



State of New Jersey

DIVISION OF RATE COUNSEL
31 CLINTON STREET, 11TH FL
P. O. BOX 46005
NEWARK, NEW JERSEY 07101

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

STEFANIE A. BRAND
Director

February 17, 2012

via e-mail and U.S. Regular Mail
New Jersey Board of Public Utilities
Kristi Izzo, Secretary
44 South Clinton Street, 10th Floor
P.O.Box 350
Trenton, New Jersey 08625-0350

RE: Attn: BPU Docket No. WO10090655

Dear Secretary Izzo:

Please accept these comments filed on behalf of the New Jersey Division of Rate Counsel ("Rate Counsel") regarding the newly proposed N.J.A.C. 14:9-10, Implementation of a Distribution System Improvement Charge ("DSIC") for Water Utilities. The proposed rules define a DSIC as a regulatory initiative intended to create a financial incentive for water utilities to accelerate the level of investment needed to promote the timely rehabilitation and replacement of certain non-revenue producing, critical water distribution components that enhance safety, reliability, and/or conservation and to speed the rate of renewal of this aging infrastructure. These proposed rules were published in the New Jersey Register on December 19, 2011, with comments due to the Board of Public Utilities ("BPU or "Board") on February 17, 2012.

Summary

Rate Counsel is troubled by the fact that the State's largest regulated water utilities have received base rate increases every 18-24 months that have outpaced the rate of inflation. The proposed DSIC regulations will now balance the utilities' stated need to accelerate maintenance and renewal of aging infrastructure, with ratepayers' interest in minimizing water rate increases. Rate Counsel suggests adding the following language to this section: "The Board hopes that the adoption of the DSIC will slow the frequency of base rate increases."

Rate Counsel recommends the following definitional changes:

N.J.A.C. 14:9-10.2 – Definitions

1. Definition of Adjusted weighted average cost of capital – as written, this definition does not include an explanation of the components of an adjusted weighted average cost of capital. Rate Counsel recommends adding an initial sentence to the definition as follows:

Adjusted weighted average cost of capital includes a company’s weighted cost of equity, cost of preferred stock, and cost of long-term debt.

2. Definition of DSIC cap – Rate Counsel believes that this definition, as written, is incorrect. Rate Counsel recommends the Board remove the following sentence from the definition: “That amount is then applied to the ‘DSIC revenue requirement recovery amount.’” The balance of the definition does in fact define the cap and no additional computation is required.

3. Definition of DSIC-eligible projects – In part (1), “service lateral replacements” should be changed to “service line” replacements. Service lateral replacements involve sewer systems, which are not eligible for DSIC investment under the proposed rules.

N.J.A.C. 14:9-10.4 - DSIC Foundational Filing

1. N.J.A.C. 14:9-10.4(b)(6) – Rate Counsel suggests combining this language with N.J.A.C. 14:9-10.4(d). The combined paragraph would read as follows:

DSIC rates shall be rolled into base rates during a water utility’s subsequent base rate case. A new foundational filing must be approved before new DSIC investment and DSIC rate recovery may occur. Foundational filings may be made as part of a base rate proceeding.

2. N.J.A.C. 14:9-10.4(d) – For the reasons set forth above, Rate Counsel does not believe that the DSIC rate should reset to zero when new base rates become effective. Therefore, this paragraph should read:

A new foundational filing must be approved before new DSIC investments and DSIC Rate recovery may occur. Foundational filings may be made as part of a base rate proceeding.

N.J.A.C. 14:9-10.7 – Rate Limitation

1. N.J.A.C. 14:9-10.7(b)(3)(i) – a comma is needed between “rate base” and “revenues.” There is no such thing as rate base revenues.

N.J.A.C. 14:9-10.8 – Calculating the DSIC rate

1. DSIC Formula – in the example shown, the calculated amount for DSIC Revenue Requirement Recovery Amount is wrong. The amount should be \$2,382,680.

N.J.A.C. 14:9-10.9 – DSIC Billing

1. N.J.A.C. 14:9-10.9(a) – The first sentence should delete the phrase “based on the DSIC rate approved with the foundational filing.” Instead, the sentence should read “based on the DSIC rate calculated in accordance with N.J.A.C. 14:9-10.8.” The Board will not be approving a rate when they approve the foundational filing. The rate will only come about after the Company has spent money on eligible projects, placed the projects in service and completed a semi-annual DSIC filing.

Rate Counsel thanks you for your consideration and attention in this matter.

Very truly yours,

STEFANIE A. BRAND
Director, Division of Rate Counsel

By: ***Christine M. Juarez***
Christine M. Juarez
Assistant Deputy Rate Counsel

CMJ:ms

c. Service List