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JUN 18 2018

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

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June 15, 2018

David McMillin

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CASE MANAGEMENT

JUN 18 2018

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
44 S. Clinton Ave., 3d Floor, Suite 314
PO Box 350
Trenton, NJ 08625-0350

**Re: I/M/O 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 Number: WR17090985
OAL Docket Number: PUC 14251-2017 S**

Dear Secretary Camacho-Welch:

Please accept for filing an original and ten copies of this letter brief in support of Rate Counsel’s pending Motion to Issue Order Rejecting New Jersey American Water’s Proposed Provisional Rates in connection with the above-referenced matter. Please date stamp one copy as “Filed” and return in in the enclosed stamped, addressed envelope.

On behalf of the New Jersey’s low-income residents, Legal Services of New Jersey (“LSNJ”) strongly urges the Board to enjoin New Jersey American Water’s (“NJAW’s”) unilateral implementation of an unapproved 12% rate increase. This precipitous increase in rates would place the health and safety of low-income New Jersey residents at great risk. Many low-income households will lose their water service if a rate hike or this magnitude is imposed, even temporarily – and those that do manage to keep their service on will be able to do so only by making a forced low-interest loan to NJAW, diverting funds that should be available to meet other pressing necessities.¹

As a preliminary matter, this is not a question that has been put beyond the reach of the Board, or beyond challenge by Rate Counsel or utility customers, by the adoption of administrative rules for provisional rates late last year. The Board’s mandate includes an

¹ NJAW has ready access to capital markets at reasonable rates. Its low-income consumers do not.

overarching obligation to ensure that rates are just and reasonable for all customers, including those of low-income customers who cannot afford to pay the amount a utility seeks to charge.¹

The concerns of low-income customers are particularly acute in the present matter. If and when the Board determines that a 12% rate increase is unwarranted, retroactive refunds will do nothing to reverse the hardships endured by households that have lost their water service, or foregone other necessities, solely because of the increased provisional rates.

Approximately 25% of all New Jersey workers – more than a million people – earn less than enough to meet basic necessities.² Other households on limited fixed incomes also lack the resources to meet basic needs. Simply stated, for more than a quarter of residential water customers, funds to pay unilaterally-imposed and unapproved rate increases can only be found by forgoing other basic necessities. Nonetheless, even in the face of widespread affordability challenges, NJAW has implemented a self-designed low-income assistance program that reaches **only one out of every 309 (or about a third of a percent)** of its residential customers, according to the figures on its web site.³

At the same time, LSNJ is seeing more and more tenants with the risk of water bill increases shifted to them water via submetering and RUBS systems administered by landlords or their agents. While it may be a concept far removed from the experience of many well-to-do households, substantial numbers of New Jersey ratepayers live every day with the very real possibility of having to choose between food to eat and water for drinking and hygiene.

Recent events in Detroit and other communities throughout the country have brought the dire consequences of losing water service for low-income households to the forefront. *See, e.g., Experts See Public Health Crisis in Detroit Water Shutoffs*, Detroit Free Press, July 26, 2017; *UN Officials Criticise Detroit Water Shutoffs*, BBC News, Oct. 201, 2014 (noting the disproportionate effect of an 8.7% water rate increase on low-income and African-American households); Centers for Disease Control and Prevention, *Community Health Impact of Extended Loss of Water Service --- Alabama, January 2010* (finding a significantly higher prevalence of acute gastrointestinal illness where water service lost for a week or more). These threats are

¹ Unfortunately, the Board, in promulgating rules for provisional rate increases under a prior administration, simply ignored numerous comments addressing the particularized negative effects of unapproved provisional rates on low-income customers. *See, e.g.,* 50 N.J.R. 625(b), Response to Comments 2 through 20 (Dec. 19, 2017) (failing to respond to Comments 16-18 specifically addressing effects on low-income consumers).

² LSNJ Poverty Research Institute, *The Real Cost of Living in New Jersey: What It Takes To Meet Basic Needs and Avoid Deprivation* (2013) 21-22.

³ *See* New Jersey American Water “Get to Know Us” Brochure, available at <https://dnnh3qht4.blob.core.windows.net/portals/1/About%20Us/About%20Us%20-%20NJ%20-%202018.pdf?sr=b&si=DNNFileManagerPolicy&sig=ZRagLVwiRQJXdzwzx1wjyiuQ%2FB%2FZlomr6SIS6xuffC8%3D> (631,000 water customers, 93% residential) ; <https://amwater.com/njaw/customer-service-billing/low-income-program> (1,900 customers enrolled in NJAW service charge discount program as of 12/31/16).

magnified in households with vulnerable members, who are at particular risk of adverse health consequences.¹

At the very least, the Board should ameliorate the effects of NJAW's unapproved rate increase on low-income customers by specifically exempting all households that have been identified as needing financial assistance to meet unaffordable utility costs. Because NJAW's self-designed rate assistance program is tiny and inadequate, the Board should, if it decides not to enjoin NJAW's provisional rate increase in its entirety, order that the unapproved rate increase shall not apply to any residential ratepayer who (a) has been determined to be eligible for USF, LIHEAP, Lifeline, or any other means-tested utility rate assistance program, including NJAW's, or (b) otherwise demonstrates that the unapproved increased rates would cause undue hardship.

Conclusion

For all of the foregoing reasons, LSNJ urges the Board reject or limit New Jersey American Water's unilateral adoption of its proposed provisional rate increase.

Thank you for your consideration and attention to this matter.

Respectfully submitted,
LEGAL SERVICES OF NEW JERSEY, INC.

By: 

David McMillin

Cc: Service List (via Electronic Mail)

¹ A 2005 study showed that 70% of low-income households in New Jersey that pay electric or gas bills face are vulnerable households with one or more members who are people with disabilities, elderly, or young children. APPRISE State Report – New Jersey, available at www.appriseinc.org/reports/MSS_NJ.pdf.

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BOARD OF PUBLIC UTILITIES
TRENTON, NJ

STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

In the Matter of the Petition of New Jersey
American Water Company, Inc. for Approval
Of Increased Tariff Rates & Charges for Water
& Wastewater Service, Change in
Depreciation Rates & Other Tariff Provisions

BOARD OF PUBLIC UTILITIES
BPU Docket No. WR17090985
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ORDER

The Board of Public Utilities, having considered Legal Services of New Jersey's Motion to Intervene or to Participate for a Limited Purpose, any opposition to the motion, and all other papers filed, it is HEREBY ORDERED that the motion is hereby granted, and Legal Services of New Jersey is granted leave to

- intervene
- participate

in the above-captioned matter for the limited purpose of supporting Rate Counsels's Motion to Issue an Order Rejecting NJAW's Proposed Provisional Rate Increase, and to file its proposed letter brief dated June 15, 2018.

Dated: June __, 2018

Joseph L. Fiordaliso, President
New Jersey Board of Public Utilities

Mary-Anna Holden, Commission
New Jersey Board of Public Utilities

Upendra Chivukula, Commissioner
New Jersey Board of Public Utilities

Diane Solomon, Commissioner
New Jersey Board of Public Utilities

Bob Gordon, Commissioner
New Jersey Board of Public Utilities