

Board of Public Utilities

NOV 10 2015

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State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

SETTLEMENT

OAL DKT. NO. PUC 9355-15

AGENCY DKT. NO. WR 15050631

**I/M/O THE PETITION OF AQUA NEW JERSEY, INC.,
WALKILL WASTEWATER TREATMENT DIVISION,
FOR AN APPROVAL OF A 2014 PURCHASED
WASTEWATER TREATMENT ADJUSTMENT CLAUSE
("PSTAC") TRU-UP AND OTHER REQUIRED APPROVALS.**

Colleen A. Foley, Esq., for petitioner Aqua America, Inc., (Saul Ewing,
attorneys)

Susan E. McClure, Esq., Deputy Rate Counsel, (Stephanie Brand, Director,
attorney)

David Wand, Deputy Attorney General, for the Staff of the Board of Public
Utilities (John J. Hoffman, Acting Attorney General of New Jersey,
attorney)

CMS
V. Haynes
D. Lee Thomas
M. Moran
M. Kemmer
WATER
E. Bestow
J. Gertsman
J. Kane
C. Vachier

Record Closed: November 9, 2015

Decided: November 9, 2015

BEFORE ELLEN S. BASS, ALJ:

On June 12, 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. A Public Hearing was held on September 29, 2015 in Hardyston, New

Jersey. During the pendency of the case at the OAL, the parties reached a Settlement. A Settlement Agreement was prepared and executed indicating the terms of the agreement, which are incorporated herein by reference.

I have reviewed the record and the terms of settlement and I **FIND**:

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

I **CONCLUDE** that this agreement meets the requirements of N.J.A.C. 1:1-19.1 and that the settlement should be approved. I approve the settlement and therefore **ORDER** that the parties comply with the settlement terms and that these proceedings be 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 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.

November 9, 2015

DATE



ELLEN S. BASS, ALJ

Date Received at Agency:

Date Mailed to Parties:

Attachment
/rr

1. Petitioner, the Wallkill Sewer Division of Aqua New Jersey, Inc., operates a sewage collection and transmission system within a portion of the Township of Hardyston, County of Sussex, New Jersey. Petitioner serves approximately 399 customers within this portion of its service territory. Aqua New Jersey, Inc. is a public utility corporation of the State of New Jersey subject to the jurisdiction of the Board of Public Utilities (the "Board"). Aqua's principal business office is located at 10 Black Forest Road, Hamilton, New Jersey 08691.

2. On May 26, 2015, pursuant to N.J.A.C. 14:9-7.1 et seq., Aqua filed the above-captioned Petition with the Board, which was later assigned Docket No. WR15050631, for approval of a comprehensive reconciliation of purchased wastewater treatment adjustment clause ("PSTAC") costs and revenues for calendar years 2007 to 2013, to recover the actual under-recovery experienced in 2014, and to set prospective rates for calendar year 2016 (as required by N.J.A.C. 14:9-7.7) totaling \$212,259, an increase of \$74,809. Aqua will true-up 2015 PSTAC revenues and rates in its 2016 PSTAC filing, and commits that it will make this filing no later than June 30, 2016.

3. A public comment hearing was conducted on the evening of September 29, 2015 in the service territory. Four members of the public attended the hearing, but indicated they were not customers of the Company and did not wish to make a statement regarding the Company's request.

4. Petitioner's rates reflect the recovery of wastewater treatment charges imposed by the Sussex County Municipal Utilities Authority ("SCUMA"). The current PSTAC tariff was last examined and approved by the Board in an Order in Docket No. WR07040245, dated October 8, 2009, which examined PSTAC revenues and expenses applicable to the period ending December 31, 2006. In that Order, the Board also directed Wallkill to file PSTAC true-up

schedules for 2007 and 2008 within sixty days. At the time of the Board's Order in 2009, the Wallkill Sewer Company was independently owned and operated by Edgewater Associates. Wallkill did not make the true-up filings required by the Board, and was eventually acquired by Aqua in late 2010. Due to the unique facts of this case and the adverse impact of increased litigation filing costs upon ratepayers, Aqua seeks a limited waiver, pursuant to N.J.A.C. 14:1-1.2(b), of the requirements to file annual PSTAC true-ups and annual petitions for adjustment pursuant to N.J.A.C. 14:9-7.3(e), from 2010 to 2013.

5. In this proceeding, the Parties have examined Wallkill's actual revenues and actual SCUMA expenses for the calendar years 2007 through 2013. During that period, Wallkill's wastewater treatment expenses exceeded revenues by \$52,150, resulting in an under-recovery of that amount. Aqua agrees that it will not seek to recover this amount from customers.

6. In this proceeding, the Parties have also examined the Company's actual revenues and actual SCUMA expenses for calendar year 2014, and the Company's projected OCUA expenses for 2016, as well as the costs of this proceeding. Based on the foregoing, the Parties have determined that the current PSTAC rate should be increased to recover \$66,123 in additional revenues. The \$66,123 PSTAC increase was calculated based on the following components:

- a. an under-recovery of actual wastewater treatment charges of approximately \$30,951 for the calendar year ending December 31, 2014 (See Exhibit A, attached hereto, pages 1 to 3);
- b. projected SCUMA charges for 2016 of \$167,308 based on SCUMA rates effective for 2016 (See Exhibit A, page 5); and

c. the total costs of this proceeding are deemed to be \$14,848 (See Exhibit A, page 4). These costs will be shared 50/50 between ratepayers and shareholders, resulting in a cost to customers of \$7,424 (See Exhibit A, page 7); and

d. the pro forma PSTAC revenues at present rates are projected to be \$139,559 (See Exhibit A, page 6).

7. As required in N.J.A.C. 14:9-7.7, the Company has included in its filing an estimate of SCUMA costs for calendar year 2016, which estimate has been used to determine the applicable PSTAC rate for 2016.

8. Based on the estimated costs for 2016, the under-recovery for 2014, and the costs of this proceeding, the Parties have agreed that Petitioner's current PSTAC rates on file with the Board should be revised pursuant to the rates indicated on Exhibit A. For the average residential customer, the PSTAC rate will increase from \$5.48 per thousand gallons to \$8.08 per thousand gallons, an increase of \$2.60 per thousand gallons or approximately 47.4%. With respect to the total monthly rate for wastewater services, the total monthly rate for the average residential customer using approximately 3,900 gallons per month will increase from \$34.86 to \$44.97, an increase of \$10.11 or approximately 29% monthly.

9. Consistent with the provisions of N.J.A.C. 14:9-7.1 et seq., the Parties agree that the Company will file with the Board a PSTAC petition to reconcile calendar year 2015 actual SCUMA costs with the estimated SCUMA costs (as reflected in the rates identified on Exhibit A) for the same period. Additionally, the Company will include in its filing an estimate of SCUMA costs for calendar year 2017, which estimate will be used to determine the applicable PSTAC rate for 2017, as required in N.J.A.C. 14:9-7.7.

10. The Parties have engaged in full discovery. The Parties agree that the within Stipulation reflects a mutual balancing of various issues and positions, and that it is being entered into in the spirit of compromise and to avoid protracted and costly litigation.

11. This Stipulation is the product of negotiations by the 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 Parties to this Stipulation that this settlement, once accepted and approved by the Board, shall govern all issues specified and agreed to herein. The 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 Parties have stipulated herein.

12. The Parties agree that each term within this Stipulation reflects a 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 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 Party hereto materially affected thereby shall not be bound to proceed under this Stipulation.

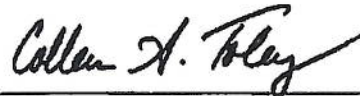
13. The Parties further agree that with respect to any policy or other issues which were compromised in the spirit of reaching an agreement, none of the Parties shall be prohibited from, or prejudiced in, arguing a different policy or position before the Board in any other proceeding, as such agreements pertain only to this matter and to no other matter. It is specifically understood and agreed that this Stipulation represents a negotiated agreement and has been made exclusively for the purpose of this proceeding. Except as expressly provided

herein, the Parties shall not be deemed to have approved, agreed to, or consented to any principle or methodology underlying or supposedly underlying any agreement provided herein in total or by specific item. The Parties further agree that this Stipulation is in no way binding upon them in any other proceeding, except to enforce the terms of this Stipulation.

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


WALLKILL SEWER DIVISION OF
AQUA NEW JERSEY, INC.

October 27, 2015
Date

By: 
Saul Ewing LLP
Colleen A. Foley, 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

10/28/15
Date

By: 
T. David Wand
Deputy Attorney General

STEFANIE A. BRAND, ESQ.
DIRECTOR - RATE COUNSEL

11/2/15
Date


By: 
Susan McClure, Esq.
Assistant Deputy Rate Counsel

Exhibit A

Aqua New Jersey, Inc.
Waiver PSTAC Reconciliation/True-Up
For Calendar year ending December 31, 2014
A.1 2014 Treatment Expenses Paid to SCUA:

<u>Quarter</u>	<u>Amount</u>
Q1	\$44,145
Q2	\$44,145
Q3	\$44,145
Q4	\$44,145
Credit	(\$8,178)
<hr/>	
Total 2014 Actual Treatment Expense	\$168,400

Aqua New Jersey, Inc.
 Walkill PSTAC Reconciliation/True-Up
 For Calendar year ending December 31, 2014

B.1) 2014 Revenues Billed to Walkill Customers:

Class	Customers	Meter Size	Gallons	Amount	Rate per 1,000 Gals.	% of Revenue
Residential - Single Family	358		16,520	\$90,530	\$5.48	65.86%
Commercial, Industrial, School, Business, & Religious	40		8,562	\$46,920	\$5.48	34.14%
Subtotal	398		25,082	\$137,449		100.00%

Agua New Jersey, Inc.
Waitkill PSTAC Reconciliation/True-Up
For Calendar year ending December 31, 2014

C.) 2014 Reconciliation - Over/(Under) Recovery

Revenues Waitkill PSTAC	\$137,449
Expenses SCUA	\$168,400
Over/(Under) Recovery	<u>(\$30,951)</u>

**Aque New Jersey, Inc.
Walkill PSTAC Reconciliation/True-Up
For Calendar year ending December 31, 2014**

D.1 Cost of Filing Application:

Legal
Notification & Other
Case Preparation & Discovery
Transcripts
Total

<u>Amount</u>
\$13,750
\$598
50
\$500
<u>\$14,848</u>

**Aqua New Jersey, Inc.
 Walkill PSTAC Reconciliation/Trove-Up
 For Calendar year ending December 31, 2014**

E.) Prospective 2016 Rate Adjustment:

- 1.) Projected 2016 Sewerage Volume (KGallons)
- 2.) 2016 Volumetric Rate
- 3.) Projected Calendar Year 2016 Revenue
- 4.) Projected 2016 SCUA Billings
- 5.) Prospective Adj. for Rates Effective 1/1/2016

Calculation	25,467
	\$5.48
	\$139,559
	\$167,908
	<u>\$27,349</u>

3 Yr. Avg. Annual Gallons	25,082
2012	25,082
2013	25,227
2014	25,082
Average	<u>25,467</u>

Alqua New Jersey, Inc.
Weight PSTAC Reconciliation/True-Up
For Calendar year ending December 31, 2014

F1 PSTAC Revenue at Present Rates (2015):

Class	Customers	KGalors	2015 Current Rate	PSTAC Revenue at Present Rates	% of Revenue
Residential - Single Family	359	16,774	\$5.48	\$91,919.20	65.66%
Commercial, Industrial, School, Business, & Religious	40	8,683	\$5.48	\$47,639.95	34.14%
Total				<u>\$138,559.15</u>	

Total PSTAC Revenue at Present Rates =>

**Alqua New Jersey, Inc.
Waiver PSTAC Reconciliation/True-Up
For Calendar year ending December 31, 2014**

6.) PSTAC Calculations:

- 1.) Projected 2016 Calendar Year Billings by SCUA
- 2.) Under Recovery 2014
- 3.) Cost of Filing Application (\$14,848 x 50%)
- 4.) 2016 PSTAC Revenue Requirement
- 5.) PSTAC Revenue at Present (2015 Rates)
- 6.) Subtotal PSTAC Request

Amount
\$167,308
\$30,951
\$7,424
<u>\$205,683</u>
<u>\$159,559</u>
<u>\$46,123</u>

**Apex New Jersey, Inc.
 Water PSTAC Reconciliation/True-Up
 For Calendar year ending December 31, 2014**

H.1. Rate Details:

Class
 Residential - Single Family
 Commercial, Industrial, School, Business, & Religious
 Total:

	<u>Customers</u>	<u>KGallons</u>	<u>2015 Current Rate</u>	<u>% of Revenue</u>	<u>Assessment</u>	<u>New Rate</u>	<u>% Change</u>
Residential - Single Family	338	16,774	\$5.48	65.86%	\$43,551.55	\$5.08	47.360%
Commercial, Industrial, School, Business, & Religious	40	8,863	\$5.48	34.14%	\$22,571.83	\$6.08	47.360%
Total:					<u>\$66,123</u>		

**Agua New Jersey, Inc.
 Water PSTAC Reconciliation/True-Up
 For Calendar year ending December 31, 2014**

I. Proof of Revenue:

<u>Class</u>	<u>Customers</u>	<u>KGallons</u>	<u>New Rate</u>	<u>Prospective 2015 Revenue</u>
Residential - Single Family	369	16,774	\$8.08	\$135,470.74
Commercial, Industrial, School, Business, & Religious	40	8,693	\$8.08	\$70,211.90
Total				<u>\$205,682.64</u>

PRIOR YEARS RECONCILIATION

	(a.)	(b.)	(c.)	(d.)	(e.)	(f.)	(g.)	(h.)
	2007	2008	2009	2010	2011	2012	2013	2014
PSTAC Revenues Billed to Walkill	\$ 134,885	\$ 160,613	\$ 191,981	\$ 127,567	\$ 131,066	\$ 142,985	\$ 136,244	\$ 137,449
Sussex County Municipal Utilities Authority Expenses	\$ 124,444	\$ 120,787	\$ 132,384	\$ 167,097	\$ 180,267	\$ 181,079	\$ 173,432	\$ 168,400
Total Over/(Under) Recovery	\$ 10,441	\$ 39,826	\$ 59,597	\$ (39,530)	\$ 149,201	\$ (38,094)	\$ (35,188)	\$ (30,951)

\$ (63,101)

Total Over/(Under) Recover 2007 - 2014 = Sum (a. thru h.)

September 3, 2015

Jane Bakalarczyk, Township Clerk
Hardyston Municipal Building
149 Wheatsworth Road, Suite A
Hardyston, NJ 07419

Stephen R. Gruchacz
Sussex County Administrator
County Administrative Center
One Spring Street, 1st Floor
Newton, NJ 07860

Catherine M. Williams, Clerk
Sussex County Board of Chosen Freeholders
Administrative Center
One Spring Street, 1st Floor
Newton, NJ 07860

Re: In the Matter of the Petition of Aqua New Jersey, Inc., Wallkill Sewer Division,
for Approval of a Reconciliation of Purchased Wastewater Treatment Adjustment
Clause Costs and Revenues and Other Required Approvals
BPU Docket No. WR15050631
OAL Docket No. PUC 09355-2015N

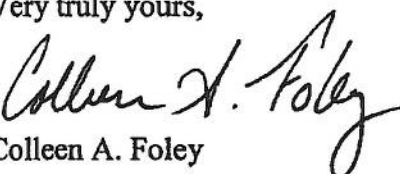
Dear Ms. Bakalarczyk, Ms. Williams and Mr. Gruchacz:

On behalf of Petitioner, Aqua New Jersey, Inc., please be advised that a public hearing in the above-captioned matter has been scheduled for Tuesday, September 29, 2015 at 5:30 p.m. at the following location:

Grand Cascades Lodge
Crystal Springs Clubhouse
Silver Spring Room
Three Wild Turkey Way
Hardyston, NJ 07419

A copy of the public notice, which will be published in the *New Jersey Herald* on Friday, September 4, 2015, is attached. Should you have any questions about this scheduled hearing, please do not hesitate to contact me.

Very truly yours,


Colleen A. Foley

Enclosure

**NOTICE OF PUBLIC HEARING
AQUA NEW JERSEY, INC., WALLKILL SEWER DIVISION,
NOTICE OF FILING OF PETITION FOR APPROVAL
OF A RECONCILIATION OF PURCHASED WASTEWATER TREATMENT
ADJUSTMENT CLAUSE COSTS AND REVENUES
AND OTHER REQUIRED APPROVALS
BPU Docket No. WR15050631
OAL Docket No. PUC09355-2015N**

PLEASE TAKE NOTICE that on or about May 22, 2015, Aqua New Jersey, Inc., Wallkill Sewer Division, formerly the Wallkill Sewer Company (the "Company"), filed a petition with the New Jersey Board of Public Utilities (the "Board") for approval to increase the current level of its Purchased Wastewater Treatment Adjustment Clause ("PSTAC"). Specifically, the Company is seeking a comprehensive reconciliation of purchased wastewater treatment costs and revenues for the calendar years 2007 to 2014, authorization to adjust the level of its PSTAC based on a net under-recovery of wastewater treatment costs for 2014, as well as to set prospective rates for 2016 to recover additional estimated wastewater treatment costs. Consequently, the Company is proposing to increase its PSTAC charge from \$5.48 per thousand gallons to \$8.46 per thousand gallons, an increase of approximately \$2.98 per thousand gallons or approximately 54% per thousand gallons. The PSTAC charge provides no profit to the Company and is a pass-through of actual charges from the Sussex County Municipal Utilities Authority.

WASTEWATER BILLS ARE RENDERED BASED ON THE AMOUNT OF WATER USED, AND INCLUDE A FIXED CHARGE OF \$13.52 PER MONTH AND A VOLUMETRIC PSTAC CHARGE. THE COMPANY IS NOT PROPOSING TO CHANGE THE FIXED CHARGE, BUT IS PROPOSING TO INCREASE THE PSTAC CHARGE TO REFLECT THE ACTUAL COSTS BEING INCURRED BY THE COMPANY. IF APPROVED, AN AVERAGE RESIDENTIAL CUSTOMER USING 4,000 GALLONS OF WATER PER MONTH WILL SEE HIS/HER TOTAL MONTHLY BILL FOR WASTEWATER SERVICE INCREASE FROM APPROXIMATELY \$35.44 TO \$47.36, AN INCREASE OF \$11.92 PER MONTH, OR APPROXIMATELY 34%.

PLEASE TAKE FURTHER NOTICE that a public hearing on the Company's Petition has been scheduled for September 29, 2015 starting at 5:30 pm at the Crystal Springs Clubhouse at the Grand Cascades Lodge, Silver Spring Room, Three Wild Turkey Way, Hardyston, NJ 07419. An Administrative Law Judge will preside over the public hearing. Members of the public are invited to attend and express their views on the proposed PSTAC rate change. Such comments will be made a part of the final record in the proceeding. Whether or not you attend the public hearing, you may submit written comments to the attention of the Hon. Irene Kim Asbury, Secretary of the Board of Public Utilities, 44 South Clinton Avenue, 9th Floor, P.O. Box 350, Trenton, New Jersey 08625-0350. Please include Docket Number WR15050631 in your comment letter.

The tariff for the proposed PSTAC is part of the Petition filed with the Board, which was served upon the Director of the Division of Rate Counsel. Further information and copies of the Petition may be obtained at the Board's Offices located at 44 South Clinton Avenue, 9th Floor, P.O. Box 350, Trenton, New Jersey 08625-0350, at the Company's offices located at 10 Black Forest Road, Hamilton, New Jersey 08691, and on the Company's website at www.aquaamerica.com.

In order to encourage full participation in this opportunity for public comment, please submit any requests for special accommodations, including interpreters or mobility assistance, at least 48 hours prior to this hearing by contacting the undersigned at 609-587-4080.

AQUA NEW JERSEY, INC.
Nicholas V. Asselta
President and CEO