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CASE MANAGEMENT

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BOARD OF PUBLIC UTILITIES  
TRENTON, NJ



State of New Jersey  
OFFICE OF ADMINISTRATIVE LAW

BOARD OF PUBLIC UTILITIES

MAR 09 2020

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**INITIAL DECISION SETTLEMENT**

OAL DKT. NO. PUC 17126-19

AGENCY DKT. NO. WR19111463

IN THE MATTER OF THE PETITION  
OF MIDDLESEX WATER COMPANY FOR  
APPROVAL TO CHANGE THE LEVELS OF ITS  
PURCHASED WATER ADJUSTMENT CLAUSE  
PURSUANT TO N.J.A.C. 14:9-7.1, et seq.

Jay L. Kooper, Vice President, General Counsel and Secretary (Middlesex Water Company)

Meliha Arnautovic and Alex Moreau, Deputy Attorneys General, for Staff of the Board of Public Utilities (Gurbir S. Grewal, Attorney General of New Jersey, attorney)

Debra F. Robinson and Susan E. McClure, Assistant Deputies Rate Counsel, for Division of Rate Counsel (Stefanie A. Brand, Director)

Record Closed: February 28, 2020

Decided: March 2, 2020

BEFORE TRICIA M. CALIGUIRE, ALJ:

This proceeding involves the November 14, 2019, petition of Middlesex Water Company (Middlesex, Company) filed with the New Jersey Board of Public Utilities (Board) seeking approval of an increase in the Company's purchased water adjustment clause (PWAC) to recover increased purchased water costs, deferred costs, PWAC rate case

CMS  
K. Grahm  
D. Thomas  
M. Kamma  
K. Ocansey  
S. Patrawde  
P. Owen

expenses, and gross receipts and franchise taxes. The petition was transmitted to the Office of Administrative Law (OAL) on December 4, 2019, for determination as a contested case. A telephone prehearing conference was held on January 6, 2020, and a prehearing order issued on January 13, 2020.

On February 13, 2020, two duly-noticed<sup>1</sup> public hearings were held in the Company's service territory, at 4:30 p.m. and 5:30 p.m., at the Woodbridge Public Library, Fords Branch, 211 Ford Avenue, Fords, New Jersey. No members of the public appeared at either hearing and no members of the public submitted written comments regarding the Company's petition. The comments made by petitioner, staff of the Board, and the representative of the Division of Rate Counsel at the public hearings were transcribed and made a part of the record.

On February 28, 2020, the parties filed a Stipulation of Settlement which resolves all issues in this proceeding. (J-1.) Said Stipulation of Settlement has been signed by petitioner, staff of the Board, and the New Jersey Division of Rate Counsel.

The Stipulation of Settlement indicates the terms of settlement, and is attached and fully incorporated herein.

I have reviewed the terms of settlement and I **FIND**:

1. The parties have voluntarily agreed to the settlement as evidenced by their signatures or their representatives' signatures on the attached document.
2. The settlement fully disposes of all issues in controversy between the parties and is consistent with the law.

I hereby **FILE** my initial decision with the **BOARD OF PUBLIC UTILITIES** for consideration.

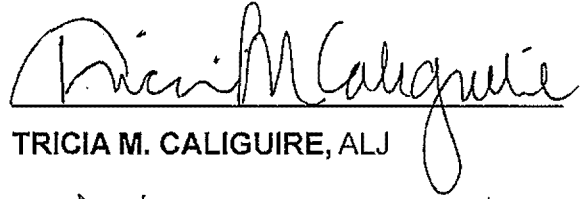
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<sup>1</sup> Proof of service and publication of the public notice of the hearings was made part of the record.

This recommended decision may be adopted, modified or rejected by the **BOARD OF PUBLIC UTILITIES**, which by law is authorized to make a final decision in this matter. If the Board of Public Utilities does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

March 2, 2020

DATE

  
TRICIA M. CALIGUIRE, ALJ

Date Received at Agency:

3/2/2020

Date Mailed to Parties:

3/2/2020

nd

**APPENDIX**

**EXHIBITS**

**Jointly Submitted:**

J-1 Stipulation of Settlement

J-1

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

2020 FEB 28 P 3:45

STATE OF NEW JERSEY  
OFFICE OF ADMIN. LAW

In The Matter of the Petition of  
Middlesex Water Company for  
Approval To Change The Levels of Its  
Purchased Water Adjustment Clause  
Pursuant To N.J.A.C. 14:9-7.1 et seq.

OAL Docket No. PUC 17126-2019S  
BPU Docket No. WR19111463

STIPULATION OF SETTLEMENT

APPEARANCES:

Jay L. Kooper, Esq., Vice President, General Counsel & Secretary, on behalf of Middlesex Water Company, Petitioner

Meliha Arnautovic, Deputy Attorney General, for the Staff of the New Jersey Board of Public Utilities (Gurbir S. Grewal, Attorney General of the State of New Jersey)

Debra F. Robinson, Esq., Managing Attorney, Water and Wastewater and Susan McClure, Esq. Assistant Deputy Rate Counsel, on behalf of the Division of Rate Counsel (Stefanie A. Brand, Director)

TO THE HONORABLE TRICIA M. CALIGUIRE, ALJ AND THE BOARD OF PUBLIC UTILITIES:

This Stipulation of Settlement resolves all issues in OAL Docket No. PUC 17126-2019S and BPU Docket No. WR19111463 in which Middlesex Water Company (the "Company" or "Petitioner") seeks Board approval of its Purchased Water Adjustment Clause ("PWAC") to recover increased purchased water costs, together with deferred costs, as more fully set forth in the Exhibits attached to the Petition and other materials filed herein. The Signatory Parties to this Stipulation of Settlement, which comprise the Parties that have participated in this proceeding are the Company, the Division of Rate Counsel ("Rate Counsel"), and the Staff of the Board of Public Utilities ("Staff") (collectively the "Signatory Parties").

As a result of an analysis of Petitioner's pre-filed testimony and exhibits, extensive discovery conducted, conferences, negotiations, and two public hearings held on February 13, 2020 in Fords, New Jersey, the Signatory Parties have come to an agreement on the issues in dispute in this matter. The Signatory Parties hereto agree and stipulate as follows:

The procedural history of this matter is as follows:

On November 14, 2019, Petitioner, a public utility corporation of the State of New Jersey, pursuant to N.J.A.C. 14:9-7.1 et seq., filed a petition with the New Jersey Board of Public Utilities ("Board") seeking approval for an increase in its PWAC to recover increased purchased water costs, together with deferred costs, and associated expenses including PWAC rate case expenses, associated gross receipts and franchise taxes. The Company originally requested an increase in annual revenue of \$599,762 over pro forma present rate revenues of \$81,900,087 which represents an overall increase of approximately 0.73%.

The Company purchases water through two water purchase contracts. The first is for untreated water from the New Jersey Water Supply Authority ("NJWSA") and the second is for treated water from New Jersey American Water Company ("NJAW"). The Company was notified of an increase in its purchased water rate from NJAW from \$0.4154 per thousand gallons (tg) to \$0.4453 per tg effective April 1, 2019 pursuant to BPU Docket No. WR18111241.

On December 4, 2019, this Middlesex PWAC matter was transferred to the Office of Administrative Law ("OAL") as a contested case where it was assigned to Administrative Law Judge Tricia M. Caliguire ("ALJ Caliguire"). A Pre-Hearing Conference was convened by ALJ Caliguire on January 6, 2020, and a Pre-Hearing Order was issued on January 13, 2020. After proper notice, two public hearings were held at 4:30 pm and 5:30 pm on February 13, 2020, at the Fords Branch of the Woodbridge Public Library, located at 211 Ford Avenue in Fords, New Jersey, with ALJ Caliguire presiding. No members of the public appeared to provide comments.

On January 3, 2020, the Company, in response to interrogatory RCR-2 issued by Rate Counsel, informed the Signatory Parties that subsequent to the filing of the Petition in this matter, the Company was notified by NJAW of an additional 24.9 million gallons of incremental water purchased above the level of its minimum requirement in the Company's water purchase agreement with NJAW. This increase resulted in a final billing reflecting a purchase of 180.5 gallons instead of the 155.5 gallons indicated in the Petition, resulting in an incremental water purchase cost of \$70,725 ("Incremental Purchase Cost").

Subsequently, agreement was reached among the Signatory Parties resulting in the following stipulation:

1. The purchased water costs, established pursuant to Petitioner's last PWAC rate order dated December 18, 2018 in BPU Docket No. WR18080948 amounted to \$6,576,981 as appears on the Exhibit A, attached and made a part of this Stipulation. The new base cost of purchased water as agreed to by the Signatory Parties is agreed to be \$6,609,722, resulting in an increase in purchased water cost of \$32,741, as more fully set forth in Exhibit A.

2. The Signatory Parties agree that the sum of the allowable expenses in this matter is set forth in Exhibit A and is agreed to be \$593,694, including:

- a. Rate proceeding expenses of \$500 representing a 50% share of total rate proceeding expenses of \$1,000.
- b. Additional purchased water costs of \$474,392.
- c. True-up of 2018 PWAC (BPU Docket No. WR18080948) of \$1,442.
- d. A revenue tax factor of 14.2529% and the resulting revenue tax of 84,619.

3. For purposes of this matter, the base consumption established in Petitioner's last base rate case in million gallons (mg) is agreed to be 12,351.0 mg. This amount is reduced by the amount attributable to the Township of East Brunswick ("East Brunswick")<sup>1</sup> of 2,394.3 mg, resulting in a base consumption for recovery of the PWAC of 9,956.7 mg as more fully set forth in Exhibit A.

4. For General Water Service ("GWS") customers under Rate Schedule No. 1, Revised Tariff Sheet No. 33A, a charge of \$0.6024 per thousand cubic feet shall be made to recover the increased purchased water costs, reflected on Rate Schedule No. 1, Revised Tariff Sheet No. 33A, attached and made a part of this Stipulation.

5. For service under contract customers, Rate Schedule No. 5, Revised Tariff Sheet No. 40A, PWAC charges agreed to herein result in a charge of \$30.86 per million gallons, reflected on Rate Schedule No. 5, attached and made part of this Stipulation.

6. As a result of this Stipulation, a residential customer with a 5/8" meter using 2,300 cubic feet or 17,204 gallons of water per quarter will see his/her water bill increase from \$152.99 to \$154.27 per quarter, an increase of \$1.28 per quarter, or an increase of 0.84%. Petitioner shall file a new tariff sheet with the Board, with copies to the Signatory Parties, in conformity with this Stipulation, to become effective on such date as the Board may direct.

7. In accordance with N.J.A.C. 14:9-7.4, Petitioner shall file with the Board, not later than 45 days after the adjustment clause has been in effect for one year, a PWAC true-up schedule in connection with this proceeding. Copies of the true-up schedules shall be served upon all parties

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<sup>1</sup> East Brunswick purchases untreated water under its own contract with the NJWSA. The Company pumps the untreated water to its primary treatment plant from the intake connection with the NJWSA. Once the Company performs the water treatment services, East Brunswick takes delivery of the treated water at the Company's primary treatment plant. The Company does not purchase water from the NJWSA to fulfill its obligation under its contract with East Brunswick. Therefore, none of the increased purchased water costs sought or agreed to in this proceeding should be allocated to East Brunswick.



to the present proceeding. In accordance with N.J.A.C. 14:9-7.3, this PWAC, if approved by the Board, shall remain in effect until the Company's next rate case, provided that the Company submits an annual year-end true-up as described above and an annual petition for adjustment of the PWAC amount in accordance with N.J.A.C. 14:9-7.4.

8. With respect to the above-referenced Incremental Purchase Cost of \$70,725, the Company shall record this amount as a deferred debit and include this amount in either its next PWAC filing or its next base rate case filing with the Board, whichever filing occurs first.

9. The Signatory Parties acknowledge and recognize the need of the Company to explore other means of contracting to purchase water from NJAW. The Company has agreed to undertake diligent negotiations in good faith on a new purchased water contract with NJAW, such as a commodity-demand contract, at more favorable contract rates.

10. This Stipulation is the product of negotiations by the Signatory Parties, and it is an express condition of the settlement embodied by this Stipulation that it be presented to the Board in its entirety without modification or condition. It is also the intent of the Signatory Parties to this Stipulation that this settlement, once accepted and approved by the Board, shall govern all issues specified and agreed to herein. The Signatory Parties to this Stipulation specifically agree that if adopted in its entirety by the Board, no appeal shall be taken by them from the order adopting same as to those issues upon which the Signatory Parties have stipulated herein. The Signatory Parties agree that the within Stipulation reflects mutual balancing of various issues and positions and is intended to be accepted and approved in its entirety. Each term is vital to this Stipulation as a whole, since the Signatory Parties hereto expressly and jointly state that they would not have signed this Stipulation had any terms been modified in any way. In the event any particular aspect of this Stipulation is not accepted and approved by the Board, then any Party hereto materially affected thereby shall not be bound to proceed under this Stipulation. The Signatory Parties further

agree that the purpose of this Stipulation is to reach fair and reasonable rates, and that it will avoid costly litigation of certain issues and that with respect to any policy or other issues which were compromised in the spirit of reaching an agreement, none of the Signatory Parties shall be prohibited from or prejudiced in arguing a different policy or position before the Board in any other proceeding, as such agreements pertain only to this matter and to no other matter.

11. It is specifically understood and agreed that this Stipulation has been made exclusively for the purpose of this proceeding. Except as expressly provided herein, the Company, Board Staff and Rate Counsel shall not be deemed to have approved, agreed to, or consented to any principle or methodology underlying or supposed to underlie any agreement provided herein in total or by specific item. The Signatory Parties further agree that this Stipulation is in no way binding upon them in any other proceeding, except to enforce the terms of the Stipulation.

12. All rates are subject to audit by the Board.

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

MIDDLESEX WATER COMPANY

February 26, 2020  
Date

By: Jay Kooper  
Jay L. Kooper, Esq.  
Vice President, General Counsel & Secretary

GURBIR S. GREWAL  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for the Staff of the New Jersey Board  
of Public Utilities

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Meliha Arnautovic  
Deputy Attorney General

STEFANIE A. BRAND, ESQ.  
DIRECTOR - DIVISION OF RATE COUNSEL

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Susan McClure, Esq.  
Assistant Deputy Rate Counsel

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MIDDLESEX WATER COMPANY

\_\_\_\_\_  
Date

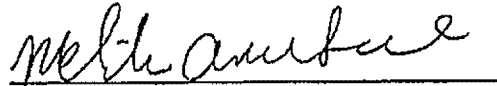
By:

\_\_\_\_\_  
Jay L. Kooper, Esq.  
Vice President, General Counsel & Secretary

GURBIR S. GREWAL  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for the Staff of the New Jersey Board  
of Public Utilities

2/25/2020  
Date

By:

  
Meliha Arnautovic  
Deputy Attorney General

STEFANIE A. BRAND, ESQ.  
DIRECTOR - DIVISION OF RATE COUNSEL

\_\_\_\_\_  
Date

By:

\_\_\_\_\_  
Susan McClure, Esq.  
Assistant Deputy Rate Counsel

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MIDDLESEX WATER COMPANY

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Jay L. Kooper, Esq.  
Vice President, General Counsel & Secretary

GURBIR S. GREWAL  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for the Staff of the New Jersey Board  
of Public Utilities

2/25/2020  
Date

By: Melha Arnautovic  
Meliha Arnautovic  
Deputy Attorney General

STEFANIE A. BRAND, ESQ.  
DIRECTOR - DIVISION OF RATE COUNSEL

2/28/2020  
Date

By: Susan McClure  
Susan McClure, Esq.  
Assistant Deputy Rate Counsel

MIDDLESEX WATER COMPANY  
PURCHASED WATER ADJUSTMENT CLAUSE  
PROPOSED COST PER UNIT OF VOLUME  
BPU DOCKET NO. WR19111463

PURCHASED WATER COSTS PURSUANT TO BPU DOCKET NO. WR18080948	\$ 6,576,981
NEW COST OF PURCHASED WATER (EXHIBIT E, PAGE 2 OF 2)	6,609,722
INCREASE IN BASE PURCHASED WATER COST	<u>\$ 32,741</u>
RATE PROCEEDINGS COSTS (EXHIBIT G)	500
ADDITIONAL PURCHASED WATER COSTS (EXHIBIT E, PAGE 3 OF 3)	474,392
TRUE-UP OF 2018 PWAC, BPU DOCKET NO. WR18080948 (EXHIBIT H)	\$1,442
REVENUE TAX FACTOR @ (EXHIBIT I) 14.2529%	84,619
SUM OF ALLOWABLE EXPENSES	<u>\$ 593,694</u>
BASE CONSUMPTION - MILLION GALLONS (MG)	
	<u>MG</u>
BASE CONSUMPTION PURSUANT TO BPU DOCKET NO. WR17101049	12,351.0
LESS: EAST BRUNSWICK PURSUANT TO BPU DOCKET NO. WR17101049	<u>(2,394.3)</u>
BASE CONSUMPTION FOR RECOVERY OF PWAC	<u>9,956.7</u>
CURRENT PWAC RATE PER TCF (RATE SCHEDULE NO. 1, SHEET NO. 33A)	\$0.0486
CURRENT PWAC RATE PER MG (RATE SCHEDULE NO. 5, SHEET NO. 40A)	\$2.4900
PROPOSED PWAC RATE PER TCF (RATE SCHEDULE NO. 1, SHEET NO. 33A)	\$0.6024
PROPOSED PWAC RATE PER MG (RATE SCHEDULE NO. 5, SHEET NO. 40A)	\$30.8600

MIDDLESEX WATER COMPANY

Twelfth Revised Sheet No. 33A

B.P.U. No. 1 - WATER

Cancelling

Eleventh Sheet No. 33A

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RATE SCHEDULE NO. 1 (Continued)

GENERAL WATER SERVICE - GS

PURCHASED WATER ADJUSTMENT CLAUSE (PWAC) CHARGES

A charge of \$0.6024 per thousand cubic feet will be made to recover the increased purchased water costs.

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Date of Issue: November 14, 2019

Effective for service

Rendered on and after:

Issued by: Dennis W. Doll, President  
485C Route 1 South  
Suite 400  
Iselin, New Jersey 08830-0452

April 4, 2020

Filed pursuant to an Order of the Board of Public Utilities, State of New Jersey dated March 25, 2020, in Docket No. WR19111463.

MIDDLESEX WATER COMPANY

Twelfth Revised Sheet No. 40A

B.P.U. No. 1 - WATER

Cancelling

Eleventh Sheet No. 40A

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RATE SCHEDULE NO. 5

SERVICE UNDER CONTRACT - SC

PURCHASED WATER ADJUSTMENT CLAUSE (PWAC) CHARGES

A charge of \$30.86 per million gallons will be made to recover the increased purchased water costs.

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Date of Issue: November 14, 2019

Effective for service  
Rendered on and after:

Issued by: Dennis W. Doll, President  
485C Route 1 South  
Suite 400  
Iselin, New Jersey 08830-0452

April 4, 2020

Filed pursuant to an Order of the Board of Public Utilities, State of New Jersey dated March 25, 2020, in  
Docket No. WR19111463.



MIDDLESEX WATER COMPANY  
PURCHASED WATER ADJUSTMENT CLAUSE  
BPU DOCKET NO. WR19111463

			PRESENT RATES BPU DOCKET NO. WR18080948		PROPOSED RATES BPU DOCKET NO. WR19111463		
			PWAC RATE	REVENUE	PWAC RATE	REVENUE	DIFFERENCE
RESIDENTIAL	USAGE (CCF)	501,924,775	0.0000486	24,394	0.0006024	302,369	277,966
COMMERCIAL	USAGE (CCF)	221,510,968	0.0000486	10,765	0.0006024	133,438	122,673
INDUSTRIAL	USAGE (CCF)	175,274,917	0.0000486	8,518	0.0006024	105,586	97,067
SUBTOTAL				43,677		541,383	497,706
PRIVATE FIRE	USAGE (CCF)	12,386,177	0.0000486	602	0.0006024	7,461	6,859
PUBLIC FIRE	USAGE (CCF)		0.0000486		0.0006024		
SUBTOTAL				602		7,461	6,859
SUB-TOTAL				44,279		548,845	504,565
EDISON / HIGHLAND PARK	USAGE (MG)	965,388	2.49	2,404	30.86	29,792	27,386
EAST BRUNSWICK	USAGE (MG)	2,394,288	N/A	0	N/A	0	0
OLD BRIDGE MUA	USAGE (MG)	828,564	2.49	2,063	30.86	25,569	23,506
MARLBORO	USAGE (MG)	1,223,333	2.49	3,046	30.86	37,752	34,706
RAHWAY	USAGE (MG)	124,379	2.49	310	30.86	3,638	3,529
SUBTOTAL				7,823		96,952	89,129
ROUNDING				(6)		(6)	0
TOTAL PWAC REVENUE				52,096		645,790	593,694