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BOARD OF PUBLIC UTILITIES
TRENTON, NJ

February 20, 2018

Via Overnight Courier

Office of the Secretary
Board of Public Utilities
44 South Clinton Avenue
3rd Floor, Suite 314
Trenton, NJ 08625-0350

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CASE MANAGEMENT

FEB 20 2018

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

**Re: In the Matter of the New Jersey Board of Public Utilities' Consideration of the Tax Cuts and Jobs Act of 2017
BPU Docket No. AX18010001**

**In the Matter of the Petition of New Jersey-American Water Company, Inc. for Approval of Increased Tariff Rates and Charges for Water and Wastewater Service, Change in Depreciation Rates and Other Tariff Provisions
BPU Docket No. WR17090985
OAL Docket No. PUC 14251-2017 S**

Dear Secretary's Office:

This letter, of which an original and 10 copies are enclosed, is on behalf of Rutgers, the State University of New Jersey, Princeton University, Johanna Foods, Inc., Phillips 66 Company, and Cogen Technologies Linden Venture, L.P. (the "OIW Customer Coalition"), who are all intervenors in the New Jersey American Water Company (NJAW or Company) pending base rate case in OAL Docket No. PUC 14251-2017 S (NJAW Rate Case). Please accept this filing in lieu of a more formal filing as the OIW Customer Coalition's response to the Company's motion for emergent relief dated February 13, 2018.

*Case mgmt
list copied*

*Jan
2/21/18*

For the reasons stated herein, the OIW Customer Coalition respectfully opposes the Company's emergent motion, which seeks relief from the April 1 interim rate reduction filing ordered by the Board in its January 31, 2018 Order in Docket No. AX18010001 (the "Tax Act Proceeding"), and also seeks consolidation of the NJAW Rate Case and the Tax Act Proceeding. Should the Board consolidate the above-captioned proceedings, as requested by the Company, the OIW Customer Coalition requests the Board to limit discovery rights regarding the OIW Customer Coalition, as described below.

All the members of the OIW Customer Coalition receive water supply service under the Company's Optional Industrial Wholesale ("OIW") Rate Schedule.¹ They have a history of intervention in the Company's base rate cases of over two decades² and have consistently supported settlement of these cases.

Among the stated reasons supporting its motion to delay rate relief related to the Tax Act, the Company expresses concern that its customers will experience a "yo yo" effect if it reduces its rates on an interim basis beginning April 1, only to experience a rate increase upon conclusion of the rate case, which the Company "anticipates" could occur by July 1 resulting from settlement. While the Company's recent base rate cases have settled, there is no assurance of settlement and thus there is no assurance that the Company's current rate case will not extend substantially beyond July 1.³ There has not yet been one settlement conference, nor have parties other than the Company filed their cases. Thus, we submit that predictions of settlement and of the timing and direction of rate changes resulting from the case are premature.

The OIW Customer Coalition, as customers of the Company, would much prefer to enjoy the near-term benefit of reduced base rates on an interim basis due to the Tax Cuts and Jobs Act of 2017 (the "Tax Act"), as the Board's January 31 Order in the Tax Act Proceeding contemplates for all of New Jersey's ratepayers, rather than to defer such enjoyment to an uncertain methodology and an uncertain date that could be several months into the future. Moreover, it is uncertain what the magnitude of any "yo yo" effect would be, if any, as the Company's new base rates approved by the Board in the pending rate case are not knowable at this time and may not be known for some time. The Company's concern regarding the impact to customers from the "yo yo" effect is speculative at best and should not be a basis to defer rate relief for the Company's customers pursuant to Board's directives in the Tax Act Proceeding.

The OIW Customer Coalition also submits that the Company's requested consolidation of proceedings is unsupported. Even assuming the Board has authority to consolidate the NJAW Rate Case and the Tax Act Proceeding pursuant to N.J.A.C. 1:1-17.1 (which authority is not

¹ New Jersey American Water Company, Inc., *Tariff for Water and Wastewater Service*, B.P.U. No. 8, Rate Schedule F, Optional Industrial Wholesale.

² This includes the rate cases of the former Elizabethtown Water Company, prior to the Company's purchase of that utility.

³ The current pre-hearing order issued by ALJ Gerstman in the NJAW Rate Case schedules evidentiary hearings in June, the latest scheduled for June 21, 2018.


clear to the OIW Customer Coalition), the Company, which has the burden of proof in its motion, has not addressed the standards for consolidation the Board must consider, at N.J.A.C. 1:1-17.3. Among such standards, at N.J.A.C. 1:1-17.3 (a)(4), is whether consolidation involves dissimilar questions of fact or law, and the danger of confusion, delay or undue prejudice to parties that this would present, particularly the OIW Customer Coalition. We submit that all New Jersey utilities' Tax Act issues are substantially different from the issues in the NJAW Rate Case, and that it is unfair and unreasonable to subject the OIW Customer Coalition and other NJAW Rate Case parties to the complexity of this additional proceeding, including potential related discovery.

For the foregoing reasons, the Company's consolidation motion should be denied, as the Company has not presented facts or arguments to support consolidation. However, should the Board grant the Company's motion to consolidate the proceedings, the OIW Customer Coalition asks the Board to limit the nature of the consolidation of the proceedings with regard to the OIW Customer Coalition. Specifically, any order granting consolidation should expressly provide that the OIW Customer Coalition members are not subject to discovery in the consolidated proceeding by anyone that has not been granted intervention by the OAL in the NJAW Rate Case, and that the OIW Customer Coalition members shall not be subject to general discovery related to the Tax Act or topics that are beyond those raised in the NJAW Rate Case and relevant to them.

We appreciate the opportunity to submit this response.

Respectfully submitted,

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Attached Service Lists (via email)

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CONSIDERATION OF THE TAX CUTS AND JOBS ACT OF 2017
DOCKET NO. AX18010001**

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BPU DOCKET NO. WR17090985
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