



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION SETTLEMENT

OAL DKT. NO. PUC 04725-15

AGENCY DKT. NO. WR15030391

**I/M/O PETITION OF THE MIDDLESEX WATER
COMPANY FOR APPROVAL OF AN INCREASE IN
ITS RATES FOR WATER SERVICE AND
OTHER TARIFF CHANGES**

Stephen B. Genzer, Esq., for petitioner Middlesex Water Company, (Saul Ewing, attorneys)

Veronica Beke and Christopher Psihoules, Deputy Attorneys General, for Staff of the Board of Public Utilities (John J. Hoffman, Acting Attorney General of New Jersey, attorney)

CMS
Legal
V. Haynes
D. Lee-Thoms
M. Moran
M. Kammer
J. Gertsman
E. Bestow
C. Vachier
WATER

Susan McClure, Assistant Deputy Public Advocate, for Division of Rate Counsel (Stefanie A. Brand, Director)

Kevin A. Conti, Esq., for intervenors Township of Marlboro and Old Bridge Municipal Utilities Authority (DeCotiis Fitzpatrick & Cole, attorneys)

Jean L. Cipriani, Esq., for intervenor Township of East Brunswick (Gilmore & Monahan, attorneys)

Record Closed: July 28, 2015

Decided: July 28, 2015

BEFORE GAIL M. COOKSON, ALJ:

On or about April 7, 2015, this matter was transmitted to the Office of Administrative Law (OAL) for hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to-15 and N.J.S.A. 52:14F-1 to-13, on the petition of Middlesex Water Company for approval to increase its rates and other related relief. On or about May 4, 2015, the case was assigned to the undersigned. On May 6, 2015, I convened a telephonic case management conference during which discovery procedures were discussed and the public and plenary hearing dates were scheduled. By Order entered on May 19, 2015, the Board suspended the new rates from going into effect until September 4, 2015. On June 15, 2015, I presided over a public hearing at the Woodbridge Public Library in Fords, New Jersey. No member of the public attended.

Several case management conferences were convened in the intervening period of discovery. Prior to the scheduled hearing dates, the parties advised that they had reached a tentative resolution of the issues in dispute. In fulfillment of the agreement, the parties submitted under cover of July 27, 2015, a fully-executed Stipulation of Settlement, which is attached hereto and made part hereof. It resolves this rate proceeding to the full satisfaction of the parties. Municipal intervenors submitted letters setting forth that each of them has no objection to entry of the Stipulation. Accordingly, and on that basis, I have reviewed the record and terms of the Consent Order and **FIND**:

1. The parties have voluntarily agreed to the settlement as evidenced by the signatures of the parties or their representatives.
2. The settlement fully disposes of all issues in controversy and is consistent with law.

I **CONCLUDE** that the agreement meets the requirements of N.J.A.C. 1:1-19.1 and therefore, it is **ORDERED** that the matter be deemed dismissed with prejudice and that these proceedings be and are hereby concluded.

I hereby **FILE** my initial decision with the **BOARD OF PUBLIC UTILITIES** for consideration.

This recommended decision may be adopted, modified or rejected by the **BOARD OF PUBLIC UTILITIES**, which by law is authorized to make a final decision in this matter. If the Board of Public Utilities does not adopt, modify or reject this decision within forty-five (45) days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

July 28, 2015
DATE


GAIL M. COOKSON, ALJ

Date Received at Agency: _____
Date Mailed to Parties: _____

id

Dhabliwala, Ila

From: Microsoft Outlook
To: sgenzer@saul.com; Veronica.beke@dol.lps.state.nj.us;
Christopher.psihoules@dol.lps.state.nj.us; smcclure@rpa.state.nj.us;
kconti@decotilslaw.com; jlc@gm-law.net
Sent: Tuesday, July 28, 2015 11:26 AM
Subject: Relayed: PUC 4725-15 Middlesex Water Co. ID Settlement

Delivery to these recipients or distribution lists is complete, but delivery notification was not sent by the destination:

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Subject: PUC 4725-15 Middlesex Water Co. ID Settlement

Sent by Microsoft Exchange Server 2007

STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

RECEIVED
2015 JUL 21 AM 11:10
STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

IN THE MATTER OF MIDDLESEX :
WATER COMPANY FOR APPROVAL :
OF AN INCREASE IN ITS RATES :
FOR WATER SERVICE AND OTHER :
TARIFF CHANGES :

STIPULATION OF SETTLEMENT
BPU DOCKET NO. WR15030391
OAL DOCKET NO. PUC 04725-2015N

APPEARANCES:

Stephen B. Genzer, Esq., Saul Ewing LLP, and Jay L. Kooper, Esq., on behalf of Middlesex Water Company, Petitioner

Veronica Beke, Deputy Attorney General, and Christopher Psihoules, Deputy Attorney General (John J. Hoffman, Acting Attorney General of New Jersey), on behalf of the Staff of the New Jersey Board of Public Utilities

Debra F. Robinson, Esq., Deputy Rate Counsel, and Susan McClure, Esq., Assistant Deputy Rate Counsel, on behalf of the Division of Rate Counsel (Stefanie A. Brand, Director)

Kevin A. Conti, Esq., DeCotiis, FitzPatrick & Cole, LLP, on behalf of the Old Bridge Municipal Utilities Authority and Marlboro Township

Jean L. Cipriani, Esq., Gilmore & Monahan, P.A., on behalf of the Township of East Brunswick

TO THE HONORABLE GAIL M. COOKSON, ALJ AND THE BOARD OF PUBLIC UTILITIES:

This Stipulation of Settlement resolves all issues raised in BPU Docket No. WR15030391 in which Middlesex Water Company ("Middlesex" or the "Company") seeks to increase its rates for water service and other tariff changes. The Signatory Parties to this Stipulation of Settlement are Middlesex, the Division of Rate Counsel ("Rate Counsel"), and the Staff of the Board of Public Utilities ("Staff")(collectively the "Signatory Parties"). Also participating in this proceeding are the following entities who filed Motions to Intervene, which were unopposed by the Company, including Marlboro Township ("Marlboro"), the Old Bridge Municipal Utilities Authority ("Old Bridge"), and the Township of East Brunswick ("East

Brunswick") (collectively the "Intervenors"). Together, the Signatory Parties and the Intervenors shall be designated the "Parties". The Intervenors submitted letters that do not object to the terms of the Stipulation of Settlement.

As a result of an analysis of the petition, pre-filed testimony and exhibits, several conferences, negotiations, responses to hundreds of information requests and follow-up requests, and a public hearing held in the service territory, the Signatory Parties execute this agreement to resolve the issues in dispute in this matter. The Signatory Parties hereto AGREE and STIPULATE that:

On March 31, 2015, Middlesex Water Company, a public utility corporation of the State of New Jersey, pursuant to N.J.S.A. 48:2-21, and N.J.A.C. 14:1-5.11, 14:1-5.12, 14:9-7.1 et seq. and N.J.A.C. 14:9-10.1 et seq., filed a petition to increase rates for water service, to make other tariff changes, and to update the base consumption and base costs established in the Company's prior base rate proceeding¹ and utilized when setting the Company's Purchased Water Adjustment Clause ("PWAC") under N.J.A.C. 14:9-7.1 et seq. in BPU Docket No. WR12010027. The Company also requested authority to establish a Distribution System Improvement Charge ("DSIC"), and to update its Foundational Filing² to include future planned DSIC-eligible projects. The Company requested a rate increase of approximately \$9.45 million

¹ The Company's prior base rate case in BPU Docket No. WR13111059 concluded by Order of the Board filed June 18, 2014, with rates effective July 20, 2014.

² The Company's current DSIC Foundational Filing was Board-approved on August 20, 2014 in BPU Docket No. WR14050508. On March 12, 2015, the Company made its updated DSIC semi-annual filing for the September 1, 2014 through February 28, 2015 DSIC recovery period under the same docket number. By its March, 2015 base rate filing in BPU Dkt. No. WR15030391, the Company reserved Exhibit K to be used for its new DSIC Foundational Filing. However, the Company has, in this Stipulation, withdrawn its request for Board approval of a new DSIC Foundational Filing as part of this base rate case. The Company intends to file its new DSIC Foundational Filing separately from this base rate case. On May 6, 2015, the Company issued its Third Revised Sheet No. 44 Cancelling Second Sheet No. 44 [Rate Schedule 9 DSIC] effective for service rendered on or after May 12, 2015. The proposed base rate increase incorporates the entirety of the September 1, 2014 through February 28, 2015 DSIC recovery period. Additionally, the only other DSIC projects eligible to be included in the base rate case are those that were placed in-service between March 1, 2015 and June 30, 2015, the end of the test year.

or approximately 13.53% above the adjusted annual level of present rate revenues for the test year ending June 30, 2015.

The Board transmitted the matter to the Office of Administrative Law ("OAL") and Administrative Law Judge Gail M. Cookson was assigned to hear the case. A telephone Pre-Hearing Conference was held by Judge Cookson on May 6, 2015. On May 19, 2015, the Board issued an Order suspending the proposed rate increase until September 4, 2015.³ After notice was given, a public hearing in the service territory was held in Fords, New Jersey on the evening of June 15, 2015. No members of the public appeared at the public hearing.

The Company has provided a number of updates to its original filing, including updated information regarding numerous aspects of the Company's financial condition, operations, and capital investment.

Settlement Terms

Numerous settlement discussions were held among the Parties, and this process resulted in the following stipulations among the Signatory Parties:

1. For the purposes of this agreement, the Company's total rate base is agreed to be \$219,000,000 based on a 12-month test year ending June 30, 2015, adjusted for certain known and measurable changes.

2. Also for the purposes of this agreement, the Signatory Parties agree to a capital structure consisting of 48.36% long-term debt, 0.28% preferred stock, and 51.36% common equity with respective cost rates of 3.53%, 5.07%, and 9.75%. Based on this capital structure and cost rates, the Signatory Parties have further agreed to an overall rate of return (ROR) of 6.73%. The table below shows how this ROR is obtained.

³ In the Matter of Middlesex Water Company for Approval of an Increase in its Rates for Water Service and Other Tariff Changes. Order Suspending Increases, Changes or Alterations in Rates for Water Service, May 19, 2005, BPU Dkt No. WR15030391.

	Cap. Structure	Cost Rate	Weighted Cost Rate
Long Term Debt	48.36%	3.53%	1.71%
Preferred Stock	0.28	5.07	0.01
Common Equity	<u>51.36</u>	9.75	<u>5.01</u>
	100.00%		6.73%

The Signatory Parties, therefore, propose a 6.73% ROR or weighted average cost of capital (WACC) be applied to rate base. A return on equity (ROE) capital rate of 9.75% is thus recommended.

3. The Signatory Parties agree that applying this 6.73% ROR to the rate base of \$219,000,000 results in a \$5,000,000 increase to the Company's revenue requirement, which represents an approximate 7.11% increase over the present rate revenue of \$70,276,907. The table below shows how the \$5,000,000 increase in revenue requirement can be obtained.

Rate Base	\$219,000,000
Rate of Return	<u>x 6.73%</u>
Required Operating Income	\$ 14,738,700
Operating Income-Present Rates	<u>- 11,913,362</u>
Deficiency	2,825,338
Revenue Conversion Factor	<u>x 1.76970</u>
Revenue Requirement	\$ 5,000,000

4. The Signatory Parties therefore agree that the \$5,000,000 increase to the Company's revenue requirement should represent a level of revenue necessary to ensure that the Company will continue to provide safe, adequate, and proper water service to its customers. And see Exhibit A (proof of revenues).

5. The Company has submitted its proposed tariff pages⁴, annexed hereto as Exhibit B, pursuant to N.J.A.C. 14:3-1.3, and the Signatory Parties agree that those Rate Schedules implement the terms of this Stipulation. The proposed tariff pages reflect an increase of

⁴ Please note that the Company also proposed tariff amendments in Exhibit A to the Petition. The Signatory Parties have agreed to these tariff amendments, annexed hereto as Exhibit B to the stipulation.

approximately 9.58% for General Metered Service [Rate Schedule No. 1]. The tariffs also reflect the following changes:

- (a) no increase in the Private Fire Service fixed rate [Rate Schedule No. 2];
- (b) the Public Fire Service rate [Rate Schedule No. 3] has been revised to reflect that hydrant charges have been increased 5.73% while inch foot charges have not been changed, resulting in an overall increase of 4.0%;
- (c) the Service Under Contract rate [Rate Schedule No. 5] has been increased 0.80%;
- (d) the Special Contract Service rate [Rate Schedule No. 6] has been increased 0.80%;
- (e) the Transmission Service South River Basin rate [Rate Schedule No. 7] has been increased 4.90%; and
- (f) the Transmission Service Northeast Sector [Rate Schedule No. 8] has been increased approximately 9.58%.

The Signatory Parties therefore recommend the proposed tariff pages, reflecting just and reasonable rates, be approved in their entirety.

6. While agreeing for purposes of this Stipulation to certain allocation results as evidenced in the proposed tariff pages and proof of revenues exhibit attached to this Stipulation of Settlement, the Parties hereto have not agreed upon any specific allocation methodology in the resolution of the various rate design issues raised in this proceeding.

7. The Signatory Parties agree that they intend to initiate and hold, prior to the Company's next base rate proceeding, a cooperative evaluation to explore and address appropriate options raised by any Party with respect to the need for, and amount of, the Company's future purchased water contractual needs. This cooperative evaluation report shall be completed and available to the Signatory Parties upon the filing of the next base rate proceeding or by December 31, 2018, whichever comes first.

8. The Signatory Parties acknowledge that, as raised in the Petition, Middlesex continues to experience a decline in its commercial and industrial customer load, charged within its tariffs for the General Metered Service ("GMS") class. Middlesex's industrial and commercial load is nearly 30% of the GMS class, making this issue uniquely significant to Middlesex. The concentration of declining usage combined with lost customers has created a unique circumstance with respect to how rates should be appropriately set within the Company's tariff structure. The Parties therefore agree to initiate and hold, prior to the Company's next base rate proceeding, collaborative discussions to explore and address appropriate options with respect to the Company's tariffs.

9. The Signatory Parties agree that the Board should update the findings required by N.J.A.C. 14:9-7.1 et seq. related to the Company's PWAC. Those updated findings are contained in the PWAC base consumption and base costs data annexed hereto as Exhibit C, which was also provided in Exhibit H to the Petition.

10. The Company agrees that its request to approve a new DSIC Foundational Filing is hereby withdrawn, but the Signatory Parties are aware of the Company's intention to file a new DSIC Foundational Filing pursuant to BPU regulations.

10(a). The DSIC Foundational Filing approved by the Board on August 20, 2014 in BPU Docket No. WR14050508 shall end and the DSIC rate shall be reset to zero at the conclusion of this base rate case. No additional DSIC investment and no DSIC rate recovery can occur prior to the Board's approval of a new DSIC Foundational Filing pursuant to N.J.A.C. 14:9-10.4(b)(6).

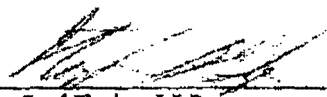
11. This Stipulation is the product of extensive negotiations by the Signatory Parties, and it is an express condition of the settlement embodied by this Stipulation that it be presented to the Board in its entirety without modification or condition. It is also the intent of the Signatory Parties to this Stipulation that this settlement, once accepted and approved by the

Board, shall govern all issues specified and agreed to herein. The Signatory Parties to this Stipulation specifically agree that if adopted in its entirety by the Board, no appeal shall be taken by them from the order adopting same as to those issues upon which the Signatory Parties have stipulated herein. The Signatory Parties agree that the within Stipulation reflects mutual balancing of various issues and positions and is intended to be accepted and approved in its entirety. Each term is vital to this Stipulation as a whole, since the Signatory Parties hereto expressly and jointly state that they would not have signed this Stipulation had any terms been modified in any way. In the event any particular aspect of this Stipulation is not accepted and approved by the Board, then any Signatory Party hereto materially affected thereby shall not be bound to proceed under this Stipulation. The Signatory Parties further agree that the purpose of this Stipulation is to reach fair and reasonable rates, and that it will avoid protracted and costly litigation of certain issues and that with respect to any policy or other issues which were compromised in the spirit of reaching an agreement, none of the Signatory Parties shall be prohibited from or prejudiced in arguing a different policy or position before the Board in any other proceeding, as such agreements pertain only to this matter and to no other matter.

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

MIDDLESEX WATER COMPANY

Date: 7/27/15

By: 
Saul Ewing LLP
Stephen B. Genzer, Esq.
Attorney for Petitioner

JOHN J. HOFFMAN,
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for the Staff of the New Jersey
Board of Public Utilities

Date: _____

By: _____
Veronica Beke
Deputy Attorney General

STEFANIE A. BRAND, ESQ.,
DIRECTOR - RATE COUNSEL

Date: _____

By: _____
Susan McClure, Esq.
Assistant Deputy Public Advocate

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MIDDLESEX WATER COMPANY

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By: _____
Saul Ewing LLP
Stephen B. Genzer, Esq.
Attorney for Petitioner

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for the Staff of the New Jersey
Board of Public Utilities

Date:

7/27/2015

By: Veronica Beke
Veronica Beke
Deputy Attorney General

STEFANIE A. BRAND, ESQ.
DIRECTOR - RATE COUNSEL

Date:

By: _____
Susan McClure, Esq.
Assistant Deputy Public Advocate

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MIDDLESEX WATER COMPANY

Date:

By: _____
Saul Ewing LLP
Stephen B. Genzer, Esq.
Attorney for Petitioner

JOHN J. HOFFMAN,
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for the Staff of the New Jersey
Board of Public Utilities

Date: _____

By: _____
Veronica Beke
Deputy Attorney General

STEFANIE A. BRAND, ESQ.,
DIRECTOR - RATE COUNSEL

Date: 11/27/15

By: _____
Susan McClure, Esq.
Assistant Deputy Public Advocate