water companies (New Jersey American, Aqua New Jersey, Middlesex and SUEZ Water NJ) ever filed petitions to utilize the DSIC rule. More recently, both Middlesex Water Company and Aqua New Jersey have stopped the use of the DSIC leaving New Jersey American and SUEZ Water New Jersey as the only entities recovering under the DSIC. None of the smaller water utilities use the DSIC. Even Pinelands Water Company, which is owned by Middlesex, has not used the DSIC mechanism. We expect that the use of a WSIC will be similar and that such a rule would only benefit New Jersey American and SUEZ Water NJ. Indeed, at the recent stakeholder meeting, Atlantic City Sewer Company and Middlesex Water indicated it was unlikely either would utilize a WSIC mechanism.

Regulatory Structure

Board regulated water and sewer utilities operate under a ratebase rate of return regulatory mechanism in New Jersey. The utility is allowed to recover in rates prudently incurred capital investments for which their shareholders are allowed an opportunity to earn an appropriate rate of return. The principles under which the rate of return is determined are well established in the landmark U.S. Supreme Court cases, *Federal Power Commission et al v. Hope Natural Gas Co. ("Hope")*, 320 U.S. 591, 603 (1944) and *Bluefield Water Works and Improvement Co. v. Public Service Commission of West Virginia ("Bluefield")*, 262 U.S. 679 (1923).

In addition to *Hope* and *Bluefield*, the Board's Order in *In re: Elizabethtown* established parameters for the inclusion of certain investments completed and placed in service after the end of the Test Year in rates established in a base rate proceeding. Until the adoption of the DSIC in New Jersey, water and sewer utilities recognized that all capital investments needed to be organized and coordinated with base rate filings and the exceptions allowed under *In re: Elizabethtown*. With the advent of the DSIC, a distortion in this level of planning was created allowing accelerated recovery of qualified water distribution system investments. Essentially, the DSIC provides a preference for qualified distribution investments over other investments made in classes of utility plant not eligible for DSIC treatment. A utility is able to begin recovering its rate of return and depreciation on qualified distribution investments within at most six months after the project is completed and placed in service. Non-qualified investments for items like treatment plant improvements must be coordinated with rate case filings to ensure

timely recovery, as has always been required. For those utilities not using the DSIC, there may be a lag in the start of rate of return and depreciation recovery beyond the six months provided by the DSIC mechanism. The timing differences created by the DSIC rule produces an incentive to allocate investment dollars to qualified distribution improvements rather than to other non-qualified plant improvements.

The DSIC rule gives an incentive to the shareholder by reducing the potential regulatory-lag between the moment in time a qualified DSIC investment is recognized as used and useful plant and the time that rate of return and depreciation recovery begins.[1] If one assumes that only capital investments that need to be undertaken are done (i.e., the utility is not accelerating investments in qualified plant only to boost earnings per share), the DSIC provides little to no long-term benefit to ratepayers. Under *Hope* and *Bluefield* or *In re: Elizabethtown*, the shareholder will be compensated at a fair rate of return and recover his or her prudently incurred investment in utility plant and ratepayers will see the effect of this in the periodic adjustments in rates authorized by the Board. The DSIC only determines when this begins for a select group of investments.

We believe that a potential WSIC rule will create the same distortions in plant investment planning and implementation. A WSIC that allows for surcharge rate adjustments every six months, like the DSIC rule, will create a preference for making capital investments in qualified sewer collection system projects for entities opting to utilize the WSIC rule. Again, it is our opinion that a WSIC rule will only be used by New Jersey American and possibly, SUEZ Water NJ. We have every expectation that New Jersey American and SUEZ Water NJ will in fact undertake those wastewater collection system improvements needed to maintain safe, adequate and proper service and that their shareholders will be adequately compensated under the existing regulatory framework. There is no need to distort this framework to drive investments toward limited classes of sewer utility plant property and away from other classes. At the end of the day, shareholders will recover the return on and return of their prudent investments without a WSIC and ratepayers will see their rates increase commensurate with these prudently incurred investments.

WSIC Qualified Projects

If the Board adopts a WSIC rule, we believe the scope should be limited to improvements to sewer collection system assets. Well-designed programs for improving wastewater collection systems will focus on the long-term serviceability of sewer collection mains, utility-owned service laterals and manholes in a way that allows for the renewal and replacement of these assets on a consistent schedule over many, many years. A well-managed program will result in a consistent level of effort to reline or replace sewers and manholes and renew service laterals year after year. Programs that operate in fits and starts where inordinate levels of effort are undertaken in some years with next to nothing done in other years are not well managed. Thus, the program, if it is adopted at all, should focus on the work that is done year after year to ensure

[1] Significantly, despite a decrease in potential regulatory lag and more certain recovery, under the existing DSIC shareholders receive the same Return on Equity as if the investment was made under the traditional rate base rate of return regulatory mechanism.

the rule is not encouraging poor management programs. We believe that this should be limited to investments in three primary plant accounts: Account No. 320 – Service Connections, Traps and Accessories; Account No. 321 – Collecting Mains & Accessories; and Account No. 323 – Force Mains. While other investments are needed in other primary plant accounts to properly maintain safe, adequate and proper service, these other investments are periodic in nature and are best addressed in the context of a base rate proceeding. These other investments could include large interceptor mains (Account No. 322) or improvements to Pumping Plant (Accounts 330 to 333) or Treatment Plant (Accounts 340 to 353). While investments in these other units of property may be significant, these projects do not occur routinely to the extent observed in Accounts 320, 321 and 323.

In making this recommendation, we are attempting to parallel the DSIC Rule, which requires a foundational filing and is limited to water distribution improvements. In the DSIC rule, units of plant that are renewed and replaced, such as distribution mains, fire hydrants and service lines are qualified for DSIC rate treatment. Investments such as pump stations are not. We believe that similar logic should apply to a WSIC Rule and that rate treatment should be limited to similar undertakings in wastewater systems, if in fact the Board adopts such a rule.

Base Spending

A fundamental concept behind the DSIC rule is that utilities using the rule should be able to demonstrate that they have in fact accelerated infrastructure investments above a baseline level of spending. In the DSIC rule, the base spending amount is related to the annual depreciation expense for the qualified classes of water utility plant. The same approach should be taken here. In the proposed WSIC, a base spending among should be set at the annual level of depreciation for the Accounts 320, 321 and 323, as reported in the wastewater utility's most recent annual report to the Board at the time the Foundational Filing is submitted. Also, as in the DSIC rule, a wastewater utility that fails to meet its base spending obligation over a twelve month period should be obligated to credit customers. Finally, as in the case of the DSIC, the required base spending will not be recovered through the WSIC.

Nexus to Rate Case

As in the DSIC Rule, there must be a nexus to a rate case and the same three-year limit should be used. Surcharge rates implemented under the DSIC Rule are temporary and subject to refund. So should any WSIC rates. It is important for the Board to retain the ability to review the prudency of investments made and only allow full base-rate recovery to be allowed after a thorough review of the investment, as would be possible only in a full base rate proceeding. Failure to provide for a nexus to a timely rate case can lead to stale evidence when prudency review finally comes and with too much time between rate cases, a utility may be overearning for a period of time. It is possible that some, but not all WSIC-qualified investments would have a beneficial impact on operating expenses and it is important to review these projects periodically to be certain that ratepayers benefit from any of these improvements.

Moreover, a three year requirement is necessary to comply with the requirement of an "umbilical cord" to a rate case mandated by the New Jersey Supreme Court. I/M/O Proposed Increased Intrastate Industrial Sand Rates, 66 N.J. 12 (1974). Industrial Sands is the seminal

decision regarding the establishment of interim rates under the "negotiation statute," N.J.S.A. 48:2-21.1, which provides the authority for the Board to allow for interim rates.

> Turning to the validity of the "negotiation statute" under these legal principles, the Court held: The vital justification for the "negotiation statute" and rates established under it, temporarily bypassing the establishment of rate base and fair rate of return, rests upon the legal umbilical cord which ties them to the anticipated eventual determination of these fundamentals; at which time the temporary rates, their legitimacy having been validated, merge into the PUC judgment ordaining the final rate structure or, if and to the extent found to have been excessive, are refunded to the consumers who paid them. Such interim relief permits the utility to escape the unfair and sometimes confiscatory impact of "regulatory lag," *i.e.*, the considerable time necessary for final resolution....
>
> Id. at 25.

Since that time, the Board has adhered to the requirement of such an "unimpeachable and firm relationship" between interim rate increases in clauses and the rate case validating the justness and reasonableness of those rates. See, In re Redi-Flo Corp., 76 N.J. 21, 41 (N.J. 1978). This is especially true with regard to interim rates mechanism provided for regulated water utilities.

In 2006, the Board modified its regulations on Purchased Water Adjustment Clauses ("PWACs") and Purchased Sewer Treatment Adjustment Clauses ("PSTACs") to explicitly require the utilities to establish the nexus to a rate case by ensuring that the utility had been in for a rate case within at least 3 years of filing for an initial PWAC or PSTAC. See, N.J.A.C. 14:9-7.3, 38 N.J.R. 1538(a). This provision was reviewed by the Board in its 2009 Order allowing Shorelands Water Company to file a petition for a PWAC. The Board reasoned:

> ...Shorelands must have its rates tested in an appropriate rate-making procedure. . . . One of the main purposes of the three year requirement in the PWAC rules is to link the interim rates of the PWAC to a base rate case so that, ultimately, the PWAC rates are reviewed in the context of a base rate proceeding which creates a legal "nexus."

I/M/O the Application of Shorelands Water Company for a Waiver or Relaxation of Certain Board Rules at N.J.A.C. 14:9-7.3(a), BPU Docket No. WO09020145 Order Granting Waiver Request. (May, 19, 2009) p.3.

In 2008, an application was filed with the BPU by New Jersey American Water seeking approval to accelerate the replacement of aging water mains. The Company cited the need to replace aging water mains, and the critical need to do so to enhance safety, reliability and water quality. I/M/O the Petition of New Jersey American Water Company

For Authorization To Implement A Distribution System Improvement Charge, BPU Docket No. WO08050358 Order denying DSIC Petition and Instituting Stakeholder Process, (October 20, 1010). The company sought approval to recover its investments through a Distribution Service Investment Charge (DSIC). Board Staff, through the brief filed by the Attorney General's office ("Staff's DSIC Brief"), stated that the Board did have authority under the negotiation statute, N.J.S.A. 48:2-21.1 to order the DSIC, but that to ensure compliance with that statute, it should require the Company to "file a rate case no later than three years from the date of a Board Order approving a DSIC...." See, Initial Brief of the Staff of the Board of Public Utilities, I/M/O the Petition of NJAW for Authorization to Implement a DSIC, BPU Docket No. WO08050358 April 17, 2009 at p. 34 (see Attachment D). Staff understood the nexus requirement established in Industrial Sand Rates and I/M/O Telephone Cos., and the need "to ensure that the DSIC expenses are scrutinized in a final hearing." Id. at p. 36.

While the Board did not grant NJAW's petition, it proceeded instead to develop and promulgate regulations to establish the DSIC. Consistent with its long-standing interpretation of Industrial Sand Rates and Staff's recommendation in the NJAW DSIC petition, the Board included the three-year nexus requirement in the DSIC regulations. N.J.A.C. 14:9-10.4(c) ("No DSIC foundational filing shall be approved unless a water utility has had its base rates set by the Board within the past three years.") That provision was retained earlier this year when the Board re-adopted the DSIC regulations.

Thus as in the DSIC Rule, a utility should be required to file for a base rate review once every three years as a condition of maintaining the WSIC surcharges. Also, as in the case of the DSIC rule, the WSIC surcharges should be reset to zero in each base rate proceeding as completed projects are moved to utility plant in service and base rate recovery.

WSIC and Effluent Quality

Arguments have been made that a WSIC will improve effluent quality because extraneous flow is eliminated from collection systems. The US Environmental Protection Agency, the New Jersey Department of Environmental Protection, and the Water Environment Federation have all adopted detailed rules and guidance on the control of Inflow and Infiltration ("I&I") in wastewater systems. We believe that it is important for well managed utility systems to comply with applicable rules and follow industry standards and guidance with regard to I&I. If investments are prudently incurred to do this, shareholders will be compensated appropriately through the existing regulatory framework without a WSIC. Therefore, we believe that the arguments that suggest there will be an improvement in effluent quality following the implementation of a WSIC are hollow. If the utility is doing what it should with respect to I&I, the WSIC will not alter the outcome from a treatment and discharge perspective.

WSIC and Jobs

Arguments have been advanced that the WSIC rule will increase employment in more construction jobs. Here again, we believe this is a hollow argument. If the utility is doing what it should to plan and implement prudent investments in all of its wastewater assets, a WSIC will at best shift investment dollars from non-qualified investments like pump stations or treatment

works to collecting mains and services. While there might be more jobs associated with WSIC eligible pipe improvements, there likely will be fewer jobs associated with non-eligible pumping and treatment improvements. Again, we must point out that the universe of utilities likely to take advantage of a WSIC Rule is very small in the full context of wastewater utility service in New Jersey. Most service providers are public entities who will not be impacted by the rule and even within the small number of Board regulated wastewater utilities; there are only two entities likely to use such a rule.

WSIC Rate Recovery

WSIC investments limited to Account Nos. 320, 321 and 323 should also be limited to projects that are not revenue producing. In other words, the WSIC should not apply to sewer main extensions to service new customers. If this is done, it would be appropriate to use a similar recovery mechanism as that used in the DSIC Rule. That is, the surcharge should take the form of a fixed monthly surcharge designed to recover the cost of capital associated with these qualified improvements. We note that in wastewater, as opposed to drinking water, there are many tariffs that use only fixed charges. While there are wastewater systems that use combinations of metered drinking water flow and fixed service charges, this type of a tariff is not universal even when sewer systems are under the same ownership (e.g., New Jersey American uses a summer quarter flow based tariff to bill wastewater service in its Ocean City system and a flat rate tariff in its Valley Road and Applied Wastewater systems). To simplify the surcharge system and avoid confusion among customers, a flat rate surcharge should be developed.

As in the case of the DSIC, we believe that a revenue cap is necessary if the Board decides to adopt a WSIC. Similar to the DSIC, the WSIC should be capped at 5% of the company's wastewater revenues, however, unlike the DSIC, the cap should not reflect PSTAC charges in this calculation. In the water calculation, PWAC charges have been normalized across service areas and in the specific case of only New Jersey American, the PWAC recovers 100% of this company's purchased water expense. By contrast, PSTAC charges are unique to each service area and reflect the local cost of purchased wastewater treatment services. It would not be appropriate to include these revenues in the calculation of a surcharge cap designed to provide for the interim recovery of local collection system improvement investments because not all customers pay a consistent PSTAC.

Conclusions & Recommendations

Rate Counsel does not believe that a WSIC is necessary or warranted. The likely users of a WSIC clause are limited and their shareholders are adequately compensated for the investments made in wastewater utility plant consistent with *Hope* and *Bluefield*. There is no need to create a distortion in how utility plant improvement projects are planned and implemented and no reason to alter the regulatory framework to drive investments toward collection network improvements at the expense of deferred improvements in other areas.

Nevertheless, if the Board decides to move to adopt a WSIC Rule, some elements of the DSIC Rule should be used as a guide. The WSIC should be limited to investments in Account Nos. 320, 321 and 323 and only for those projects that are not revenue producing. There should be a base spending obligation equivalent to the annual depreciation expense for WSIC qualified

plant accounts and the base spending should not be recovered in the WSIC surcharge. The magnitude of the WSIC surcharge should be limited to 5% of company-wide wastewater revenues, excluding PSTAC revenues. The implementation of a WSIC rate should be tied to a base rate case and that nexus should be limited to three years, as in the case of the DSIC Rule.

Rate Counsel thanks the Board for the opportunity to submit these comments. Rate Counsel reserves its right to offer additional, more specific comments at a future date. We ask the Board to make all parties' comments publicly available, and to set a future date for the filing of a second round of comments this fall.

Respectfully submitted,

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Re: I/M/O the Proposed Amendment to *N.J.A.C.* 14:9 Wastewater (Sewer) System Improvement Charge
BPU Docket No. WX19050614

Dear Secretary Camacho-Welch:

On behalf of Aqua New Jersey, Inc. ("Aqua" or the "Company"), enclosed for filing please find an original and two copies of the Company's comments regarding amendments to *N.J.A.C.* 14:9 *et seq.* to create a Wastewater System Improvement Charge ("WSIC"). Aqua appreciates the opportunity to provide its views to the Board of Public Utilities (the "Board") on this important issue.

Comments

In recent years, the Board has sought to create cost recovery mechanisms that provide incentives to public utilities to replace aging facilities and make needed infrastructure investments to serve customers. The most established of these mechanisms is the Distribution System Improvement Charge ("DSIC"), *N.J.A.C.* 14:9-10.1 *et seq.*, which enables water companies to obtain more timely cost recovery for accelerating the replacement of certain types of non-revenue producing plant such as mains, valves, hydrants and services. Indeed, Aqua has invested over $48 million in DSIC property over the period November 2012 through July 2018 —investments the Company would have otherwise delayed had the DSIC mechanism not been available. These facilities are in-service and providing benefits to customers in the form of

decreased main breaks, better water pressure, and more reliable water service. Aqua believes the DSIC has been a highly successful initiative because it contains several key elements which make it a useful tool, including: eligible investments are clearly defined; the determination of baseline spending is straightforward; cost-recovery is done semi-annually; the approval process is clear; and, periodic reporting requirements are reasonable. Conceptually, Aqua believes any WSIC implemented by the Board should also include these elements, modified to reflect the unique challenges and characteristics of the wastewater industry. Aqua is also of the view that modification of the DSIC, or reliance on the Infrastructure Investment and Recovery Program (the "IIP"), *N.J.A.C.* 14:3-2A.1 *et seq.*, is not a viable solution because neither of those mechanisms can be easily tailored to meet the specific needs of the wastewater industry.

With respect to elements that should be reflected in a WSIC, Aqua offers several observations. First, the wastewater industry is facing myriad challenges including: aging infrastructure; climate change; escalating energy costs; customer service interruptions; sanitary sewer overflows; and, increasingly stringent environmental regulations. In thinking about how WSIC regulations might help address some of these problems, the Board should identify WSIC-eligible categories of plant to include non-revenue producing lift stations and pumping equipment, as well as mains and manholes. These broader categories of eligible investments are targeted to those aspects of the sewer system that will most benefit from accelerated investment by including more efficient and reliable equipment.

Second, the process for determining the required WSIC base spending should be simple, clear and straightforward. One of the chief differences between the DSIC and the IIP is that the DSIC takes a formulaic approach to setting base spending while the IIP enumerates a number of factors that "may" be considered in proposing base spending.[1] As a result, setting base spending in DSIC proceedings is a matter of calculation, while it is a matter of argument and contention in IIP cases. Creating issues that must be contested amongst the parties prolongs proceedings, increases their cost, and introduces an element of uncertainty that makes utilities, including Aqua, less likely to use such mechanisms. Aqua would be happy to discuss this point with interested parties to devise a clearly delineated definition for determining WSIC base spending.

Third, cost recovery for eligible WSIC spending should be semi-annual, consistent with the DSIC. Semi-annual cost recovery will enable participating utilities to make their accelerated investments in a predictable and consistent manner, without needing to adjust to fluctuating recovery periods of six or twelve months. When planning and constructing significant capital projects, uniformity and predictability of cost recovery is of critical importance to Aqua.

Fourth, the application process should be clearly set out with specific time limits for review and approval of WSIC requests. The DSIC contains such clear requirements, unlike the

[1] *See N.J.A.C.* 14:3-2A.3(b) noting the following may be used to justify baseline spending levels: historical capital expenditure levels, projected capital expenditure budgets, depreciation expenses, and/or any other data relevant to the utility's proposed baseline spending level.

IIP, and those requirements have been helpful in ensuring that all parties act promptly on DSIC requests. Aqua believes that the 120 day review period (or longer if filed with a base rate case) specified in *N.J.A.C.* 14:9-10.4(c) would also be appropriate for a WSIC application.

Fifth, Aqua understands the need for periodic reporting to the Board. Such reports, however, should be focused on providing information that is relevant to WSIC investments. There are costs associated with complying with voluminous reporting requirements—costs which are ultimately borne by customers. Therefore, Aqua urges the Board to ensure that any reporting requirements are targeted, relevant and streamlined in order to facilitate utility participation in any authorized WSIC program.

Sixth, the duration of any authorized WSIC should be for a minimum of five years before a base rate case is required and the WSIC reset. This term would be consistent with the permitted term of the IIP, and is a better match to the typical cycle for wastewater base rate cases which tend to be less frequent than water base rate cases. Aqua would be significantly less inclined to utilize a WSIC if a base rate case was required to be filed within three years.

Finally, Aqua believes that developing a WSIC that will achieve the Board's public policy goals will take time and additional effort by all interested parties. The Company believes continuing the current collaborative discussions Staff have initiated will result in clear and well-crafted draft regulations that can be adopted pursuant to the Administrative Procedure Act, *N.J.S.A.* 52:14B-1 *et seq.* Aqua looks forward to continuing to work with Board Staff and interested parties on this important endeavor.

Respectfully submitted,

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Cc: Mike Kammer

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August 2, 2019

Aida Camacho-Welch, Secretary
State of New Jersey
Board of Public Utilities
44 South Clinton Avenue
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Trenton, NJ 08625

In the Matter of the Proposed Amendment to N.J.A.C. 14:9 Wastewater (Sewer) System Improvement Charge – Docket No. WX19050614

The Atlantic City Sewerage Company (ACSC) would first like to thank the Board and its Staff for the opportunity to participate in the stakeholder meeting to discuss thoughts about the BPU's rules regarding water and wastewater set forth in the New Jersey Administrative Code as they pertain to a potential Wastewater (Sewer) System Improvement Charge (WSIC).

ACSC fully supports such a review and examination and looks forward to the opportunity to one day participate in, and benefit from, such a regulatory initiative. As I commented at the stakeholder meeting, ACSC's current financial resources are fully committed [to projects approved under our latest NJEDA financing]; however, it is our hope that a WSIC program will be in place when the company is better positioned to utilize it.

We look forward to working with the Board, its Staff, Rate Counsel, and all other stakeholders in this process.

Respectfully,

Thomas S. Kavanaugh
President & General Manager
The Atlantic City Sewerage Company

CC: Carl Cordek
Stephen Genzer