



Agenda Date: 7/2/20
Agenda Item: LSA

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

ALL UTILITIES

IN THE MATTER OF THE NEW JERSEY BOARD OF)	ORDER AUTHORIZING
PUBLIC UTILITIES' RESPONSE TO THE COVID-19)	ESTABLISHMENT OF A
PANDEMIC)	REGULATORY ASSET FOR
)	INCREMENTAL COVID-19
)	RELATED EXPENSES
)	
)	DOCKET NO. AO20060471

Parties of Record:

- Philip J. Passanante, Esq.**, Atlantic City Electric Company
- Deborah Franco, Esq.**, Elizabethtown Gas Company and South Jersey Gas Company
- Joshua Eckert, Esq.**, Jersey Central Power and Light Company
- Andrew Dembia, Esq.**, New Jersey Natural Gas Company
- Matthew Weissman, Esq.**, Public Service Electric and Gas Company
- John L. Carley, Esq.**, Rockland Electric Company
- Debbie Albrecht**, New Jersey American Water Company
- Rodolphe Bouichou**, Suez Water NJ, Inc.
- Dennis W. Doll**, Middlesex Water Company
- Adam Burger**, AQUA New Jersey, Inc.
- David G. Ern**, Gordon's Corner Water Company
- John J. Brunetti**, Midtown Water Company
- David B. Simmons, Jr.**, Simmons Water Company
- Samuel Faiello**, Shore Water Company
- John Cannie**, Fayson Lakes Water Company
- Tom Kavanaugh**, Atlantic City Sewer Company
- Steve Lubertozi**, Montague Water Company
- Jeffrey Fuller**, Lake Lenape Water Company
- Henryk Schwarz**, Mt. Olive Villages Water Company
- Robert H Oostdyk, Jr., Esq., Murphy McKeon P.C.**, on behalf of the Borough of Butler
- Stefanie A. Brand, Esq.**, Director, New Jersey Division of Rate Counsel

BY THE BOARD:

BACKGROUND

The New Jersey Board of Public Utilities ("Board") is empowered to ensure that regulated public utilities provide safe, adequate and proper service to the citizens of New Jersey. N.J.S.A. 48:2-

23. Pursuant to N.J.S.A. 48:2-13, the Board has been vested by the Legislature with the general supervision and regulation of and jurisdiction and control over all public utilities, "so far as may be necessary for the purpose of carrying out the provisions of [Title 48]." The courts of this State have held that the grant of power by the Legislature to the Board is to be read broadly, and that the provisions of the statute governing public utilities are to be construed liberally. See, e.g. In re Public Service Electric and Gas Company, 35 N.J. 358, 371 (1961); Township of Deptford v. Woodbury Terrace Sewerage Corp., 54 N.J. 418, 424 (1969); Bergen County v. Dep't of Public Utilities, 117 N.J. Super. 304, 312 (App. Div. 1971). The Board is also vested with the authority, pursuant to N.J.S.A. 48:2-19, to investigate any public utility, and, pursuant to N.J.S.A. 48:2-16 and 48:2-40, to issue orders to public utilities.

On January 30, 2020, the International Health Regulations Emergency Committee of the World Health Organization declared the coronavirus disease of 2019 ("COVID-19") a "public health emergency of international concern," which means "an extraordinary event which is determined to constitute a public health risk to other States through the international spread of disease and to potentially require a coordinated international response."

On March 9, 2020, Governor Phil Murphy signed Executive Order No. 103 ("EO 103")¹, declaring a State of Emergency and a Public Health Emergency in response to the COVID-19 pandemic, in order to ensure the continuity of government services and protect the public. In EO 103, Governor 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 [Department of Health]. Any such waiver, modification, or suspension shall be promulgated in accordance with N.J.S.A. App. A:9-45.

EO 103 at page 6.

On March 13, 2020, the Board announced that State's public electric and gas utilities had universally agreed to suspend service shutoffs given the statewide public health emergency and the effort currently underway in response to the COVID-19 pandemic.

In response to EO 103 and in order to prevent the potential spread of COVID-19, the Board issued an Order, which, among other things, ordered all public utilities and regulated entities to immediately cease any in-home or business visits unless there was an immediate risk to health and safety; and waived any and all requirements that entities file paper documents with the Board or with the New Jersey Division of Rate Counsel. See I/M/O the New Jersey Board of Public Utilities' Response to the COVID-19 Pandemic for a Temporary Waiver of Requirements for Certain Non-Essential Obligations, Docket No. EO20030254 (March 19, 2020).

¹ EO 103 and all other executive orders referenced in this Order are available online at <https://nj.gov/infobank/eo/056murphy/>.

Additionally on March 20, 2020, New Jersey Lieutenant Governor and Department of Community Affairs Commissioner Sheila Y. Oliver, New Jersey Department of Environmental Protection Commissioner Catherine R. McCabe, and Board President Joseph L. Fiordaliso issued a joint statement which asked, among other things, “that every water system, private or public, including those operated by our municipal governments, commit to a suspension of any water shut offs for reasons of non-payment, safe reconnection of anyone previously shut off, and a suspension of the use of liens as a collection practice until the outbreak of COVID-19 has subsided.”²

Thereafter, Governor Murphy issued several Executive Orders, including but not limited to Executive Order No. 104, and Executive Order No. 107 (“EO 107”), which were intended to protect the public health and limit the spread of COVID-19. Specifically, in EO 107 Governor Murphy stated:

All businesses or non-profits in the State, whether closed or open to the public, must accommodate their workforce, wherever practicable, for telework or work-from-home arrangements. For purposes of this order, “telework” means the practice of working from home or alternative locations closer to home through the use of technology that equips the individual to access necessary materials.

EO 107 at page 10.

On May 13, 2020, Governor Murphy signed Executive Order No. 142 (“EO 142”), which served to modify Executive Order No. 122 (“EO 122”) in response to the COVID-19 pandemic. EO 122 prohibited all non-essential construction projects from continuing in the State. In EO 142, Governor Murphy directed that non-essential construction activities could restart, subject to certain safety and social distancing requirements. Accordingly, EO 142 lifted the restrictions on non-essential construction projects subject to certain conditions found in paragraph 2 of EO 142. In response to EO 103, EO 122 and EO 142, the Board issued an Order on May 20, 2020 finding that the guidance to the utilities concerning construction activities including in-home visits, had been superseded by EO 142, and that all regulated entities could commence or resume non-essential construction projects in accordance with the specific mitigation requirements set forth in EO 142. See I/M/O the New Jersey Board of Public Utilities’ Response to the COVID-19 Pandemic for a Temporary Waiver of Requirements for Certain Non-Essential Obligations, Docket No. EO20030254 (May 20, 2020).

DISCUSSION AND FINDINGS

The Board acknowledges that the regulated utilities’ response to the COVID-19 pandemic, including but not limited to, complying with the Governor’s COVID-19-related Executive Orders, could cause the State’s regulated utilities to incur significant and extraordinary COVID-19-related expenditures that could have a negative financial impact on the State’s regulated utilities. In view of these extraordinary circumstances and in an effort to minimize the financial impact of COVID-19 on the State’s regulated utilities, the Board **HEREBY AUTHORIZES** each of the State’s regulated utilities to create a COVID-19-related regulatory asset by deferring on their books and

² The joint statement referenced in this Order is available online at <https://www.state.nj.us/dep/watersupply/pdf/dep-dca-bpu-ask-water-suppliers.pdf>.

records the prudently incurred incremental costs related to COVID-19 beginning on March 9, 2020, and through September 30, 2021, or 60 days after Governor Murphy issues an order, declaration, proclamation, or similar announcement that the Public Health Emergency is no longer in effect, or in the absence of such an order, declaration, proclamation or similar announcement, 60 days from the time the Public Health Emergency automatically terminates pursuant to N.J.S.A. 26:13-3(b), whichever is later. The Board **FINDS** the deferral of such costs is appropriate because the current catastrophic health emergency is outside the control of the utilities and is a non-recurring event. The Board **ORDERS** all deferred incremental COVID-19-related costs be offset by any federal or state assistance that the utility may receive as a direct result of the COVID-19 pandemic. The Board **HEREBY ORDERS** that all affected utilities maintain detailed records of the incremental COVID-19-related costs and savings during the COVID-19 pandemic.

Each utility that establishes a COVID-19 regulatory asset account pursuant to this Order is **HEREBY DIRECTED** to file quarterly reports of the COVID-19-related costs incurred and offsets, together with a verification by an authorized representative. The first quarterly report shall be filed in this Docket on August 1, 2020 for the period ending June 30, 2020, and each subsequent quarterly report shall be filed no later than 30 days after the end of the calendar quarter. Board Staff and the New Jersey Division of Rate Counsel are **HEREBY AUTHORIZED** to request further information from a utility in connection with the utility's quarterly reports, and the utility shall serve and file in this Docket verified responses within 15 days following the receipt of such requests.

This Order shall not affect or in any way limit the exercise of the authority of the Board or the State of New Jersey in any future petition or in any proceeding regarding rates, costs of service, franchises, service, financing, accounting, capitalization, depreciation or any other matters affecting the utilities.

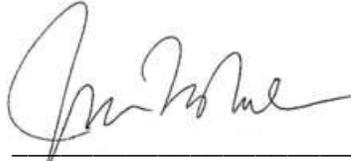
The Board **FURTHER ORDERS** that all affected utilities file a petition with the Board by December 31, 2021, or within 60 days of the close of the regulatory asset period, whichever is later. The Board **FURTHER ORDERS** that any potential rate recovery, including any prudence determinations and the appropriate period of recovery for any approved amount of the regulatory asset and any associated savings, be addressed in this COVID-19 regulatory asset filing; or, in the alternative, a utility may request that the Board defer consideration of rate recovery in a future base rate case.

All costs remain subject to audit by the Board. This Decision and Order shall not preclude, nor prohibit, the Board from taking any actions determined to be appropriate as a result of any such audit.

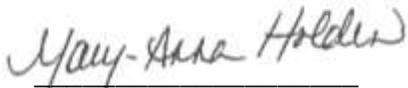
This Order shall be effective on July 12, 2020.

DATED: July 2, 2020

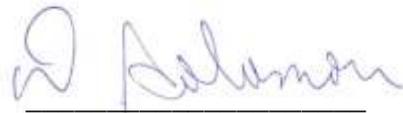
BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER

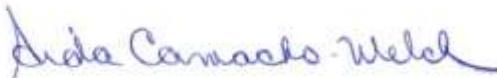


UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST:



AIDA CAMACHO-WELCH
SECRETARY

IN THE MATTER OF THE NEW JERSEY BOARD OF PUBLIC UTILITIES' RESPONSE TO THE
COVID-19 PANDEMIC

DOCKET NO. AO20060471

SERVICE LIST

Division of Rate Counsel

140 East Front Street, 4th Floor
Trenton, NJ 08625-0003

Stefanie A. Brand, Esq., Director
sbrand@rpa.nj.gov

Brian Lipman, Esq.
blipman@rpa.nj.gov

Ami Morita, Esq.
amorita@rpa.nj.gov

Debra Robinson, Esq.
drobenson@rpa.nj.gov

Felicia Thomas-Friel, Esq.
ftomas@rpa.nj.gov

Department of Law and Public Safety

Richard J. Hughes Justice Complex
Public Utilities Section
25 Market Street, P.O. Box 112
Trenton, NJ 08625

Daren Eppley, DAG
Daren.eply@law.njoag.gov

Pamela Owen, DAG
Pamela.owen@law.njoag.gov

Terel Klein, DAG
terel.klein@law.njoag.gov

Board of Public Utilities

44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Aida Camacho-Welch
Secretary of the Board
Board.secretary@bpu.nj.gov

Paul E. Flanagan, Esq.
Executive Director
paul.flanagan@bpu.nj.gov

Robert Brabston, Esq.
Deputy Executive Director
Robert.Brabston@bpu.nj.gov

Abraham Silverman, Esq.
General Counsel
abe.silverman@bpu.nj.gov

Sara Bluhm, Director
Division of State Energy Services
Thomas.walker@bpu.nj.gov

Cynthia Holland, Director
Office of Federal and Regional Policy
Cynthia.holland@bpu.nj.gov

Alice Bator, Director
Division of Audits
alice.bator@bpu.nj.gov

Michael Kammer, Director
Division of Water
michael.kammer@bpu.nj.gov

Carol Artale, Esq.
Deputy General Counsel
Carol.artale@bpu.nj.gov

Lanhi Saldana, Esq.
Lanhi.Saldana@bpu.nj.gov

Benjamin Witherell
Chief Economist
Benjamin.witherell@bpu.nj.gov

James P. Giuliano, Director
Division of Reliability and Security
James.giuliano@bpu.nj.gov

Thomas Walker, Assistant Director
Division of Reliability and Security
Thomas.walker@bpu.nj.gov

Megan Lupo, Esq.
Division of Water
megan.lupo@bpu.nj.gov

Stacy Peterson, Director
Division of Energy
stacy.peterson@bpu.nj.gov

Lawanda Gilbert, Director
Office of Cable Television and
Telecommunications
Lawanda.gilbert@bpu.nj.gov

Julie Ford-Williams, Director
Division of Customer Assistance
Julie.ford@bpu.nj.gov

Electric and Gas Companies

PSE&G

Matthew Weissman, Esq.
PSE&G
80 Park Plaza, T-5
Newark, NJ 07102-4194
matthew.weissman@pseg.com

Atlantic City Electric Co.

Philip J. Passanante, Esq.
Pepco Holdings, LLC – 92DC56
500 N. Wakefield Drive
PO Box 6066
Newark, DE 19714-6066
philip.passanante@pepcoholdings.com

JCP&L

Joshua Eckert, Esq.
300 Madison Ave
Morristown, NJ 07960
jeckert@firstenergycorp.com

Rockland Electric Co.

John L. Carley, Esq.
Consolidated Edison Co. of NY
4 Irving Place
New York, NY 10003
carleyj@coned.com

NJNG

Andrew K. Dembia, Esq.
1415 Wyckoff Road
Post Office Box 1464
Wall, NJ 07719
adembia@njng.com

South Jersey Gas Company and Elizabethtown Gas Company

Deborah Franco, Esq.
Regulatory Affairs Counsel
520 Green Lane
Union, NJ 07083
dfranco@sjindustries.com

Borough of Butler

Robert H Oostdyk, Jr., Esq.
Murphy McKeon P.C.
51 Route 23 South
Post Office Box 70
Riverdale, NJ 07457
roostdyk@murphymckeonlaw.com

James Lampmann
Borough Administrator
1 Ace Road
Butler, NJ 07405
jlampmann@butlerborough.com

Water/Wastewater Companies

Gordon's Corner Water Company

David G. Ern, President
27 Vanderburg Road
Post Office Box 145
Marlboro, NJ 07746
dgern@gordonscornerwater.com

Eric Olsen
eolsen@gordonscornerwater.com

Dave Ern
dgern@gordonscornerwater.com

Aqua NJ, Inc.

Adam Burger
10 Black Forest Road
Hamilton, NJ 08691
Aburger@aquaamerica.com

Kimberly Joyce
kajoyce@aquaamerica.com

Bill Packer
wcpackerjr@aquaamerica.com

NJ American Water Company

Cheryl Norton, President
One Water Street
Camden, NJ 08102
Cheryl.norton@amwater.com

Debbie Albrecht, Esq.
Debbie.Albrecht@amwater.com

Christine Soares, Esq.
Christine.soares@amwater.com

Fayson Lakes Water Company

John Cannie, President
160 Boonton Avenue
Kinnelon, NJ 07405
flwc@optonline.net

Montague Water Company

Steve Lubertozi, President
2335 Sanders Road
Northbrook, IL 60062
Steve.lubertozi@uiwater.com

Middlesex Water Company

Dennis W. Doll
481 C Route 1 South, Suite 400
Iselin, NJ 08830
ddoll@middlesexwater.com

Jay Kooper
jkooper@middlesexwater.com

Suez Water NJ, Inc.

Rodolphe Bouichou
461 From Road, Suite 400
Paramus, New Jersey
Rodolphe.bouichou@suez.com;

Mark Janovic
mark.janovic@suez.com

Cagle, Jim
jim.cagle@suez.com

Midtown Water Company

John J. Brunetti, President
1655 US Highway 9
Old Bridge, NJ 08857

Shore Water Company

Samuel Faiello, President
105-23rd Avenue
South Seaside Park, NJ 08752
Samsjf@verizon.net

Gloria Stuart
Glorstuart@comcast.com

Simmons Water Company

David B. Simmons, Jr., President
Post Office Box 900
Branchville, NJ 07826
dbsjr@simmonstransport.com

Atlantic City Sewer Company

1200 Atlantic Avenue, Suite 300
Atlantic City, NJ 08401

Tom Kavanaugh
tkavanaugh@acsewerage.com

Lake Lenape Water Company

Jeffrey Fuller, President
83 Eagle Chase
Woodbury, NY 11797
JMF1294@yahoo.com

Carl Cordek
cordekc@aol.com

Mt. Olive Villages Water Company

Henryk Schwarz, President
200 Central Avenue
Mountainside, NJ 07902
ZLN1@aol.com