

December 23, 2020

VIA EMAIL

Honorable Tricia M. Caliguire
State of New Jersey
Office of Administrative Law
3444 Quakerbridge Road, Building 9
Hamilton, NJ 08619

**RE: I/M/O Petition of the Atlantic City Sewerage Company to Increase the Level
of Its Purchased Sewerage Treatment Adjustment Clause
BPU Docket No. WR20090617
OAL Docket No. PUC 10007-2020 S**

Dear Judge Caliguire:

Enclosed please find the Stipulation of Settlement and Exhibits, with reference to the above matter. As a reminder, we are looking to transmit your Recommended Decision to the BPU in time for it to make the agenda for the January 7, 2021 meeting.

Thank you for your attention to this matter.

Respectfully submitted,



Courtney L. Schultz

CLS/JC
cc: Per Attached OAL Service List

OFFICE OF ADMINISTRATIVE LAW
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SERVICE LIST
OAL DOCKET NO. PUC 10007-2020 S

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**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

**IN THE MATTER OF THE PETITION OF THE : STIPULATION OF SETTLEMENT
ATLANTIC CITY SEWERAGE COMPANY TO :
INCREASE THE LEVEL OF ITS PURCHASED : BPU DOCKET NO. WR20090617
SEWERAGE TREATMENT ADJUSTMENT : OAL NO. PUC 10007-2020 S
CLAUSE :**

APPEARANCES:

Courtney L. Schultz, Esq., Saul Ewing Arnstein & Lehr LLP, on behalf of the Petitioner,
Atlantic City Sewerage Company

Brian O. Lipman, Litigation Manager and Susan E. McClure, Managing Attorney, Water,
on behalf of the Division of Rate Counsel

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

TO THE HONORABLE NEW JERSEY BOARD OF PUBLIC UTILITIES:

The Parties that have participated in this proceeding are Atlantic City Sewerage Company (“ACSC”, “Company,” or “Petitioner”), the Division of Rate Counsel (“Rate Counsel”), and the Staff of the Board of Public Utilities (“Staff”) (collectively, “Parties”). There were no intervenors in this proceeding. As a result of an analysis of ACSC’s Petition and exhibits, discovery conducted by Rate Counsel and Staff, conferences, and negotiations, the Parties to this proceeding have come to the within Stipulation of Settlement (“Stipulation”). The Parties hereto agree and stipulate as follows:

1. Petitioner is a public utility corporation of the State of New Jersey subject to the jurisdiction of the Board of Public Utilities (the “Board”). ACSC operates a sewage collection and transmission system within its defined service territory, consisting of Atlantic City, New

Jersey. Within its service territory, ACSC serves approximately 7,600 customers. ACSC's principal office is located at 1200 Atlantic Avenue, Atlantic City, New Jersey 08404.

2. ACSC does not treat any sewage. Rather, ACSC purchases its sewage treatment from the Atlantic County Utilities Authority ("ACUA"). Further, the Company does not meter sewage flows. Instead, customer bills are based upon the volume of water entering the customers' premises, using data provided to ACSC by the Atlantic City Municipal Utilities Authority, Atlantic City's water purveyor. Each year, ACSC bills customers (other than certain large volume customers) based on water consumption from the prior year.

3. On September 24, 2020, pursuant to N.J.A.C. 14:9-7.1 to 7.7, ACSC filed the above-captioned Petition with the Board, which was later assigned BPU Docket No. WR20090617, for approval of an increase in the level of its purchased wastewater treatment adjustment clause ("PSTAC") as required by N.J.A.C. 14:9-7.1(d) and 14:9-7.7.

4. On October 21, 2020, the matter was transmitted by the Board to the Office of Administrative Law ("OAL") for review and disposition. Thereafter, on or around November 19, 2020, the OAL assigned the case to Administrative Law Judge ("ALJ") Tricia Caliguire.

5. A telephone status conference was held on November 20, 2020 before ALJ Caliguire.

6. Two public comment hearings were scheduled for December 17, 2020, and all requisite notices were given, including notice by publication in the Atlantic City Press on November 25, 2020.

7. On December 17, 2020 two virtual public comment hearings were presided over by ALJ Caliguire, one at 4:30 p.m. and another at 5:30 p.m., at which no members of the public appeared.

8. On October 27, 2020, and again on December 2, 2020, the Company served an updated Exhibit 3 upon Rate Counsel and Staff, reflecting adjustments to the schedules previously provided with the filing. The first update provided in October was to provide currently available data as of September 30, 2020. The second update reflected one primary adjustment, which was related to a proposed reduction in the annual amount charged by ACUA to the Company from 35.8% to 34.73% (See Exhibit A, Sched. ACSC-4).

9. As part of the Parties Settlement, Exhibit A was further updated to reduce the amount of the COVID-19 2021 Credits requested by the Company from \$1,177,390 to \$620,000 (Sched. ACSC-8).

10. As required in N.J.A.C. 14:9-7.7, the Company has included in its filing an estimate of ACUA costs for calendar year 2021, which estimate has been used to determine the applicable PSTAC rate for 2021. As a result, the projected bill for 2021 from the ACUA is \$7,693,009. In addition, the following components have been included to arrive at the net amount for recovery from customers through the 2021 PSTAC of \$8,155,476:

- a. ACSC had a net under-recovery of \$1,445,510 for the 2020 PSTAC;
- b. ACUA is projecting a credit to the Company of \$988,043 for 2020 billing;
- c. ACSC incurred \$10,000 in filing costs for this proceeding, of which \$5,000 is included (pursuant to the Board's 50/50 sharing of such expenses as between ratepayers and investors); and
- d. ACSC included a credit in the amount of \$620,000, which reflects a portion of the credits that will be due to customers as a result of COVID-19 related flow reductions.

11. In its petition, the Company included COVID-19 adjustment in the amount of \$1,177,390,¹ which was based upon estimated credits that would be owed to the Company's

¹ This is the updated amount as reflected in the subsequent updates to the schedules accompanying the petition. The as-filed estimate was \$1,181,914.

largest 50 customers (by volume) for reduced flows resulting from business closures and pandemic-related restrictions in place in 2020 (See Exhibit A, Sched. ACSC-8). The Company sought to recover these amounts concurrent with the crediting to customers' accounts (with the bulk of those credits payable in January and February 2021) to avoid carrying this amount as an under-recovery for the next 12 months. The concurrent recovery is required to help alleviate the undue financial burden resulting from the closure of the casinos, hotels and restaurants for several months during prime tourism season. As part of the settlement in this proceeding, the Parties have agreed that ACSC shall be permitted to recover a portion of the COVID-19 credits in this matter, and to recover any remaining credits paid to customers in 2021 for decreased 2020 usage in future filings before the Board, whether in next year's PSTAC filing or in another proceeding, such as the Board's COVID-19 proceeding.² Accordingly, the Company has included a COVID-19 credit in the amount of \$620,000 in setting 2021 rates.

12. Based on the estimated costs for 2021, the under-recovery from revenues for 2020, the estimated credit for 2020 treatment flows, the COVID-19 customer credits for decreased 2020 usage, and the costs of this proceeding, the Parties have agreed that Petitioner's current PSTAC rates on file with the Board should be increased as indicated on Exhibit A, and as reflected on the tariff page attached hereto as Exhibit B. For the average residential customer, the PSTAC rate will increase from \$22.889 per thousand cubic feet of metered water to \$25.850 per thousand cubic feet of metered water, an increase of \$2.961 per thousand cubic feet of metered water, or approximately 12.94%. With respect to the total annual rate for wastewater services, for the average residential customer using approximately 9.3 Mcf, their bill will

² See I/M/O the New Jersey Board of Public Utilities' Response to the COVID-19 Pandemic, BPU Docket No. AO20060471.

increase from \$541.18 to \$568.72, an increase of \$27.54, or approximately 5.09% annually. (See Exhibit A, Sched. ACSC-9).

13. Because the 2021 PSTAC rate will not be effective until February 1, 2021, the Company's PSTAC rate will need to be compressed due to the fact that the 2020 PSTAC order will be received after the beginning of 2021 and the Company will have already billed some of its 2021 cycles. The compression method used by the Company is simply based on the number of days that have elapsed prior to the effective date of the new PSTAC and the number of days remaining in the calendar year. This method works for ACSC because it bills each customer one time for 12 months' usage, which is equivalent to assuming that usage per day is the same for every day. The compression formula is: $((ARI * 365) / (365 - \text{days})) = CRI$.³ The resultant 2021 PSTAC Rate, accounting for compression, will be \$26.125. See Exhibit C for the Compressed Rate Calculation.

14. Consistent with the provisions of N.J.A.C. 14:9-7.1 to 7.7, the Parties agree that the Company will file with the Board a PSTAC petition to reconcile 2021 ACUA costs with the estimated ACUA costs (as reflected in the rates identified on Exhibit A and Exhibit B) for the same period. Additionally, the Company will include in its filing an estimate of ACUA costs for calendar year 2022, which estimate will be used to determine the applicable PSTAC rate for 2022, as required in N.J.A.C. 14:9-7.1(d) and 14:9-7.7.

15. ACSA shall account for net cumulative over-recoveries and under-recoveries resulting from the PSTAC. These over-recoveries and under-recoveries will be charged or credited to the PSTAC in subsequent PSTAC proceedings. The net monthly cumulative over-recoveries and under-recoveries shall be calculated for each month, utilizing an average balance

³ "ARI" is the Annual Rate Increase, "days" is the number of days prior to the effective date of the compressed PSTAC, and "CRI" is the Compressed Rate Increase.

for each month. Interest on net cumulative monthly over-recoveries shall be credited to the PSTAC at an interest rate equal to the return on rate base of 6.90%. Similarly, interest on net monthly under-recoveries shall be charged against the PSTAC. If the Company has another base rate case completed while this PSTAC is in effect, the return on rate base utilized in that base rate case shall become the interest rate on net monthly cumulative over-recoveries and under-recoveries, on a prospective basis. If, as of December 31, 2021, interest shall be due to the PSTAC, such interest shall in fact be credited to the PSTAC. If, as of December 31, 2021, interest shall be chargeable against the PSTAC, said interest shall be eliminated through appropriate accounting entries.

16. The Parties have engaged in full discovery. The Parties agree that the within Stipulation reflects a mutual balancing of various issues and positions, and that it is being entered into in the spirit of compromise and to avoid protracted and costly litigation.

17. This Stipulation is the product of negotiations by the 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 Parties to this Stipulation that this settlement, once accepted and approved by the Board, shall govern all issues specified and agreed to herein. The 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 Parties have stipulated herein.

18. The Parties agree that each term within this Stipulation reflects a 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 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.

19. The Parties further agree that with respect to any policy or other issues which were compromised in the spirit of reaching an agreement, none of the 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. It is specifically understood and agreed that this Stipulation represents a negotiated agreement and has been made exclusively for the purpose of this proceeding. Except as expressly provided herein, the Parties shall not be deemed to have approved, agreed to, or consented to any principle or methodology underlying or supposedly underlying any agreement provided herein in total or by specific item. The Parties further agree that this Stipulation is in no way binding upon them in any other proceeding, except to enforce the terms of this Stipulation.

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

[Signatures to follow]

IN WITNESS WHEREOF, the Parties, each expressly intending to be legally bound, and each acknowledging that he, she or it has given full and careful consideration to all aspects of this Stipulation, have duly authorized and caused this Stipulation to be executed and to become effective as of the dates affixed hereto:

ATLANTIC CITY SEWERAGE COMPANY

December 18, 2020
Date

By: *Courtney L. Schultz*
Saul Ewing Arnstein & Lehr LLP
Courtney L. Schultz, Esq.
Attorney for Petitioner

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

Date

By: *Meliha Arnautovic*
Meliha Arnautovic
Deputy Attorney General

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

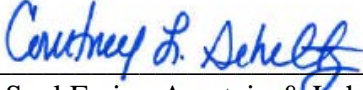
Date

By: _____
Susan E. McClure, Esq.
Managing Attorney, Water

IN WITNESS WHEREOF, the Parties, each expressly intending to be legally bound, and each acknowledging that he, she or it has given full and careful consideration to all aspects of this Stipulation, have duly authorized and caused this Stipulation to be executed and to become effective as of the dates affixed hereto:

ATLANTIC CITY SEWERAGE COMPANY

December 18, 2020
Date

By: 
Saul Ewing Arnstein & Lehr LLP
Courtney L. Schultz, Esq.
Attorney for Petitioner

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

12/22/20
Date

By: *Susan E. McClure*
Susan E. McClure, Esq.
Managing Attorney, Water

EXHIBIT A

The Atlantic City Sewerage Company

SCHEDULE ACSC-1

CALCULATION OF 2021 TREATMENT RATE:

			<u>REFERENCE</u>
1	Net 2020 (Over) / Under Collection	\$ 700,848	ACSC-3
2	Adjustment for Change in 2020 Treatment Cost Billing	124,662	ACSC-5
3	Projected 2021 Credits due to Customers for 2020 COVID-19 Closures	620,000	ACSC-8
4	Other: Interest on net Overrecovery	<u>0</u>	ACSC-3, col 12
5	Net (Over) / Under Collected Position from 2020	1,445,510	
6	Projected 2021 Treatment Cost	7,693,009	ACSC-4
7	Projected 2021 Charge/ (Credit) for 2020 Treatment Flows	<u>(988,043)</u>	ACSC-4
8	Net Projected Treatment Cost	6,704,966	ACSC-4
9	Projected Filing Costs (shared 50/50)	<u>5,000</u>	ACSC-7
10	Total 2021 Treatment Cost Recovery	<u>\$ 8,155,476</u>	
11	<u>Calculation of New Treatment Rate:</u>		
12	Total 2021 Treatment Cost Recovery	\$ 8,155,476	line 10
13	Projected 2021 Mcf (divided by)	<u>315,491</u>	ACSC-2
14	2021 Volumetric Treatment Rate	<u>\$ 25.850</u>	

15		\$ 22.889	
16		<u>\$ 25.850</u>	
	difference in rate	\$ 2.961	12.94%
	Volume projection	<u>315,491</u>	
	Revenue Impact	\$ 934,168	

The Atlantic City Sewerage Company
2021 PROJECTED BILLING FLOWS (in Mcf)

SCHEDULE ACSC-2

	BILLING MONTH	Mcf Billed in 2020 (a)	5% Adjustments (b)	PROJECTED 2021 Mcf	
1	January	96,606.5	(4,830.3)	91,776.2	Estimate
2	February	16,701.7	(835.1)	15,866.6	Estimate
3	March	47,435.2	(2,371.8)	45,063.4	Estimate
4	April	46,557.7	(2,327.9)	44,229.8	Estimate
5	May	20,849.6	(1,042.5)	19,807.1	Estimate
6	June	39,782.3	(1,989.1)	37,793.2	Estimate
7	July	22,957.0	(1,147.9)	21,809.2	Estimate
8	August	41,205.5	(2,060.3)	39,145.2	Estimate
9					
10	Total	332,095.5	(16,604.8)	315,490.7	
11				to ACSC-1, line 13	

12 **NOTE: Based on 2020 "estimated" billings unless otherwise indicated.**

13 (a) **2020 Flows from schedule ACSC-3, column 4.**

14 (b) **Estimated volume decrease next year due to continued restrictions at casinos and restaurants imposed by the State of NJ. The Company believes this to be conservative given the current reduction in flows.**

The Atlantic City Sewerage Company

2021 PROJECTED TREATMENT COST

ANNUAL BILLING

SCHEDULE ACSC-4

1	(1)	(2)	(3)	(4)
2				
3			<i>Estimated (a)</i>	
4	2020	2021	March	2021
5	TREATMENT	-9.32%	2021	TREATMENT COST
6	COST	<i>Decrease</i>	<u>(CREDIT)/CHARGE</u>	<u>(1)+(2)+(3)</u>
7				
8				
9	\$ 8,483,324	\$ (790,315)	\$ (988,043) (b)	\$ 6,704,966
10				
11				
12				

13 (a) Actual 2021 treatment costs (column 1) will be available late December, while
 14 the final credit (column 3) will not be available until mid-January 2021.

15
 16
 17 (b) Based on ACUA's current projection of ACSC's 2020 flows to the ACUA
 18 treatment plant of 31.22%, which is lower than the total flows of 35.8%
 19 originally budgeted.

(c) - Reduction in annual amount charged is due to reduction of percent
 assigned to AC, from 35.8% to 34.73%

The Atlantic City Sewerage Company

1	2020 TREATMENT BILLINGS ADJUSTMENT		
2	(Including the ACUA Credit/Surcharge for Prior Year)		
3			
4		<u>AMOUNT</u>	
5			
6			
7	2020 Actual Treatment Billing	\$ 8,483,324 **	
8			
9	Less: Actual Credit for 2019 Flows	<u>\$ (427,901)</u>	
10			
11	Net Actual Cost for 2019		\$ 8,055,423
12			
13			
14			
15	LESS:		
16			
17	2020 Estimated Treatment Billing	\$ 8,357,955	
18			
19	Less: Estimated Credit for 2019 Flows		
20	included in approved filing	<u>\$ (427,194)</u>	
21			
22	Net Estimated Cost for 2019		<u>\$ 7,930,761</u>
23			
24			
25	Treatment Cost Adjustment (Due To) Due From Ratepayers	<u>\$ 124,662</u>	To ACSC-1

** Note: At the end of December 2019, the ACUA informed ACSC of an unexpected increase of 1.5% to its 2020 rates, which was unknown when ACSC's 2020 rates were set.

The Atlantic City Sewerage Company

SCHEDULE ACSC-6

1 2020 NEW ACCOUNTS BILLED*

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<u>MONTH</u>		<u>Mcf</u> <u>AMOUNT</u>	<u>Assumptions</u> <u>and Notations:</u>
January	Actual	45.4	
February	Actual	51.2	
March	Actual	33.4	
April	Actual	2.5	
May	Actual	28.0	
June	Actual	27.2	
July	Actual	57.3	
August	Actual	55.0	
		<hr/>	
Total		<u>300.0</u>	

* These accounts are billed in advance with no adjustment for prior year usage required.

The Atlantic City Sewerage Company

SCHEDULE ACSC-7

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2021 PSTAC - PROJECTED EXPENSES

AMOUNT

Legal Fees for 2021 PSTAC	\$ 8,000
Postage, Publication & Copying	\$ 2,000
Other:	\$ -
Projected 2021 PSTAC Costs	<u>\$ 10,000</u>
Total Projected Expenses (shared 50/50)	<u>\$ 5,000 To ACSC-1</u>

ATLANTIC CITY SEWERAGE COMPANY
CREDITS DUE MAJOR CUSTOMERS DUE TO COVID-19 CLOSURES / RESTRICTIONS

The data below is based on flow reductions tracked for our 50 Largest customers, through August. Others are likely due credits, but ACSC does not have the data & resources to track that. They will receive their credits as the information becomes available for their billing month.

<u>Billing Month</u>	<u>Group A</u> (from Top 50 Customer File)	<u>Group B</u>	<u>Total Mcf</u> <u>Over Billed</u>	<u>PSTAC</u> <u>Rate</u>	<u>Credits Due</u> <u>Customers in 2021</u>	
January	18,364.3	5,460.9	23,825.2	\$ 22.889	\$ 545,335	
February	-	(4.5)	(4.5)	\$ 22.889	\$ (103)	
March	12,165.3	(373.1)	11,792.2	\$ 22.889	\$ 269,912	
April	6,893.8	(152.4)	6,741.4	\$ 22.889	\$ 154,304	
May	-	2,010.7	2,010.7	\$ 22.889	\$ 46,023	
June	*	4,616.3	299.9	4,916.2	\$ 22.889	\$ 112,527
July	**	-	124.2	124.2	\$ 22.889	\$ 2,843
August	**	-	2,033.7	2,033.7	\$ 22.889	\$ 46,549
Total	42,039.7	9,399.4	51,439.1		\$ 1,177,390	
Settlement Adjustment					\$ (557,390)	
Grant Total					\$ 620,000	

to ACSC-1

Group A = Major customers, primarily Casinos, billed on a rolling 12-month basis. For example, customers billed in January were invoiced for flows for the 12 months ended December 31, 2019 (not COVID-19 adjusted) and due a credit. Customers billed in July 2020 were invoiced based on the 12 months ended June 2020, therefore picking up the impact of COVID-19 for 3.5 months and not resulting in the need for any significant credit in 2021.

* one half adjustment for partial credit in 2020 and remainder to fall in 2021.

** majority of credit already reflected in 2020; therefore, no significant 2021 impact expected.

Group B = All other customers billed based on prior calendar year flows. Billings in 2020 were based on 2019 flows (pre-covid) and amounts are due back as a result of closure-related flow reductions.

ATLANTIC CITY SEWERAGE COMPANY
2021 - Impact of Annual Rate Change on Average Customer

Impact of PSTAC Increase on Average Customer (9.3MCF)

1	Rate 5/8" Meter	<u>Existing</u>	<u>Proposed</u>	<u>Change \$</u>	<u>Change %</u>
2	Fixed Charge (A)	\$254.00	\$254.00	\$0.00	0.00%
3	Rate/MCF				
4	Collection	\$7.991	\$7.991	\$0.00	0.00%
5	PSTAC	\$22.889	\$25.850	\$2.96	12.94%
6	Variable Charges (B)				
7	Collection	\$74.32	\$74.32	\$0.00	0.00%
8	PSTAC	\$212.87	\$240.41	\$27.54	12.94%
9	Total (A) + (B)	\$541.18	\$568.72	\$27.54	5.09%

EXHIBIT B

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 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 \$26.125 for each 1,000 cubic feet of metered water, measured to the nearest one-tenth, for sewerage treatment costs assessed to the Company by the relevant treating wastewater facility.

Date of Issue:
Issued by: WENDY E. STEWART, President & General Manager
1200 Atlantic Avenue

Effective for Service
rendered on and after
February 1, 2021

EXHIBIT C

**THE ATLANTIC CITY SEWERAGE COMPANY
2021 PSTAC RATE CALCULATIONS**

	<u>Amount</u>
2021 New Annual PSTAC Rate	25.850
Current PSTAC Rate	22.889
Annual Rate Increase	2.961

COMPRESSED RATE CALCULATION

	<u>Amount</u>
Annual Rate Increase	2.961
Times Number of Days	x 365
Weighted Rate Increase	1,080.77
Weighted Rate Increase	1,080.77
Divided by Number of Days <i>(Effective February 1, 2021)</i>	334
Compressed Rate Increase	3.236
Current PSTAC Rate	22.889
Compressed Rate Increase	3.236
NEW 2021 PSTAC RATE <i>(Effective February 1, 2021)</i>	26.125