



October 21, 2020

Via Electronic Filing and Email

Aida Camacho
Secretary of the Board
Board of Public Utilities
44 South Clinton Ave., 9th Fl.
P.O. 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 New Jersey-American Water Company, Inc.
with Calculation of Rates under the Tax Cuts and Jobs Act of 2017
BPU Docket No. WR18030233**

Dear Secretary Camacho:

Enclosed herewith for consideration by the Board is a fully executed Stipulation of Settlement by and between New Jersey-American Water Company, Inc., the New Jersey Division of Rate Counsel and the Staff of the New Jersey Board of Public Utilities in the referenced matters.

Please do not hesitate to contact me should you have any questions.

Respectfully submitted,

Christine Soares

CS:dlc

cc: Attached service list (via email)

**New Jersey American Water
Adjustment of Base Rates under the Tax Cuts and Jobs Act of 2017
BPU Docket No. WR18030233**

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**New Jersey American Water
Adjustment of Base Rates under the Tax Cuts and Jobs Act of 2017
BPU Docket No. WR18030233**

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

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

**IN THE MATTER OF THE PETITION OF : BPU DOCKET NO. WR18030233
NEW JERSEY-AMERICAN WATER :
COMPANY, INC. WITH CALCULATION : STIPULATION OF SETTLEMENT
OF RATES UNDER THE TAX CUTS AND :
AND JOBS ACT OF 2017 :**

APPEARANCES:

Christine Soares, Esquire for Petitioner New Jersey-American Water Company, Inc.

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

Paul Youchak, Esquire, Deputy Attorneys General, (Gurbir Grewal, Attorney General of New Jersey) on behalf of the Staff of the Board of Public Utilities

TO THE HONORABLE BOARD OF PUBLIC UTILITIES:

BACKGROUND

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.

On January 31, 2018, the New Jersey Board of Public Utilities (“Board”) issued an Order (“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). 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 to 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.

On March 2, 2018, New Jersey-American Water Company, Inc. (“NJAWC” or “Company”) filed a petition (“TCJA Filing”) under the TCJA Order in Docket Nos. AX1801001 and WR18030233. The TCJA Filing described the impact of the TCJA on NJAWC and included proposed tariffs reflecting a rate reduction resulting from the TCJA of 5.88%. NJAWC also proposed to defer, as of January 1, 2018 with interest at its short-term debt rate, the impact on rates as a result of decreasing its tax expense from 35% to 21% for the period January 1, 2018 through March 31, 2018 (“stub period”).

The TCJA Filing also included proposals related to the effects of the TCJA on accumulated deferred income taxes (“ADIT”). The TCJA Filing explained that, due to the risk of violating the Internal Revenue Service (“IRS”) normalization rules, the Company could not begin flowing back “excess” ADIT (“excess ADIT” or “EADIT”) to customers until it completed the “average rate assumption method” (“ARAM”) calculations required by the TCJA. Consequently, the TCJA Filing also proposed to defer the excess ADIT liability until its next base rate case. The Company recommended that, in the next rate case, when the amortization amount is known, it would begin to flow back that amount to customers. The Board adopted the Company’s proposed tariffs, on an interim basis, effective April 1, 2018, subject to refund pending the outcome of this proceeding.

On May 25, 2018, the New Jersey Division of Rate Counsel (“Rate Counsel”) filed

comments in this matter. NJAWC submitted reply comments on June 5, 2018. On June 15, 2018, NJAWC implemented provisional rates pursuant to N.J.A.C. 14:1-5.12(f)(3) pending a final Order in its then pending base rate case. The provisional rates incorporated the reduced maximum federal corporate tax rate. The over collection generated by those provisional rates was returned with interest.

On June 7, 2019, NJAWC, the Staff of the New Jersey Board of Public Utilities and Rate Counsel (“Signatory Parties”) entered into a partial stipulation of settlement (“Partial Stipulation”) related to the refund of the federal income taxes that the Company collected in rates during the stub period. The Board approved the Partial Stipulation on July 10, 2019.

On December 6, 2019, NJAWC submitted its updated excess ADIT balances and amortization calculations, and its proposal for the return of the excess ADIT to its customers. Subsequently, on December 16, 2019, NJAWC filed a Petition for Approval of Increased Tariff Rates and Charges for Water and Wastewater Service, and Other Tariff Modifications, which was assigned BPU Docket No. WR19121516 (“Rate Case”).

The Signatory Parties have engaged in further discovery and settlement discussions in this matter. As a result, the Signatory Parties have reached a stipulation of settlement (“Stipulation”) on the following remaining issues in dispute:

STIPULATED MATTERS

A. Excess ADIT

1. The Signatory Parties agree that NJAWC’s net protected EADIT balance of \$187,871,903 is subject to IRS normalization rules and will be amortized and returned to customers over the remaining life of the underlying assets, pursuant to ARAM. NJAWC’s net protected EADIT balance has been recorded as a regulatory liability.

2. The Signatory Parties agree that NJAWC has a net unprotected EADIT balance of \$132,572,173, which also has been recorded as a regulatory liability. For settlement purposes, NJAWC has included the deficient ADIT associated with Contributions in Aid of Construction (“CIAC”) as a component of this net amount as the CIAC amount relates to 2017 and prior vintages.¹ On a prospective basis, beginning with the effective date of new rates in NJAWC’s next base rate case, NJAWC shall not include any component of CIAC in rates (*e.g.* plant, depreciation expense, ADIT) except to the extent necessary to normalize prior vintages pursuant to the Tax Code.

3. The Signatory Parties agree that NJAWC’s unprotected EADIT balance is not subject to IRS normalization rules and will be amortized and returned to customers over a period of 15 years.

4. The calculation of the net protected and net unprotected EADIT balances is set forth in the attached Schedule A.

B. Rate Settlement, Disposition of EADIT and Pass Back Amounts

5. The Signatory Parties agree that NJAWC shall pass back to customers (a) the entire amount of EADIT deferred during the “catch up” period of January 1, 2018 through October 31, 2020, and (b) the protected and unprotected EADIT to be amortized during the twelve month period of November 1, 2020 through October 31, 2021.

6. The Signatory Parties agree that during the 12-month period beginning on November 1, 2020, NJAWC will pass back to customers \$52,873,614 of EADIT (grossed-up) through a combination of (a) the new base rates approved in the Rate Case and (b) a sur-credit on

¹ See Schedule A.

customers' bills². Of that amount, \$9,859,082 is related to the amortization of protected EADIT pursuant to ARAM and \$43,014,532 is related to the amortization of unprotected EADIT over a 15-year period.

7. NJAWC is amortizing the protected EADIT related to net operating loss ("NOL") over a 4-year amortization period, which is included in the \$9,859,082 of protected EADIT. In the next base rate case, there will be two remaining months of the NOL deficiency, which will be fully amortized as of December 31, 2021. In NJAWC's next base rate case, the amount of protected EADIT being passed back to customers in base rates under the settlement in the Rate Case will be adjusted to the actual amount pursuant to ARAM from the period November 1, 2021 through the effective of new rates.

8. In order to ensure that customers receive 100% of the net protected EADIT, the variance amount between the annual protected ADIT of \$6,333,923 (grossed-up) included in base rates in the Rate Case and the actual amount pursuant to ARAM from the period November 1, 2021 through the effective of new rates will be recorded as a regulatory liability. That regulatory liability account balance of the protected EADIT variance will be addressed in the next base rate case.

9. The Signatory Parties agree that the total sur-credit amount of \$32,500,000 which is included in the \$52,873,614 EADIT total (grossed-up), will be passed back monthly (\$3,250,000 per month) to customers over a 10-month period beginning on the effective date of base rates in the Rate Case. The calculation of the total sur-credit is set forth on the attached Schedule B.

10. The Signatory Parties agree that the total sur-credit amount of \$32,500,000 shall

² See Schedule B.

be apportioned to customers based on the attached Schedule C.

11. The Signatory Parties agree that NJAWC's protected EADIT and unprotected EADIT will continue to be amortized and returned to customers in base rates approved, as set forth in the stipulation of settlement in the Rate Case until the Company's next base rate case.

C. Effective Date

12. The Signatory Parties agree that they will use their best efforts to ensure that this Stipulation is presented to the Board for approval at its October 28, 2020 public agenda meeting and that upon NJAWC's request for an expedited order, shall be effective November 1, 2020.

13. The Signatory Parties agree that service of the Board Order approving this Stipulation shall be in accordance with N.J.S.A. 48:2-40, and will be effective in 10 days from a Board Order accepting this Stipulation or on electronic service of said Order, as permitted by the Board in Docket No. EO20030254, on all parties, whichever is sooner.

D. Miscellaneous

14. The Signatory Parties agree that this Stipulation has been made exclusively for the purpose of this proceeding and that this Stipulation, in total or by specific item, is in no way binding upon them in any other proceeding, except to enforce the terms of the Settlement.

15. The Signatory Parties agree that this Stipulation contains a mutual balancing of interests, contains interdependent provisions and, therefore, is intended to be accepted and approved in its entirety. In the event any particular aspect of this Stipulation is not accepted and approved in its entirety by the Board, or modified by the Board, each party that is adversely affected by the modification can either accept the modification or declare this Stipulation to be null and void, and the Signatory Parties shall be placed in the same position that they were in immediately prior to its execution.

16. It is the intent of the Signatory Parties that the provisions hereof be approved by the Board as being in the public interest. The Signatory Parties further agree that they consider the Stipulation to be binding on them for all purposes herein.

17. The Signatory Parties agree that this Stipulation represents a negotiated agreement and has been made exclusively for the purpose of this proceeding. Except as expressly provided herein, the Signatory Parties 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 this Stipulation.

18. This Stipulation may be executed in as many counterparts as there are Signatory Parties of this Stipulation, and each such counterpart shall be considered an original; however, all such counterparts will constitute one and the same instrument.

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NEW JERSEY-AMERICAN WATER COMPANY, INC.

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Dated: October 20, 2020

New Jersey American Water
 TCJA Excess ADIT Balances

Schedule A

Protected	Item	NJAW
	Method / Life	198,402,362
	Taxable CIAC	(685,559)
	Federal NOL - Protected	(9,844,900)
	Subtotal Protected	187,871,903
Unprotected		
	Cost of Removal	16,088,887
	Repairs - M/L	663,392
	Repairs Other	94,436,613
	All Other Plant	32,586,271
	Plant Customer Advances	(9,648,484)
	Plant CWIP	1,039,824
	CIAC WIP	(373,464)
	Plant 481	2,058,957
	Plant Cost of Removal Refund Liability	(5,194,000)
	Customer Advances Reserve	325,000
	Plant Cost of Removal reclass	3,008,020
	Plant Purchase Premium Regulatory Asset	518,679
	All Other Non Plant	(2,937,523)
	Subtotal Unprotected	132,572,173
Total		320,444,075

**New Jersey American Water
Excess ADIT**

Pass-back Amount		
	Amount	Grossed-up
Pass Back Amount - Base Rates	\$13,841,944	\$17,521,448
Surcredit	27,928,211	35,352,166
	<u>\$41,770,155</u>	<u>\$52,873,614</u>

Base Rate Allocation		
	Amount	Grossed-up
Protected	\$5,003,799	\$6,333,923
Unprotected	8,838,145	11,187,525
	<u>\$13,841,944</u>	<u>\$17,521,448</u>

Summation of ADIT Pass-back - through 10/30/21				
	Amount	Grossed-up		
Protected ARAM - Catch up (1/1/18 - 10/31/20)	\$7,694,135	\$9,739,411		
Protected ARAM - (11/1/20 - 10/31/21)	94,540	119,670	\$9,859,082	Protected
Unprotected - Catch up (1/1/18 - 10/31/20)	25,041,410	31,697,988		
Unprotected - (11/1/20 - 10/31/21)	8,838,145	11,187,525		
Unprotected (portion of 2022)	101,925	129,019	43,014,532	Unprotected
Total	<u>\$41,770,155</u>	<u>\$52,873,613</u>	<u>\$52,873,613</u>	

Computation of Sur-Credit		Surcredit
Additional ADIT for Surcharge - Unprotected		\$27,928,211
Grossed-up		35,352,166
Rate Base effect of passing back credit		\$27,456,000
ROR		7.031%
UOI		\$1,930,322
Rev. Conv. Factor		1.478
Revenue Requirements		<u>\$2,852,166</u>
Credit		\$35,352,166
Rate Base Effect		<u>(2,852,166)</u>
Credit to Customers		\$32,500,000
Monthly Credit to Customers		\$3,250,000

NEW JERSEY-AMERICAN WATER COMPANY

SUMMARY OF STIPULATED REVENUE INCREASE AND SUR-CREDIT

<u>Category</u>	<u>Stipulated Increase Revenue Increase</u>	<u>Percentage To Total Increase</u>	<u>Stipulated Sur-Credit Distribution</u>
GMS	\$ 30,658,167	78.61%	\$ 25,548,472
Rate Schedule F (OIW)	917,041	2.35%	764,201
Rate Schedule E, H, I, J	57,242	0.15%	47,702
Rate Schedule C, D	990,580	2.54%	825,483
Rate Schedule G (SOS)	1,748,503	4.48%	1,457,086
Private Fire	1,407,470	3.61%	1,172,891
Public Fire	1,891,524	4.85%	1,576,270
Sewer	1,329,474	3.41%	1,107,895
Total	\$ 39,000,000	100.00%	\$ 32,500,000

NEW JERSEY-AMERICAN WATER COMPANY

STIPULATED MONTHLY SUR-CREDIT

Meter Size	General Metered Services		General Metered Services		General Metered Services	
	Rate Schedules: A-1, A-2, A-10, A-14		Rate Schedule A-15		Rate Schedule A-16	
	Non-Exempt	Exempt	Non-Exempt	Exempt	Non-Exempt	Exempt
5/8	\$ 2.94	\$ 2.54	\$ 2.22	\$ 1.92	\$ 1.57	\$ 1.36
3/4	4.49	3.88	2.75	2.38	2.83	2.44
1	7.40	6.39	3.20	2.76	4.00	3.45
1-1/2	14.70	12.70	3.97	3.43	5.96	5.15
2	23.55	20.34	4.77	4.12	9.55	8.25
3	44.10	38.09	6.36	5.49	17.88	15.44
4	73.50	63.48	7.95	6.87	29.79	25.73
6	147.00	126.96	147.00	126.96	147.00	126.96
8	235.20	203.14	235.20	203.14	235.20	203.14
10	294.00	253.93	294.00	253.93	294.00	253.93
12	367.50	317.41	367.50	317.41	367.50	317.41
16	588.00	507.85	588.00	507.85	588.00	507.85

Meter Size	Commodity Demand		Manasquan	
	Rate Schedules: C & D		Rate Schedules E, H, I, J	
	Non-Exempt	Exempt	Non-Exempt	Exempt
5/8	\$ 72.47	\$ 62.61	\$ 4.64	\$ 4.01
3/4	110.68	95.64	7.09	6.12
1	182.41	157.51	11.68	10.09
1-1/2	362.35	313.05	23.20	20.04
2	580.50	501.37	37.17	32.10
3	1,087.05	938.91	69.60	60.11
4	1,811.75	1,564.76	116.00	100.19
6	3,623.50	3,129.52	232.00	200.38
8	5,797.60	5,007.33	371.20	320.60
10	7,247.00	6,259.29	464.00	400.75
12	9,058.75	7,824.05	580.00	500.94
16	14,494.00	12,518.33	928.00	801.51

NEW JERSEY-AMERICAN WATER COMPANY

STIPULATED MONTHLY SUR-CREDIT
SEWER DIVISION

	<u>Monthly Sur-Credit</u>
Rate Schedule 1-A Ocean City	\$ 2.10
Rate Schedule 2-A Lakewood	3.50
Rate Schedule 3-A Adelphia	2.15
Rate Schedule 5-A Pottersville (flat fee)	0.89
Rate Schedule 6-A Pottersville (metered)	0.89
Rate Schedule 8-A Applied Service Contracts	8.82
Rate Schedule 10-A Jensen's Deep Run	3.28
Rate Schedule 11-A Haddonfield	1.78
Rate Schedule 12-A Elk Township	3.58

NEW JERSEY-AMERICAN WATER COMPANY

STIPULATED MONTHLY SUR-CREDIT
OPTIONAL INDUSTRIAL WHOLESALE &
SALES TO OTHER SYSTEMS

	Monthly Sur-Credit
Rate F (OIW)	
<u>OIW #1</u>	\$ 3,125
OIW #2	5,333
OIW #3	9,687
OIW #4	26,977
OIW #5	8,489
OIW #6	22,809
	<u>\$ 76,420</u>
Rate G (SOS)	
<u>SOS #1</u>	\$ 27,058
SOS #2	26,551
SOS #3	56,450
SOS #4	21,443
SOS #5	14,207
	<u>\$ 145,709</u>