



Agenda Date: 07/10/19
Agenda Item: 5B

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

IN THE MATTER OF THE NEW JERSEY BOARD OF PUBLIC UTILITIES' CONSIDERATION OF THE TAX CUTS AND JOBS ACT OF 2017))))	ORDER ADOPTING PARTIAL STIPULATION
IN THE MATTER OF THE PETITION OF ENVIRONMENTAL DISPOSAL CORPORATION WITH CALCULATION OF RATES UNDER THE TAX CUTS AND JOBS ACT OF 2017))))	DOCKET NO. AX18010001 DOCKET NO. WR18030235

Parties of Record:

Ira G. Megdal, Esq., Cozen O'Connor, on behalf of New Jersey-American Water Company, Inc.
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

The Tax Cuts and Jobs Act of 2017 ("2017 Act" or "Tax Act") was signed into law on December 22, 2017 with an effective date of January 1, 2018. The 2017 Act sets forth changes to the Federal Internal Revenue Tax Code, including a reduction in the maximum corporate tax rate from 35% to 21%.

On January 31, 2018, the New Jersey Board of Public Utilities ("Board") issued an Order ("Tax Order") which established a proceeding ("Tax Proceeding") for all affected utilities to consider the implications of the 2017 Act, and in particular to implement interim rates effective April 1, 2018, until a final Board review is complete. The Tax Order also established a procedural schedule for motions to intervene, discovery, technical conferences, filing of comments, and settlement conferences.

On March 2, 2018, Environmental Disposal Corporation ("EDC" or "Company"), in response to the Tax Order, filed a petition ("Tax Filing") with the Board, including proposed tariffs, reflecting a proposed rate reduction of 3.44%, resulting from the Tax Act. Pursuant to the Tax Order, EDC deferred, as of January 1, 2018, with interest, at its short term debt rate, the difference between rate recovery made utilizing the tax expense calculated at 35% and the tax expense calculated at 21%, for the period January 1, 2018 through March 31, 2018 ("stub period"). The Company's Tax Filing also included proposals related to the effects of the 2017 Act on Accumulated Deferred Income Taxes ("ADIT"), which would be addressed at a later date of this proceeding.

On March 26, 2018, the Board adopted the proposed tariffs as interim, to be effective April 1, 2018, subject to refund, pending the outcome of this proceeding.

On May 23, 2018, EDC updated its proposed revenue reduction to \$180,535, including gross-up to correct the calculation of its revenue requirement using a 34% federal income tax rate, which is EDC's actual tax rate.

On May 25, 2018, the Division of Rate Counsel ("Rate Counsel") filed comments in this matter. Rate Counsel agreed with the Company's \$180,535 revenue reduction. Rate Counsel stated that EDC made a \$50 error, citing a discrepancy between the revenues set forth in Exhibits A and C of the Company's Tax Filing. EDC filed reply comments on June 5, 2018. EDC stated in its reply comments that the \$50 difference in Exhibits A and C was likely the result of miscellaneous operating revenues that should reasonably be disregarded for rate design purposes.

EDC, Rate Counsel, and Board Staff (collectively "Signatory Parties") engaged in settlement discussions in this matter. As a result of those settlement discussions, the Signatory Parties agreed to a resolution of the issues related to the refund of the federal income taxes that the Company collected in rates during the stub period ("Partial Stipulation"). Pursuant to the Partial Stipulation¹ the Signatory Parties stipulate and agree to the following:

1. The revenue reduction resulting from the reduction in EDC's corporate tax rate from 34% to 21% is \$180,535, including gross up, or 3.23%;
2. For the stub period, EDC deferred with interest the effect of the Tax Act on its books and records a rate reduction of \$180,535 or 3.23% (the "stub period amount");
3. The Signatory Parties agree that EDC will credit the amounts deferred as a one-time credit within 60 days of the effective date of the Board Order approving this Partial Stipulation and will continue to accrue interest at its short-term debt rate during the 60-day period;
4. The Signatory Parties stipulate that EDC will calculate interest on the amounts deferred using its applicable monthly short-term interest rate;
5. EDC will calculate the credits in accordance with Exhibit A attached to the Partial Stipulation; and
6. EDC will file, within 10 days of the effective date of a Board Order approving this Partial Stipulation, revised tariff pages effective as of the date of a Board Order approving this Partial Stipulation. The revised tariff pages, which reflect the rate design and the corrected revenue reduction of \$180,535 set forth in Exhibit A, are attached as Exhibit B to the Partial Stipulation.

¹ Although described in this Order at some length, should there be any conflict between this summary and the Partial Stipulation, the terms of the Partial Stipulation control, subject to the findings and conclusions in this Order.

DISCUSSION AND FINDING:

The Signatory Parties have reviewed the Company's filing, exchanged discovery, the filed comments and reply comments, and reached a resolution with regard to the disposition of the stub period amount and the agreed upon rate decrease of \$180,535 or 3.23%. The resulting Partial Stipulation will result in EDC issuing the agreed upon one-time credit to its customers and filing revised tariffs to effectuate the agreed upon \$180,535 revenue reduction.

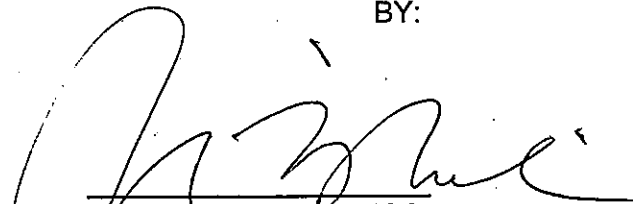
The Board, having reviewed the record in this proceeding, including the Company's filing, the comments, reply comments, and the Partial Stipulation, **HEREBY FINDS** the Partial Stipulation to be reasonable, in the public interest, and in accordance with the law. Therefore, the Board **HEREBY ADOPTS** the Partial Stipulation in its entirety and **HEREBY INCORPORATES** its terms and conditions as though fully set forth herein.

EDC is **HEREBY DIRECTED** to file the appropriate tariff sheets conforming to the terms and conditions of this Order.

This Order shall be effective on July 20, 2019.

DATED: 7/10/19

BOARD OF PUBLIC UTILITIES
BY:



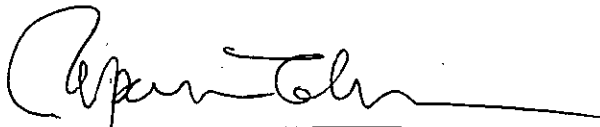
JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



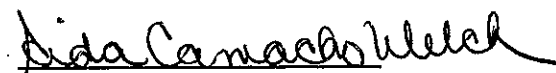
DIANNE SOLOMON
COMMISSIONER



UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST: 

AIDA CAMACHO-WELCH
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities.

**IN THE MATTER OF THE NEW JERSEY BOARD OF PUBLIC UTILITIES' CONSIDERATION
OF THE TAX CUTS AND JOBS ACT OF 2017
DOCKET NO. AX18010001**

**IN THE MATTER OF THE ENVIORNMENTAL DISPOSAL CORPORATION WITH
CALCULATION OF RATES UNDER THE TAX CUTS AND JOBS ACT OF 2017
DOCKET NO. WR18030235**

SERVICE LIST

Ira G. Megdal, Esq.
Cozen O'Connor
457 Haddonfield Road, Suite 300
Post Office Box 5459
Cherry Hill, NJ 08022
imegdal@cozen.com

Stefanie A. Brand, Esq., Director
Division of Rate Counsel
Post Office Box 003
Trenton, NJ 08625-0003
sbrand@rpa.nj.gov

Brian O. Lipman, Litigation Manager
Division of Rate Counsel
Post Office Box 003
Trenton, NJ 08625-0003
blipman@rpa.nj.gov

Department of Law & Public Safety
Division of Law
Post Office Box 45029
Newark, NJ 07101-45029

Patricia Krogman, Esq.
patricia.krogman@law.njoag.gov

Andrew Kuntz, Esq.
andrew.kuntz@law.njoag.gov

Emma Xiao, Esq.
emma.xiao@law.njoag.gov

Board of Public Utilities
Post Office Box 350
Trenton, NJ 08625-0350

Aida Camacho-Welch
Secretary of the Board
Board.secretary@bpu.nj.gov

Division of Water

Michael Kammer, Director
Mike.kammer@bpu.nj.gov

Kofi Ocansey, Administrative Analyst
kofi.ocansey@bpu.nj.gov



June 10, 2019

VIA EMAIL AND FIRST CLASS MAIL

Ira G. Megdal

Direct Phone 856-910-5007

Direct Fax 877-259-7984

imegdal@cozen.com

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

**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 Environmental Disposal Corporation with
Calculation of Rates Under the Tax Cuts and Jobs Act of 2017
BPU Docket No. WR18030235**


Dear Secretary Camacho-Welch:

This firm represents Environmental Disposal Corporation ("EDC") in the referenced matter. On behalf of EDC we are enclosing with this letter a fully 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)

LEGAL\41547744\1

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

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**
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IN THE MATTER OF THE PETITION OF ENVIRONMENTAL DISPOSAL CORPORATION WITH CALCULATION OF RATES UNDER THE TAX CUTS AND JOBS ACT OF 2017 : **BPU DOCKET NO. WR18030235**
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APPEARANCES:

Ira G. Megdal, Esquire (Cozen O'Connor) for Petitioner Environmental Disposal Corporation.

Brian O. Lipman, Esquire, Litigation Manager, New Jersey Division of Rate Counsel (Stefanie A. Brand, Director).

Andrew Kuntz, Esquire and Emma Xiao, Esquire, Deputy Attorneys General, (Gurbir Grewal, Attorney General of New Jersey) on behalf of the Staff of the Board of Public Utilities.

This Partial Stipulation is made as of June 7, 2019 by and among Environmental Disposal Corporation ("EDC"), the Staff of the New Jersey Board of Public Utilities ("Board Staff") and the New Jersey Division of Rate Counsel ("Rate Counsel") (collectively, the "Signatory Parties").

1. On December 22, 2017, the Tax Cuts and Jobs Act of 2017 ("TCJA") was signed into law with an effective date of January 1, 2018. The TCJA sets forth changes to the Federal Internal Revenue Tax Code, one of which is the reduction in the maximum corporate tax rate from 35% to 21% effective January 1, 2018.

2. On January 31, 2018, the New Jersey Board of Public Utilities (the "Board") issued an Order (the "TCJA Order") which set all affected utility rates as interim and established

a proceeding to consider the implications of the TCJA. *See I/M/O New Jersey Board of Public Utilities' Consideration of the Tax Cuts and Jobs Act of 2017*, BPU Docket No. AX18010001 (Jan. 31, 2018).

3. The TCJA Order directed each affected public utility to defer, with interest, the effects of the TCJA on its books and records effective January 1, 2018 and file amended tariffs reflecting a reduction in rates resulting from the reduction in the maximum corporate tax rate effective April 1, 2018, as well as a plan to address other rate factors and to refund any over-collection in rates.

4. On March 2, 2018, EDC filed a petition ("TCJA Filing") under the TCJA Order in Docket Nos. AX1801001 and WR18030235.

5. The TCJA Filing described the impact of the TCJA on EDC and included proposed tariffs reflecting a proposed revenue reduction of \$191,801, including gross-up because of the reduction in the corporate tax rate. As a result, the TCJA Filing proposed to implement an across-the-board rate decrease of approximately 3.44%.

6. In accordance with the TCJA Order, EDC deferred, as of January 1, 2018 with interest at its short-term debt rate, the difference between rate recovery made utilizing the tax expense calculated at 35% and the tax expense calculated at 21% for the period January 1, 2018 through March 31, 2018 (the "stub period").

7. The TCJA Filing also included proposals related to the effects of the TCJA on accumulated deferred income taxes ("ADIT") which effects will be addressed at a later stage of this proceeding.

8. On March 26, 2018, the Board adopted the proposed tariffs as interim to be effective April 1, 2018, subject to refund pending the outcome of this proceeding.

9. On May 23, 2018, EDC updated its proposed revenue reduction to \$180,535, including gross-up to correct the calculation of the revenue requirement using a 34% federal income tax rate, EDC's actual tax rate.

10. On May 25, 2018, Rate Counsel filed comments in this matter.

11. Rate Counsel agreed with EDC's corrected revenue reduction of \$180,535.

12. Rate Counsel also stated that EDC made a \$50 error citing a discrepancy between the revenues set forth in Exhibits A and C of the TCJA Filing.

13. EDC submitted reply comments on June 5, 2018.

14. EDC stated in its reply that the \$50 difference in Exhibits A and C is likely the result of miscellaneous operating revenues that should reasonably be disregarded for rate design purposes.

15. EDC has received and responded to all discovery requests that have been propounded in this proceeding.

16. The Signatory Parties engaged in settlement discussions in this matter. Because of these discussions, the Signatory Parties agree to a resolution of the issue related to the refund of the federal income taxes that EDC collected in rates during the stub period and hereto stipulate as follows:

I. **FEDERAL INCOME TAX DIFFERENTIAL TO BE DEFERRED AND RETURNED WITH INTEREST**

17. The Signatory Parties agree that the revenue reduction resulting from the reduction in EDC's corporate tax rate from 34% to 21% is \$180,535, including gross up, or 3.23%.

18. For the stub period, EDC deferred with interest the effect of the TCJA on its books and records at a rate reduction of \$180,535, including gross up, or 3.23% (the "stub period

amount").

19. The Signatory Parties agree that EDC will credit the amounts deferred as a one-time credit within 60 days of the effective date of a Board Order approving this Partial Stipulation and will continue to accrue interest at its short-term debt rate during the 60-day period.

20. The Signatory Parties stipulate that EDC will calculate interest on the amounts deferred using its applicable monthly short-term interest rate.

21. EDC will calculate the credits in accordance with Exhibit A attached hereto.

22. The Signatory Parties agree that within 10 days of the effective date of a Board Order approving this Partial Stipulation, EDC will file revised tariff pages effective as of the date of a Board Order approving this Partial Stipulation. The revised tariff pages, which reflect the rate design and the corrected revenue reduction of \$180,535 set forth in Exhibit A, are attached hereto as Exhibit B.

II. MISCELLANEOUS

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

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

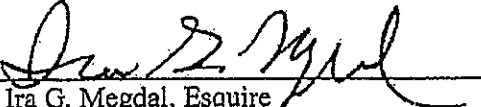
25. If any modification is made to the terms of this Partial Stipulation, the Signatory Parties each must be given the right to be placed in the position it was in before the Partial Stipulation was entered into. It is essential that each Signatory Party be given the option, before the implementation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

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

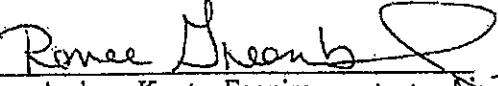
27. This Partial Stipulation may be executed in as many counterparts as there are signatories of this Partial Stipulation, each of which counterparts shall be an original, but all of which shall constitute one and the same instrument.

[SIGNATURE PAGE TO FOLLOW ON NEXT PAGE]

ENVIRONMENTAL DISPOSAL CORPORATION

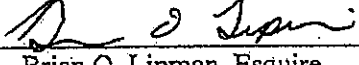
By: 
Ira G. Megdal, Esquire

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

By:  dated: June 7, 2019
Andrew Kuntz, Esquire
Deputy Attorney General

*Pence
Greenberg,
DAG on behalf of*

STEFANIE A. BRAND
DIRECTOR, DIVISION OF RATE COUNSEL

By: 
Brian O. Lipman, Esquire
Litigation Manager

Dated: June 7, 2019

NEW JERSEY AMERICAN WATER COMPANY
ENVIRONMENTAL DISPOSAL CORPORATION
CALCULATION OF STUB PERIOD REFUND
Docket No. AX18010001
Docket No. WR 18030235

Exhibit A
Page 1

EDC:

Customer Group, at 1/31/2019	Amount
Sewer Customers	5,402
	-
Total customers	5,402
Total Refund	46,415
Refund per customer/connection	\$ 8.59

NEW JERSEY-AMERICAN WATER COMPANY
 CALCULATION OF STUB PERIOD DEFERRAL AND INTEREST

Interest Rate	2018	2019
	January	1.7339%
	February	1.7841%
	March	2.0647%
	April	2.3466%
	May	2.3224%
	June	2.3587%
	July	2.3951%
	August	2.3883%
	September	2.3516%
	October	2.3966%
	November	2.5428%
	December	2.7784%
	2019 January	2.8416%
	February	2.8369%
	March	2.8043%
	April	2.7777%
	May**	2.8000%
	June**	2.8000%

EDC:	Monthly Accrual	Balance	Fit	Interest bearing	Interest*	Ending Balance
2018 Jan	\$15,045	\$15,045	(\$3,159)	\$11,886	\$17	\$15,062
2018 Feb	\$15,045	30,106	(6,322)	23,784	\$35	30,141
2018 Mar	\$15,045	45,186	(9,489)	35,697	\$61	45,247
2018 Apr	\$0	45,247	(9,502)	35,745	\$70	45,317
2018 May	\$0	45,317	(9,517)	35,800	\$69	45,366
2018 Jun	\$0	45,386	(9,531)	35,855	\$70	45,456
2018 Jul	\$0	45,456	(9,546)	35,910	\$72	45,528
2018 Aug	\$0	45,528	(9,561)	35,967	\$72	45,600
2018 Sep	\$0	45,600	(9,576)	36,024	\$71	45,671
2018 Oct	\$0	45,671	(9,591)	36,080	\$72	45,743
2018 Nov	\$0	45,743	(9,606)	36,137	\$77	45,820
2018 Dec	\$0	45,820	(9,622)	36,198	\$84	45,904
2019 Jan	\$0	45,904	(9,640)	36,264	\$86	45,990
2019 Feb	\$0	45,990	(9,658)	36,332	\$86	46,076
2019 Mar	\$0	46,076	(9,676)	36,400	\$85	46,161
2019 Apr	\$0	46,161	(9,694)	36,467	\$84	46,245
2019 May	\$0	46,245	(9,711)	36,534	\$85	46,330
2019 Jun	\$0	46,330	(9,729)	36,601	\$85	46,415
2019 Jul	(\$46,415)	0	0	0	\$0	0

*Interest should be net of tax, as Reg Liability is not part of rate base, and is treated as taxable income for tax purposes.
 ** To be updated with the actual short-term interest rate

ENVIRONMENTAL DISPOSAL CORP.
BPU NO. 1 - SEWER

Eighth Revised Sheet No. 31
Superseding Seventh Revised Sheet No. 31

RATE SCHEDULE NO.1- FRANCHISE SERVICE

Applicable to Use of Service for:

Residential and Commercial Use

Character of Service:

Continuous

Rates:

Monthly Billing- Flat Rate:

Residential:	DETACHED and SEMI-DETACHED SINGLE FAMILY and TWO-FAMILY (per unit)	\$68.95 per month
	TOWNHOUSE and CONDOMINIUM	\$57.43 per month
Commercial:	Per Unit	\$68.95 per month

Commercial Unit:

One Unit is based on design criteria of 235 gallons per day demand capacity.

Terms of Payment:

Bills will be rendered monthly in advance.

All bills will be prorated for the establishment and termination of service.

Date of Issue: March 22, 2019
Issued by: Cheryl Norton, President

Effective: _____

Filed Pursuant to Order of the Board of Public Utilities entered in Docket No. WR18030235 dated
_____.

ENVIRONMENTAL DISPOSAL CORP.
BPU NO. 1 - SEWER

Fourth Revised Sheet No. 32
Superseding Third Revised Sheet No. 32

RATE SCHEDULE NO.2- BULK USER SERVICE

Applicable to Use of Service for: BULK USER Customers

Character of Service: Continuous

Monthly Billing- Usage Rate

Rates:

Rates for treatment of sewage of BULK USER Customers delivered by said customers to the EDC treatment facility as set forth in this Tariff Sheet shall supersede the contractual rates and terms set forth in each of the Amended and Restated Sewer Allocation and Bulk User Agreements Between Environmental Disposal Corp. and the Boroughs of Bedminster, Far Hills, and Peapack and Gladstone ("Bulk User Agreements"), respectively.

Rate for BULK USER Customers: \$7.74 per 1000 gallons

Date of Issue: March 22, 2019
Issued by: Cheryl Norton, President

Effective: _____

Filed Pursuant to Order of the Board of Public Utilities entered in Docket No. WR18030235 dated
