

RECEIVED
CASE MANAGEMENT

FEB 11 2019

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

February 7, 2019

VIA EMAIL AND FIRST CLASS MAIL

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

RECEIVED
MAIL ROOM
FEB 11 2019
BOARD OF PUBLIC UTILITIES
TRENTON, NJ

 **COZEN
O'CONNOR**
A Pennsylvania Professional Corporation

Ira G. Megdal
Direct Phone 856-910-5007
Direct Fax 877-259-7984
imegdal@cozen.com

Ira G. Megdal
2/15/19

**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 Atlantic City Sewerage Company's Petition with Calculation of
Rates under the Tax Cuts and Jobs Act of 2017
BPU Docket No. WR18030234**

Dear Secretary Camacho-Welch:

This firm represents The Atlantic City Sewerage Company ("ACSC") in the referenced matter. On behalf of ACSC we are enclosing with this letter an executed Stipulation.

Thank you for your attention to this matter.


Respectfully,

COZEN O'CONNOR, PC

By: 
Ira G. Megdal

IGM:kn
Enclosure

cc: Service List (via email)


M. Supp, Esq.
C. Kachur, Esq.
K. Felton

LEGAL\39917974\1

FEB 11 2019

STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES
OFFICE OF ADMINISTRATIVE LAW

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

IN THE MATTER OF THE NEW JERSEY	:	
BOARD OF PUBLIC UTILITIES'	:	BPU DOCKET NO. AX18010001
CONSIDERATION OF	:	
THE TAX CUTS AND JOBS ACT OF 2017	:	
	:	
IN THE MATTER OF THE ATLANTIC CITY	:	
SEWERAGE COMPANY'S PETITION WITH	:	BPU DOCKET NO. WR18030234
CALCULATION OF RATES UNDER THE	:	
TAX CUTS AND JOBS ACT OF 2017	:	
	:	
	:	STIPULATION

APPEARANCES:

Ira G. Megdal, Esquire (Cozen O'Connor, attorneys) for The Atlantic City Sewerage Company, Petitioner;

Brian O. Lipman, Esquire and Susan E. McClure, Esquire, Division of Rate Counsel; (Stefanie A. Brand, Director, Division of Rate Counsel); and

Renee Greenberg, Esquire, Deputy Attorney General, (Gurbir S. Grewal, Attorney General of the State of New Jersey) on behalf of the Staff of the Board of Public Utilities ("Board Staff").

TO THE HONORABLE BOARD OF PUBLIC UTILITIES:

I. INTRODUCTION

1. The Atlantic City Sewerage Company ("ACSC" or the "Company") is a public utility corporation of the State of New Jersey, with its principal office at Suite 300, 1200 Atlantic Avenue, Atlantic City, New Jersey 08404.

2. The Company operates a sewage collection and transmission system within its defined service territory, consisting of the City of Atlantic City, New Jersey. Within its service territory, ACSC serves approximately 7,500 customers. The Company purchases its sewerage treatment from the Atlantic County Utilities Authority (the "ACUA").

3. The Tax Cuts and Jobs Act (“TCJA”) was signed into law by President Trump on December 22, 2017.

4. The TCJA, *inter alia*, reduced the maximum corporate tax rate from thirty-five-35% to 21%, effective January 1, 2018.

5. On January 31, 2018, the New Jersey Board of Public Utilities (“BPU” or “Board”) issued a Generic TCJA Order in BPU Docket No. AX18010001 (“January 31, 2018 Order”) to commence a proceeding addressing the impact of the TCJA on New Jersey’s public utilities and treatment of the tax savings that will accrue to the utilities as a result of the TCJA.

6. The January 31, 2018 Order, *inter alia* required utilities with 2017 revenues equal to or greater than \$4.5 million to (i) file a petition with the BPU by March 2, 2018, detailing the impact of the TCJA and proposing final rates incorporating the effects of the TCJA; (ii) defer the effects of the TCJA upon their books and records as of January 1, 2018 (consistent with the effective date of the TCJA), with interest at the utility’s approved overall weighted average cost of capital (“WACC”) on the portion related to the accumulated deferred income taxes; and at the utilities short term debt rate for the portion related to the adjustment for grossing up the revenue requirement; (iii) provide tariff rates reflecting the new maximum corporate tax rate of 21%; and (iv) continue to defer the effects of the TCJA on the Company’s federal income tax expense and accumulated deferred income taxes in its books and records until rates reflecting the effects become effective.

7. The Board’s implementation of the TCJA affects the Company in, *inter alia*, four major areas: (i) impact of the reduction in federal income tax expense on ACSC’s current revenue requirement; (ii) the tariff design for the implementation of the proposed rate reduction;

and (iii) the federal income tax differential for the period January 1, 2018 through March 30, 2018 (the "Stub Period") which was to be deferred and credited to customers with interest.

8. The Company filed a petition, docketed at BPU Docket No. WR18030234 (the "Petition") on March 2, 2018, pursuant to the Order.

9. The petition described the impact of the TCJA on the Company and included revised tariff rates, with supporting work papers that reflected the new lower corporate tax rate.

10. The Company deferred the effects of the TCJA on its federal income tax expense and accumulated deferred income taxes in its books and records, as ordered by the Board.

11. In the petition, ACSC calculated its income tax expense under the old tax rate of 34% and the new rate under the TCJA of 21%. ACSC is subject to a 34% tax rate, below the maximum corporate tax rate of 35% because its taxable income is less than \$10 million. The recalculation resulted in an income tax expense reduction of \$319,945. ACSC applied its gross up factor to reach the annual revenue reduction of \$472,838.

12. Because the January 31, 2018 Order directed ACSC to provide tariff sheets reflecting the new tax rate at 21% to be effective on April 1, 2018, the Company supplied the same, along with detailed work papers showing how each rate was developed. ACSC proposed to implement the revenue reduction through both its fixed customer charges and its volumetric collection rate proportionately to provide the benefits of the TCJA equally among customers.

13. ACSC deferred with interest the impact on income tax expense resulting from the difference between the tax rate of 34% and of 21%, for the Stub Period. The Company proposed to record a deferral of the over collection evenly from January 1 through March 31, 2018, utilizing one-twelfth of \$472,838 or \$39,403 each month. The calculation of the total deferral

during the Stub Period totaled \$119,096 including interest of \$887. In arriving at the interest due as a result of the over collection, ACSC applied its actual short term borrowing rate of 4.5%.

14. In the petition, the Company proposed to refund the over-recovery through a bill credit to customers' accounts during the first possible month following the Board's authorization of the rate mechanism.

15. Relative to excess protected ADIT, the Company was only able to perform a high-level estimate. ACSC was not in a position to provide a rate mechanism related to refunding the excess ADIT to ratepayers. ACSC could not propose such a rate mechanism in the petition without potentially violating Internal Revenue Service ("IRS") normalization rules.

16. ACSC did not have personnel to perform the calculations, and engaged the firm of Deloitte and Touche ("Deloitte") to perform the ADIT calculations.

17. Relative to excess unprotected ADIT the Company again performed a high level calculation. The high level calculation demonstrated that ACSC's unprotected ADIT due from ratepayers totaled \$240,242.

18. As noted, ACSC engaged Deloitte to perform detailed calculations of the protected ADIT, unprotected was calculated internally. Deloitte performed its calculations, and by letter dated November 9, 2018, ACSC filed an update with the BPU demonstrating the effects of calculations performed by Deloitte.

19. However, with the passage of time, the information contained in the November 9, 2018 update letter became outdated.

II. PRIOR BPU ORDERS IN THIS MATTER

20. The Board issued an Order in this matter dated March 26, 2018 (“March 26, 2018 Order”).

21. The March 26, 2018 Order adopted the tariffs filed by ACSC, to be effective April 1, 2018. The Board noted that the rates set forth in said tariffs are interim, subject to refund, pending the outcome of this proceeding.

22. The March 26, 2018 Order also directed the Company to file tariff pages within five days of the effective date of the March 26, 2018 Order. The Company complied with the March 26, 2018 Order, and those rates were made effective April 1, 2018, and at that time the Company returned the Stub Period over-recovery with interest via a bill credit.

23. The Board issued a subsequent Order on June 22, 2018 (“June 22, 2018 Order”).

24. The June 22, 2018 Order directed the parties to submit all necessary information to the Board so as to allow the Board to consider final rates no later than the Board’s November 2018 Public Agenda Meeting, or as soon thereafter as the Board may deem appropriate.

25. ACSC submitted an update by letter dated November 9, 2018, pursuant to this directive.

III. THE JANUARY 10, 2019 UPDATE

26. By letter dated January 10, 2019 (“Update”), ACSC updated the information contained in its November 9, 2018 letter. In the Update, ACSC requested that this matter will be considered on the Board’s February 27, 2019 Agenda. The Update also requested that, if considered on the Board’s February 27, 2019 Agenda, the effective date of the Board’s February 27, 2019 Order be March 1, 2019.

27. The Update noted that effective April 1, 2018, ACSC implemented a rate decrease, to reflect the fact that the tax expense reflected in ACSC's rates had been calculated at the statutory 34% rate. The new rates, made effective April 1, 2018, were based upon the new statutory rate of 21%.

28. The Update noted that the April 1, 2018 rate reduction was based upon a reduction in income tax expense of \$319,945.00. After applying ACSC's gross up factor, the rate decrease became an annual revenue reduction of \$472,838.00.

29. ACSC has determined that the April 1, 2018 rate decrease was insufficient. Rather than \$319,945.00 before gross up, it should have been \$449,350.00 before gross up. By the Update, the Company proposed to correct this error, and address other issues remaining open in this matter.

IV. SUMMARY OF ACSC'S PROPOSAL

30. The Company's proposal in this matter is summarized as follows:

31. The Company's rate reduction effective April 1, 2018 was deficient by \$129,405.00 before gross up. This additional amount must be returned to customers.

32. Deloitte determined that the Company had insufficient records as to assets placed into service prior to January 1, 1992 to apply the Average Rate Assumption Method ("ARAM") to Pre-1992 assets. As a result, ACSC applied the Reverse South Georgia Method ("RSGM") to Pre-1992 assets. As a result, for Pre-1992 assets, the RSGM results in an annualized return to customers of excess protected ADIT of \$42,353.00.

33. Relative to Post-1991 additions, the Company was able to apply ARAM, in Deloitte's view. As a result, the Company proposes the return of excess protected ADIT of \$20,863.00 utilizing the ARAM Method for Post-1991 assets.

34. The Company has calculated that \$150,792.00 represents the deficiency in the rate reduction dated April 1, 2018, which must be returned to customers as of March 1, 2019.

35. Concerning unprotected ADIT, in ACSC's case, that amount is a regulatory asset, and is actually due from rate payers. That amount is \$162,225.00. The remaining balance of the amount due to ratepayers as a bill credit for the period January 1, 2018 through March 31, 2018 is \$3,711.00. The net amount due from rate payers from the April 1, 2018 rate decrease is \$7,542.00. It is proposed that this amount will be recovered from customers over three (3) years, based upon the assumption that ACSC will have a rate case resulting in rates in effect by 2021.

36. This is an annualized recovery of \$2,514.00.

37. The result is a total annual rate reduction required before gross up of \$190,107.00. After applying the gross up factor, the result is the Company's proposal of a rate reduction to be effective March 1, 2019 of \$280,954.00.

V. STIPULATED MATTERS

38. The Company, the New Jersey Division of Rate Counsel and Board Staff (collectively, "Parties") hereto have reviewed the Update, and agree that the Company's proposals therein are reasonable, and accept the same.

39. Attached to this stipulation of settlement ("Stipulation") as Exhibit A are tariff sheets which will implement this Stipulation, and applies the rate reduction of \$280,954.00 after gross up. The Parties to this Stipulation agree that these tariff pages are reasonable, and should be accepted by the Board effective March 1, 2019.

40. Within 10 days of a Board Order accepting this Stipulation, the Company will make a compliance filing with the Board of final tariff sheets reflecting this Stipulation.

41. This Stipulation resolves all matters in this docket.

VI. MISCELLANEOUS

42. This Stipulation shall be binding on the Parties on approval of the Board. This Stipulation shall bind the Parties in this matter only and shall have no precedential value.

43. This Stipulation contains terms, each of which is interdependent with the others and essential in its own right to the signing of this Stipulation. Each term is vital to the agreement as a whole, since the Parties expressly and jointly state that they would not have signed the agreement had any term been modified in any way. Since the Parties have compromised in numerous areas, each is entitled to certain procedures in the event that any modifications whatsoever are made to this Stipulation.

44. If any modification is made to the terms of this Stipulation, the Parties each must be given the right to be placed in the position it was in before the Stipulation was entered into. It is essential that each Party be given the option, before the implementation of any new rate resulting from any modification of this Stipulation, either to modify its own position to accept the proposed changes, or to resume the proceeding as if no agreement had been reached.

45. The Parties believe that these procedures are fair to all concerned, and therefore, they are made an integral and essential element of this Stipulation.

46. 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.

[SIGNATURES APPEAR ON NEXT PAGE]

THE ATLANTIC CITY SEWERAGE COMPANY

By: Ira G. Megdal
Ira G. Megdal, Esquire

Dated: February 6, 2019

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY
ATTORNEY FOR STAFF OF THE NEW
JERSEY
BOARD OF PUBLIC UTILITIES

By: Renee Greenberg
Renee Greenberg, Esquire
Deputy Attorney General

Dated: February 6, 2019

STEFANIE A. BRAND
DIRECTOR, DIVISION OF RATE
COUNSEL

By: Brian O. Lipman
Brian O. Lipman, Esquire
Assistant Deputy Rate Counsel

Dated: February 6, 2019

EXHIBIT A

TABLE OF CONTENTS

	<u>Sheet No.</u>
Title Page	Fourth Revised 1
Table of Contents	Fifth Revised 2
An Introduction to Customers.....	3
An Overview of Common Customer Complaints and Customer Rights	4
Deposits.....	4-5
Deferred Payment Arrangement	5
Discontinuance of Service	5-6
Meters	6-7
Form of Bill for Metered Service.....	7
Standard Terms and Conditions	
Territory to which Tariff Applies	8
General Rules.....	8-10
General Provisions	
Definition of Terms.....	11
Nature and Extent of Services.....	11
Requirements as to Wastewater Discharged.....	11
Annual Charges for Sewerage Service	11
Water Used from Sources Other Than the Public Water System	12
Exemption for Water Not Entering the Sewerage System.....	12-13
Billing	13
Billing Year.....	13
Payment for Sewerage Service	14
Requests for Disconnection of Service	14
Schedule of Rates	
Application.....	15
Annual Rates.....	Fifth Revised 16
Limitations on Wastewater Discharges	Exhibit A

Date of Issue:	January 23, 2019	Effective for Service
Issued by:	THOMAS S. KAVANAUGH, President & General Manager	rendered on and after
	1200 Atlantic Avenue	March 1, 2019.
	Atlantic City, New Jersey	

Filed Pursuant to Decision and Order of the Board of Public Utilities in Docket No. WR18030234 dated February 27, 2019.

SCHEDULE OF RATES

Annual Rates

Fixed Charge

All customers shall pay the following annual fixed charge, based on the size of the water meter used in the rendering of water service:

Size of Meter	Total Annual Fixed Charge
5/8"	\$254
3/4	441
1	1,298
1-1/2	3,200
2	6,344
3	15,455
4	32,505
6	105,079
8	154,523
10 or larger	248,329

Volumetric Collection Charge

In addition to the annual fixed charge, all customers shall pay \$7.991 for each 1,000 cubic feet of metered water, measured to the nearest one-tenth.

Purchased Sewerage Treatment Adjustment Clause (PSTAC) Charge

In addition to the annual fixed charge and the volumetric collection charge, all customers shall pay \$24.610 for each 1,000 cubic feet of metered water, measured to the nearest one-tenth, for sewerage treatment costs assessed the Company by the relevant treating wastewater facility.

Date of Issue: January 23, 2018

Issued by: THOMAS S. KAVANAUGH, President & General Manager
1200 Atlantic Avenue
Atlantic City, New Jersey

Effective for Service rendered on and after March 1, 2019.