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BOARD OF PUBLIC UTILITIES



February 26, 2018

FEB 27 2018

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FEB 26 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 Ms. Camacho-Welch:

Enclosed for filing in the referenced matter please find the original and 10 copies of the Letter Reply to the Opposition of the Division of Rate Counsel to the Motion of New Jersey-American Water Company.

Also enclosed is one additional copy, please stamp the same as received and return it to our messenger.

Respectfully,

COZEN O'CONNOR, PC

Ira G. Megdal
By: Ira G. Megdal

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Enclosure

cc: Attached Service Lists (via email)

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Service, Change in Depreciation Rates and Other Tariff Provisions
BPU Docket No. WR17090985
OAL Docket No. PUC 14251-2017 S**

Dear Ms. Camacho-Welch:

This firm represents New Jersey-American Water Company ("NJAWC" or "Movant"). We are in receipt of the letter of opposition to the motion filed in this docket by the Division of Rate Counsel ("Rate Counsel") on February 23, 2018. In this letter we will briefly address certain points raised by Rate Counsel.

I. NJAWC recognizes that the tax benefits arising from the Tax Cuts and Jobs Act of 2017 (the "Act") will be passed back to customers.

So that there is no confusion in anyone's mind, NJAWC intends to return the benefits arising from the Act to its customers. The only question is how these benefits can be returned to current and future customers in the most efficient and practical way.

II. It is impossible to extract implications of the Tax Act Order from NJAWC's pending rate case.

Rate Counsel opposes Movant's request for relief from the requirement of implementing a rate decrease April 1, and instead allowing for that decrease to take place approximately July 1, 2018.

Pro forma revenues in the Company's current base rate case have been predicated upon current rates. If a rate decrease is implemented April 1, the Company will have to file revised schedules in its rate case, reflecting a substantial reduction in pro forma present revenues. As a result, any rate increase percentage to be implemented on approximately July 1st will be substantially larger than it would have been absent the effect of an April 1st rate decrease.

This will trigger the "yo-yo" effect, discussed in NJAWC's moving papers (i.e. a sharp decline followed shortly by a sharp increase). In addition, the Company has already filed in its rate case revised schedules recalculating deferred taxes and current taxes from and after January 1, 2018, arising from currently measurable implications of the Act.

In short, it is impossible to address the issues in the current base rate case without also incorporating the implications of the Act. As a result, the Company seeks consideration of implications of the Act in its current base rate case.

III. Given the pendency of NJAWC's rate case, the yo-yo effect is a compelling concern.

Rate Counsel asserts that the yo-yo effect is not compelling, and is directly contradicted by the fact that the Company has mechanisms such as the DISC and the PWAC, which are implemented, in Rate Counsel's words: "...all of the time..." While it is true that the DSIC and the PWAC bring about periodic changes, they do not bring about sharp rate decreases followed by sharp rate increases. They tend to be fairly levelized rate changes on predictable cycles, to which customers are now accustomed. Indeed, one of the benefits and purposes of these clauses is to avoid significant increases, and instead apportion them over time. The DSIC averages increases of 2.5% of revenues per year. The PWAC accounts for changes (increases or decreases) of less than 1% of revenues. The impact of the Act on the pending base case is clearly an unusual circumstance compared to the Company's other mechanisms, and is therefore deserving of unique consideration. Here it could trigger a 6% decrease on April 1 followed by a larger increase on July 1. Based upon the Company's "as-filed" position, adjusted for implications of the Act, the July 1 **increase** could be substantially greater than the 6% April 1 **decrease**.

Rate Counsel fails to recognize this unique, significant impact of the Act on rates, and rate swings. As ordered in the BPU proceeding, the Company would materially decrease customer base rate and DSIC charges on April 1st. The Company would communicate to its customers that the decreases are due to the impacts of the Act on the Company's revenue requirements, leading customers to consider this new level of rates as a "new normal". The customers could see a substantial increase in rates approximately July 1st, at a time when summer peak usage is occurring, causing larger than average swings in customer bills and significant confusion and angst for customers. However, should the April 1st rate change be relieved, the increase on July 1 would be materially moderated by the impact of the Act on the revenue requirement, and subject customers to a single, moderated change in base rates, whereby the Company can communicate a single, comprehensive message to customers of the drivers of the rate change and better mitigate customer confusion over bills. An April 1 decrease followed by a July 1 increase would wreak havoc on customer budgets.

Therefore, the yo-yo effect is a virtual inevitability based on the unrelieved requirements of the BPU's Order and how it affects Movant's customers. This clear and distinct effect of the

Act certainly is compelling, contrary to Rate Counsel's assertion. The BPU and Rate Counsel have long expressed a strong preference for some quantum of rate stability. Movant's proposal would be a step in that direction.

IV. Conclusion

NJAWC has a pending rate case, which has now begun the process of settlement negotiations amongst the parties. Of necessity, implications of the Act are already in, and, in fact, *must be in* the base rate case's eventual outcome. In accordance with the Tax Act Order's requirements, Movant will file a comprehensive approach, including relevant calculations, arising from the Tax Act Order on March 2, 2018. The implications of the March 2nd filing, as well as a rate decrease to reflect an over-recovery during the stub period (January 1 to July 1, 2018) should all be addressed in the most logical and efficient proceeding available to the Board, that is, NJAWC's current base rate case.

Concerning procedure, Rate Counsel states: "instead, the Company appears to be seeking relief of its obligations under the generic proceeding and to instead fulfill those obligations during the course of its base rate case." Rate Counsel is correct. That is the orderly way to proceed, and is the most beneficial and practical way to provide the resulting benefits to the Company's customers.

Respectfully,

COZEN O'CONNOR, PC

By:  Ira G. Megdal

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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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